

SUPREME COURT OF ONTARIO

DIVISIONAL COURT

IN THE MATTER OF s. 95 of the Ontario Municipal Board Act, R.S.O. 1980 c. 347, as amended by the Courts of Justice Act, 1984 c. 11, s. 199;

AND IN THE MATTER OF s. 64 of the Ontario Municipal Board Act, R.S.O. 1980 c. 347;

AND IN THE MATTER OF the Municipality of Metropolitan Toronto Act, R.S.O. 1980 c. 314;

AND IN THE MATTER OF the application of the Municipality of Metropolitan Toronto to the Ontario Municipal Board for an order dispensing with a public hearing and for approval of the making of a financial contribution to the Stadium Corporation of Ontario Limited toward the capital cost of a new Domed Stadium and of the leasing to the Stadium Corporation of Ontario Limited of a portion of the lands owned by the Municipality of Metropolitan Toronto presently used in connection with the operation of the John Street Pumping Station.

B E T W E E N:

RICHARD GILBERT, JACK LAYTON, DALE MARTIN,  
DAVID REVILLE, JOSEPH PANTALONE and  
DOROTHY THOMAS

Appellants

- and -

MUNICIPALITY OF METROPOLITAN TORONTO

Respondent

FACTUM FILED ON BEHALF OF  
STADIUM CORPORATION OF ONTARIO LIMITED

APPLICATION FOR LEAVE TO APPEAL

MESSRS. FASKEN & CALVIN  
P.O. Box 30  
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SOLICITORS for Stadium  
Corporation of Ontario Limited

PART I - STATEMENT OF FACTS

1. Stadium Corporation of Ontario Limited accepts as correct the statement of facts set out in paragraphs numbered 3(b), 3(c), 5 and 6 of the Appellants' summary of facts. Stadium Corporation of Ontario Limited disagrees with the statement of facts set out in paragraphs numbered 3(a) and 4 of the Appellants' summary of relevant facts and relies upon the following additional facts.

2. On January 23, 1985 the Respondent, as in part set out in paragraph numbered 3(a) of the Appellants' summary of facts, adopted an Executive Committee Report of January 22, 1985 recommending support for a Domed Stadium. In so doing however, the Respondent amended one of the recommendations contained therein, such that the adopted recommendation read (in part):

...that a contribution towards the capital cost of construction of the project in a total amount not to exceed the lesser of \$30 million or 20 per cent of the total cost of the project be approved as a current expenditure to be financed over a period of five years commencing in 1985 through the establishment and maintenance of a reserve fund with provision being made annually in the current estimates...

Appellants' Record Book, Tab E, p. 8A  
- Minutes of Council dated January 24, 1985.

3. By application dated January 28, 1985 the Respondent sought approval by the Ontario Municipal Board of, inter alia:

1. The making of a financial contribution to the Stadium Corporation of Ontario Limited towards the capital cost of the construction of a new stadium near the C.N. Tower in the City of Toronto and the relocation of the John Street Pumping Station and other related works in a total amount not to exceed the lesser of \$30,000,000.00 or 20 per cent of the total cost of the project as a capital expenditure to be financed over a period of five years commencing in the year 1985 through a reserve fund to be established and maintained for such purpose from the funds raised or to be raised in the current estimates of The Municipality of

Metropolitan Toronto in the amounts of \$500,000.00, \$7,200,000.00, \$7,200,000.00, \$7,200,000.00 and \$7,900,000.00 in the years 1985, 1986, 1987, 1988 and 1989, respectively; and

2. The leasing to the Stadium Corporation of Ontario Limited of a portion of the lands owned by The Municipality of Metropolitan Toronto presently used in connection with the operation of the John Street Pumping Station comprised of approximately 4.58 acres, for a nominal consideration for a term of 99 years.

Appellants' Motion Record, Tab 2, pages 4-12  
- Decision of the Ontario Municipal Board dated March 12, 1985.

