

Columbus Estates of Chatham Inc.

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| Policy Name: | Conflict of Interest Policy |
| Contact Officer: | Wayne Bushey, 519-351-8332 |
| Date Approved by Board of Directors: | January 16 th , 2006 |
| Date Approved by General Membership | January 16 th , 2006 |
| Date Certified: | January 16 th , 2006 |

Reference:

Social Housing Reform Act 2000, 339/01, Sect 4-6

BACKGROUND:

- a. Columbus Estates of Chatham Inc. recognizes it is good business practice to avoid conflicts of interest.
- b. The Government of Ontario, pursuant to the *Social Housing Reform Act 2000*, has issued Ontario Regulation 339/01, which includes the Government's rules relating to conflict of interest and other business practices. Schedule "A" contains a summary of these rules.
- c. This By-law sets out how Columbus Estates of Chatham Inc. addresses conflicts of interest, including implementing the requirements of Ontario Regulation 339/01.

Definitions:

The following are definitions of words and phrases used in this By-law

- a. **"Declaration"** means a declaration in the form attached as SCHEDULE "B" to this By-Law
- b. **"Director"** a member of the Board of Directors of Columbus Estates of Chatham inc.
- c. **"Officer"** includes the president, chair, vice-president, secretary, treasurer, manager, or anyone else designated an officer in the by-laws
- d. **"Family Member"** includes a parent, spouse or partner, household member, child, sibling, uncle, aunt, niece, nephew, mother in-law, father in-law, sister in-law, or brother in-law.
- e. **"Service Manager"** means a Service Manager as defined in Section 2 of *The Social Housing Reform Act 2000*, and includes any person exercising the powers of the Service Manager under Section 16 of *The Social Housing Reform Act 2000*.
- f. **"Household Member"** any person who lives in the same household with another person, whether they are related or not. This may not include tenants in the household.
- g. **"Housing Project"** a housing project which a housing provider has developed, or will develop, under any housing program funded in whole or part by the Ministry of Municipal Affairs & Housing.
- h. **"Housing Provider"** a housing provider is any one of the following:
 - i. a private non-profit corporation,
 - ii. a charitable non-profit housing corporation
 - iii. a non-profit housing co-operative,
 - iv. a municipal non-profit housing corporation; or
 - v. a municipal share capital housing corporation
- d. **"Threshold"** means more then the amount, accepted as such by the Service Manager, which is lesser of:
 - i. \$14,999.00; and

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- ii. \$2000.00, plus \$20.00 for each residential unit in the Non-Profit's project/portfolio in excess of 100 units.
- i. **"Party"** a person or a business entity that has entered into a verbal or written relationship, contract or agreement with the housing provider. A **party** includes:
 - i. a director or officer of the housing provider, or their appointees,
 - ii. an employee of the housing provider,
 - iii. a development consultant/resource group of the housing provider,
 - iv. a property manager/management/operational services of the housing provider,
 - v. an architect of the housing provider,
 - vi. any professional (for example, a lawyer, accountant or auditor) of the housing provider, and
 - vii. anyone else who has a contract or agreement with the housing provider (e.g., includes one who provides goods and services to the housing provider).

1. Deciding if a Conflict of Interest Exists:

The following definition must be applied when determining if there is a conflict:

A Conflict of Interest is a situation where the other personal or business interests of a party are in conflict with the best interest of the Non-profit. A conflict of interest may occur when a party, or one of its family members, gives or receives a direct or indirect personal gain or benefit or a direct or indirect advantage or privilege.

2. Avoiding Conflicts of Interest:

- a. The Board must closely monitor its relationships, contracts, arrangements and agreements and not engage in any that may result in a conflict of interest.
- b. As well as actual conflicts of interest, there must be no perceived conflicts of interest which are not resolved to the satisfaction of the Service Manager

A perceived conflict could be said to exist when a person having thought the situation through, would think it was possible that a person might adversely influence in the performance of his/her duties for the housing provider by his or her other interests.

These responsibilities extend to all directors, officers, their appointees and staff. The Board will ensure that parties acting on its behalf or providing goods and services to the Non-Profit are not involved in conflict of interest situations.

