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Disruptive Behaviour and Hate Speech by Citizens: How Can We Protect Our Elected Officials and Municipal Managers?

In response to a worrying finding from Élections Québec, which reported that nearly 1 in 10 elected municipal officials resigned in the middle of their term since the 2021 elections, the provincial government has enacted the *Act to protect elected municipal officers and to facilitate the unhindered exercise of their functions* (hereinafter the “Act”).

This law, which received assent on June 6, 2024, gives municipalities new powers to react more strongly to disruptive behaviour during council sittings. For instance, section 4 stipulates that anyone who “causes disorder in a way that abusively interferes with the conduct of [a] sitting” may be fined anywhere from \$50 to \$500.

Threatening, harassing, or intimidating elected officials as they perform their duties also comes with harsher penalties. Section 5 of the Act provides for fines ranging from \$500 to \$1,500 if the behaviour causes the official to “reasonably fear for their integrity or safety.” Note that the courts have yet to define “reasonable fear,” leaving the notion in a legal grey area.

Municipal courts are permitted to take legal action for offences under sections 4 and 5 of the Act. Municipalities are also allowed to adjust the amounts of fines collected under these proceedings, as long as this is recorded in an internal by-law. Some municipalities, such as Rimouski, have already established that fines will be doubled for repeat offences, which could prove to be an effective deterrent.

As with any by-law involving criminal penalties, it is recommended that the by-law specify the people who may institute legal proceedings.

The Act also allows elected officials to apply to the Superior Court when they are “the subject of comments and actions that abusively hinder the exercise of their functions or that constitute an unlawful infringement of their privacy.” The Court can then issue an emergency order preventing the person from attending council sittings, entering municipal buildings, or communicating with the official. Municipalities can also make this application on the official’s behalf.

These new powers must be exercised carefully, however. It is crucial that municipalities do not compromise citizens’ freedom of expression, which is a fundamental right protected by charters. Excessive or inappropriate sanctions could put them at risk of legal action.

In conclusion, keep in mind that the powers granted by this law are new, and therefore largely untested by the different judicial bodies. As such, it would be wise for municipalities to adopt or amend by-laws to include these new powers.

PLI-Municipal

To counter acts of intimidation and violence, the Sûreté du Québec has developed the Anti-Bullying Plan – Municipal (PLI - Municipal). Its objective is to encourage elected officials and municipal managers to report acts of violence and intimidation they may experience in the course of their duties, with the aim of ensuring their safety at work and protecting them. A range of tools are available for municipal administrators.