4. By letter dated January 31, 1985 the Appellants requested that the Ontario Municipal Board hold a public hearing with respect to the Respondent's application for approval. The Respondent requested that the Ontario Municipal Board schedule a motion to dispense with a public hearing. The Motion was heard over a period of three days commencing March 5, 1985. In its Decision dated March 12, 1985 the Ontario Municipal Board granted the Respondent's motion to dispense with a public hearing and approved the Respondent's application as set out in paragraph numbered 3 above.

Appellants' Motion Record, Tab 2, pages 4-12  
- Decision of the Ontario Municipal Board dated March 12, 1985 at pgs. 3, 4 and 9

5. Stadium Corporation of Ontario Limited was a party to the proceedings before the Ontario Municipal Board and made submissions through Counsel to the Board.

Appellants' Motion Record, Tab 2, pages 4-12  
- Decision of the Ontario Municipal Board dated March 12, 1985 at p. 1.

6. Stadium Corporation of Ontario Limited was served by the Appellants on April 25, 1985 with their Notice of Motion seeking leave to appeal the said Decision of the Ontario Municipal Board. A copy of the Appellants' Factum in this proceeding was delivered

to the offices of the solicitors for Stadium Corporation of Ontario Limited on May 7, 1985.

7. Stadium Corporation of Ontario Limited is the intended recipient of the contribution to be made by the Respondent, as approved by the Ontario Municipal Board. By Articles of Incorporation filed August 1, 1984 with the Ministry of Consumer and Commercial Relations, Ontario Sports Stadium Corporation was incorporated by Larry S. Grossman, Paul V. Godfrey and Hugh L. Macaulay. By Articles of Amendment filed on August 27, 1984 with the said Ministry the name of the corporation was changed to Stadium Corporation of Ontario Limited.

Appellants' Record Book, Tab K, pgs. 4-5  
- Letter from J. S. Sillers to the  
Ontario Municipal Board  
dated February 6, 1985, at p. 5

Appellants' Record Book, Tab I, p. 2  
- Statement by the Honourable  
William G. Davis Re: A New  
Stadium for Ontario, dated  
January 16, 1985

8. Stadium Corporation of Ontario Limited is a Provincially owned Crown corporation. All of the issued shares in its capital stock are held by Her Majesty in Right of Ontario as represented by the Treasurer of Ontario and Minister of Economics.

Appellants' Record Book, Tab K, p. 5  
- Letter from J. S. Sillers to the  
Ontario Municipal Board dated  
February 6, 1985 at p. 5

PART II - POSITION OF STADIUM CORPORATION OF ONTARIO LIMITED  
REGARDING THE ISSUES RAISED BY THE APPELLANTS

9. It is submitted that Stadium Corporation of Ontario Limited is a proper party to this proceeding and as such has standing to be heard on this motion for leave to appeal and on the Appeal proper, should leave to appeal be granted.

10. In the alternative, it is respectively submitted that Stadium Corporation of Ontario Limited has a direct interest in the subject matter of this proceeding and may be adversely affected by a judgment herein and accordingly, should be granted leave to intervene in this proceeding as an added party pursuant to subrule 13.01 of the Rules of Civil Procedure.

11. It is respectively submitted that the Ontario Municipal Board did not in its Decision make an error in law in that:

- (a) section 112 of the Municipal Act, R.S.O. 1980 c. 302, as amended, does not apply to the Respondent; and
- (b) in any event, the contribution to be made by the Respondent to the Stadium Corporation of Ontario Limited as proposed does not constitute the grant of a bonus in aid of a commercial enterprise within the meaning of section 112 of the Municipal Act, R.S.O. 1980 c. 302, as amended.

12. It is therefore respectively submitted that no question of law of sufficient importance to merit, in the interests of the administration of justice, the attention of the Divisional Court has been raised in this proceeding.