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3. Payment of Directors

- a. Directors and officers must serve without profit or remuneration of any kind whether direct or indirect except for reasonable expenses incurred in the performance of their duties for the Non-Profit as provided in their **Letters Patent**.
- b. **Exceptions:** The Non-Profit shall not enter into a relationship, arrangement, contract or agreement with any person in a way that creates a Conflict of Interest, except that:
 - i. where a director lives in the non-profit/co-operative and is employed by the Non-Profit on a part-time basis to perform routine tasks such as administrative, maintenance or operational tasks with respect to the Non-Profit's portfolio. The definition of part-time work may be further restricted in the by-laws, as for example, regarding the time worked, amount allowed to be paid, etc. or;
 - ii. where a director is employed by the Non-Profit in a non-managerial or non-supervisory position provided that where the board of directors consists of more than five directors, there shall not be more than one director who is so employed at any one time. If there are more than five directors, the total number of directors so employed may not exceed one fifth of the board;
 - iii. provided that a notice of conflict or potential conflict of interest has been delivered to the Service Manager and the Service Manager agrees there is no reasonable alternative, the Non-Profit may enter into a relationship, arrangement, contract or agreement that normally would be the conflict of interest;
 - iv. some or all of the directors may also sit as directors of an organization that supplies essential support services for special needs clients residing in the Non-Profit's portfolio, where the portfolio exists specifically so that residents can live in the community with the support services provided;
 - v. subject to employment law in force in Ontario and any collective-bargaining agreements to which the Non-Profit is a party, all relationships, arrangements, contracts or agreement of the Non-Profit which exceeds the threshold in any fiscal year of the Non-Profit, shall include a clause permitting the Non-Profit to terminate the relationship, arrangement, contract or agreement if the Service Manager requires such termination in order to resolve a Conflict of Interest;
 - vi. where the Non-Profit purchases or leases land, it shall not purchase or lease such land from:
 1. an individual; or
 2. a corporation which has a shareholder, director or officer; who is a director, officer, agent, employee, development consultant/resource group, architect or other technical consultant of the Non-Profit or any person related to one of them.
- c. Other than in the circumstances set out in 3a above directors must resign from the board before the board issues a tender call, deliberates or votes on a contract or an employment position for which a director intends to compete.
- d. Other than where the director is employed in circumstances set out in 3a above no former director or officer may apply for employment with the Non-Profit or seek to enter into a contract to supply services to the Non-Profit, directly or indirectly, for a period set by the board of directors in its by-laws, following the resignation or removal of the director or officer from the Non-Profit.

4. **Declarations:**

All new directors, officers, their appointees and employees must submit a conflict of interest declaration to the board before the Non-Profit enters into a relationship with them. They also submit a declaration any time in the future when they believe that a conflict of interest may exist.

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Note: Existing directors, officers, their appointees and employees must also submit a declaration if they have not done so before. [Every party with which the housing provider intends to enter into a relationship, arrangement, contract or agreement costing more than \$14,999, or \$20 per unit in a project/portfolio, whichever is lesser, in any fiscal year. If the project/portfolio has less than 100 units, the minimum amount should be set at \$2,000.]

5. **Board Procedures:**

- a. Conflict of Interest - The Board shall have Conflict of Interest as a regular agenda item at the beginning of each meeting of the directors. Any director, officer, agent or employee who has a Conflict of Interest must submit their Declaration at that time.
- b. Declaration of Conflict of Interest - directors, officers, agents and employees of the housing provider must notify the chair of the Board of Directors of every potential or actual conflict of interest no later than the first meeting of the Board, after the director, officer, agent or employee becomes aware that he or she has entered into a situation, arrangement or agreement that results in or may result in a conflict of interest. The form of such declaration is attached as Schedule "B"
- c. Potential Conflict of Interest - is raised before or during a board meeting, then:
 - i. The board must decide if there is an actual or perceived conflict of interest; the parties to the conflict must not participate in the decision making process;
 - ii. If a conflict of interest is determined to exist, the involved party(ies) must not participate in any decision making regarding the resolution of the conflict of interest and must leave the meeting while the item is under discussion.
 - iii. If the conflict of interest is avoided (the contract, agreement, relationship or arrangement is not entered into) the minutes must show this.
 - iv. If the board believes it can resolve the adverse consequences of the conflict of interest, (a decision is made to go ahead with the contract, agreement, relationship or arrangement), the minutes must show the options considered and resolution.
- d. Consideration of Notice - The Board of Directors shall consider any declaration given under subsection 5.b no later than the second meeting of the Board after the notice is given. The consideration of the notice must be reflected in the minutes of the meeting.
- e. Resolution of a Conflict of Interest - The Board shall notify the Service Manager of any Declaration received under subsection 5.b. The notification to the Service Manager shall include one of the following:
 - i. If a person filed a declaration of a potential Conflict of Interest and the Board decided there was in fact no such conflict, a declaration to that effect and a request that the Service Manager ratify this decision; or
 - ii. if a Conflict of Interest exists which may be resolved in accordance with this by-law and Ontario Regulation 339/01, notification of how the Non-Profit has resolved the Conflict of Interest and a request that the Service Manager ratify such resolution, or
 - iii. if a Conflict of Interest exists which the board is unable to resolve in accordance with this by-law and Ontario Regulation 339/01, a request that the Service Manager issue instructions for resolving the Conflict of Interest.