A. STANDING

13. Stadium Corporation of Ontario Limited was a party to and participated through its Counsel in the proceedings before the Ontario Municipal Board. As a party to be affected by the Order now sought by the Appellants it was served pursuant to subrule 37.07(1) of the Rules of Civil Procedure on April 25, 1985 with a copy of the Appellants' Notice of Motion seeking leave to appeal from the Decision of the Ontario Municipal Board. It accordingly has status to be heard on this motion and on the Appeal proper if leave to appeal is granted.

Part I - paras. 5 and 6  
Appellants' Motion Record, Tab 2, pgs. 4-12  
- Decision of the Ontario Municipal Board  
dated March 12, 1985

Rules of Civil Procedure, subrules 37.07(1) and 61.03(1)

Re Powell and Attorney-General for Ontario et al.  
(1980), 11 O.M.B.R. 193 (Div.Ct.)

14. Stadium Corporation of Ontario Limited is the intended recipient of the contribution to be made by the Respondent. As such it has a direct interest in the subject matter of this proceeding as contemplated by subrule 13.01(1) of the Rules of Civil Procedure and may be adversely affected if the leave sought by the Appellants is granted. It is therefore respectfully requested that, if thought necessary, leave be granted to Stadium Corporation of Ontario Limited to intervene as an added party in this proceeding and in the Appeal proper should leave to appeal be granted.

Part I - para. 3

Rules of Civil Procedure, subrule 13.01(1)

Re Damien and Ontario Human Rights Commission  
(1976), 12 O.R. (2d) 262 (Div. Ct.)

Re Schofield and Min. of Consumer and Commercial Rel.  
(1980), 28 O.R. (2d) 764, 112 D.L.R. (3d) 132 (C.A.)

Re Doctors Hospital and Minister of Health et al.  
(1976), 12 O.R. (2d) 164 (Div. Ct.)

Re Multi-Malls Inc. and Minister of Transportation  
and Communciations (1975), 7 O.R. (2d) 717  
(Div. Ct.); (1976), 14 O.R. (2d) 49 (C.A.)

Re Starr and Puslinch (1976), 12 O.R. (2d) 40 (Div.Ct.)

B. APPLICATION OF SECTION 112 OF THE MUNICIPAL ACT,  
R.S.O. 1980 c. 302, AS AMENDED

15. The Municipality of Metropolitan Toronto Act, R.S.O. 1980,  
c. 314, as amended, provides in sub-section 245(1) thereof that certain

provisions of the Municipal Act, R.S.O. 1980, c. 302, as amended, are incorporated by reference and made applicable, with necessary modifications, to the Respondent, including section 113 of the latter statute. Section 112 of the latter statute is not included in sub-section 245(1) and hence cannot be seen as applicable to the Respondent.

The Municipality of Metropolitan Toronto Act,  
R.S.O. 1980, c. 314, as amended, sub-section 245(1)

The Municipal Act, R.S.O. 1980, c. 302, as amended,  
section 112

16. Sub-sections 113(1) and (2) of the Municipal Act, R.S.O. 1980, c. 302, as amended, provide (in part):

- (1) Notwithstanding any special provision in this Act or in any other general or special Act related to the making of grants or granting of aid by the council of a municipality, the council of every municipality may, subject to section 112, make grants...to any person, institution, association, group or body of any kind,...for any purpose that, in the opinion of the council, is in the interest of the municipality. (Underlining added)
- (2) The power to make a grant includes,...
  - (b) the power to sell or lease land for nominal consideration or to make a grant of land...

While section 113 of the Act is made expressly applicable to the Respondent by virtue of sub-section 245 (1) of the Municipality of Metropolitan Toronto Act, R.S.O. 1980, c. 314, as amended, section 112 of the former statute is not. The reference to section 112 in sub-section 113(1) is expressed as a proviso.

17. It is a recognized principle of statutory construction that where a section of one statute is incorporated by reference in another, the incorporated section must be read in the same sense which it bore in the original statute in order to determine its intended meaning. However, an exception or proviso not specifically incorporated by reference cannot be so referred to. In consequence,

the proviso contained in sub-section 113(1) of the Act cannot be read so as to render section 112 of the Act applicable to the Respondent.