These requests are part of the attached Schedule "B".

- f. Conflict to be Resolved to the Service Manager's Satisfaction - If the Service Manager issues instructions regarding an alternative to a decision made by the board under subsection 5.e.i or ii or a resolution under subsection 5.e.iii the Non-Profit will act in accordance with the Service Manager's instructions.
- g. Record-keeping - The Non-Profit shall maintain a Conflict of Interest file, containing all declarations, reports and minutes pertaining to Conflict of Interest and Perceived Conflict situations.

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6. **PROMOTING FAIR AND OBJECTIVE BUSINESS PRACTICES:**

- a. Tenders - The Non-Profit shall invite at least three qualification tenders, or publicly tender all contracts costing more than \$14,999.99
- b. Considering Tenders - In considering tenders, the Non-Profit shall:
 - i. consider the quality of goods and services to be provided; and
 - ii. base its decision on written specifications outlining resources, timing, cost and fees.
- c. Not Choosing Low Bid
 - i. Where the lowest bid is not chosen by the person ordinarily responsible for making this decision, that person's supervisor or, where applicable, the Board of Directors, shall review her/his decision, and ensure that the reasons are documented.
 - ii. Where the lowest bid is not chosen by the Board of Directors, the Non-Profit shall ensure that the reasons are documented.
- d. Contracts Less than \$15,000 - The Non-Profit shall obtain a minimum of three written quotes for any contract costing between \$2,000.00 and \$14,999.99 in any fiscal year, and adopt clear, fair and written procedures for the awarding of contracts less than \$2,000.00.
- e. Participation in Cooperative Purchasing Programs - Where the Non-Profit participates in cooperative purchasing programs, the procedures of the cooperative purchasing program shall replace the Non-Profit's internal procedures for competitive acquisition of goods and services for the duration of the Non-Profit's participation in the cooperative purchasing program. The Non-Profit shall report its participation in such programs to the Service Manager on an annual basis.
- f. Purchase of Professional Services - Where the Corporation is purchasing professional services:
 - i. For contracts with an estimated value up to \$9,999.99, the Non-Profit shall seek an appropriate supplier and negotiate a contract.
 - ii. For contracts with an estimated value of between \$10,000.00 and \$25,000.00, related to a specific project with a limited time-frame and which can be clearly defined, the Non-Profit shall:
 1. prepare terms of reference,
 2. seek three competitive proposals with associated fixed-price quotations, and
 3. award the contract based on an assessment of the qualifications of the consultant, the information provided in the proposal, and the price.
 - iii. For contracts with an estimated value of between \$10,000.00 and \$25,000.00, where the requirements cannot be clearly defined and where a fixed price approach is not feasible, the Non-Profit shall negotiate a contract with a suitably qualified supplier using standard negotiating procedures that employ ethical practices.
 - iv. For contracts with an estimated value exceeding \$25,000.00, or which require ongoing provision of professional advice to the Non-Profit, requiring knowledge of matters specific to the Non-Profit (such as legal advice relating to labour relations or specialized financial advice), the Non-Profit shall:
 1. establish the Terms of Reference;
 2. invite offers of service by
 - a. giving notice by public advertisement of the requirement to engage the services; or
 - b. inviting submissions from those individuals or firms who appear best qualified to meet the requirement of the engagement or to pre-qualified firms;

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3. rate the offers of service against the Terms of Reference to identify the offer of service which represents best value for money; and
4. select the firm offering the best value for money.
- v. The Non-Profit shall keep records of the appointment of suppliers meeting these criteria, together with their fees.
- g. Emergencies - Where an emergency prevents the Non-Profit from following other provisions of this By-law, the Non-Profit shall:
 - i. employ without a call for proposals the individual or firm in whom the Non-Profit has the greatest confidence in regard to a particular requirement of the Non-Profit in dealing with this emergency;
 - ii. ensure the employment of the individual or firm lasts no longer than necessary to deal with the emergency; and
 - iii. keep records of the appointment of the employment and remuneration of the individual or firm.
- h. Employment Contracts - The Non-Profit shall implement documented, open and competitive practices, for employment opportunities which are not inconsistent with:
 - i. any collective bargaining agreement of the Non-Profit; and
 - ii. other fair labour practices as set out in the Personnel Policy of the Non-Profit.
- i. Management Contracts - The property manager/management or operational services company/development consultant of the Non-Profit shall not have a direct or indirect interest in any other business that provides advice, goods or services to the Non-Profit.