E. A. Driedger, Construction of Statutes, 2nd Ed., (1983) at pgs. 239-240

Wilson v. Albert, [1943] 3 D.L.R. 129 (Alta. C.A.)

Mayor of Portsmouth v. Smith (1885), 10 A.C. 364 per Lord Blackburn at. p. 371 (H.L.)

18. Sub-section 245(1) of the former Act was amended as recently as 1982 by the Municipality of Metropolitan Toronto Amendment Act, 1982, S.O. 1982 c. 29, section 13. Section 112 was not incorporated therein. Had the Legislature intended that section 112 apply to the Respondent it may be presumed that it would have effected this intention with clarity.

19. In any event, it is respectively submitted that the intention of the Legislature in enacting the restriction set out in section 112 was to prevent municipalities artificially stimulating bonuses to encourage the development and/or maintenance of private enterprise in their jurisdictions. Such a purpose, it is submitted, recognizes that a program of such bonuses could ultimately prove detrimental to the interests of a municipality and its taxpayers and, by encouraging the attraction of industry for gain of bonus, could foster improper commercial competition amongst municipalities. The restriction is thus intended to discourage the unseemly or unfair conferring of benefits by one municipality to its ultimate detriment or to the detriment of other municipalities.

Rogers, The Law of Canadian Municipal Corporations, 2nd Ed. Vol. 2, p. 863

20. It is submitted that, having regard to the legislative intent of section 112, as set out above, it cannot be seen to apply to the making of a grant by the Respondent to a Crown corporation



where the competing interests of other municipalities are not involved and where the Respondent is of the opinion that the making of the grant is in its interests.

C. BONUS IN AID OF A COMMERCIAL ENTERPRISE

21. While the word "bonus" is susceptible of various constructions, its ordinary meaning is something in addition to or in excess of that which is normally due or ordinarily received. The normal meaning ascribed the word connotes the conferring of a benefit or premium in exchange for direct or indirect consideration received or to be received.

Great Western Garment Co., Ltd. v. Minister of National Revenue, [1947] Ex. C.R. 458 per O'Connor J. at p. 467

Ward v. Edmonton, [1932] 3 W.W.R. 451 (Alta. S.C.)

Shelford v. Mosey [1917] 1 K.B. 154 (C.A.)

Shorter Oxford English Dictionary, 3rd Ed. p. 202

22. The word "grant" is defined as meaning a gift or assignment of money by government or public authorities out of public funds to a private individual or commercial enterprise deemed to be beneficial to the public interest. In this sense the word thus imports a gift without the requirement of valuable consideration therefor.

GTE Sylvania Canada Ltd. v. The Queen, (1974), 28 D.T.C. 6315 (Fed.Ct.); Appeal denied, 28 D.T.C. 6673 (Fed.C.A.)

Re Board of Education for City of Toronto and Doughty, [1935] 1 D.L.R. 290

Ward v. Edmonton, supra

Shorter Oxford English Dictionary, supra, p. 822

23. There was no evidence before the Ontario Municipal Board to support the allegation that the land trade proposed by the Respondent involves the receipt by the Respondent of lands valued at less than those which it proposes to give.

24. In any event, sub-section 113(1) of the Municipal Act, R.S.O. 1980, c. 302, as amended, confers a wide discretion upon a Municipality to make grants to any person for any purpose that, in the opinion of the council, is in the interest of the Municipality. The power to make a grant expressly includes, by virtue of sub-section 113(2), the power to sell or lease land for nominal consideration or to make a grant of land. The exercise of this authority by the Respondent cannot therefore be said to be conditional upon the receipt by the Respondent of comparable or sufficient consideration from the grantee, whether in the form of landholdings or otherwise. If the grant can lawfully be made without consideration, it is submitted that it clearly can be made for insufficient or unequal consideration.

The Municipal Act, supra, sub-sections 113(1) and (2)

25. The Dome Stadium is to be built by or on behalf of a Crown corporation, the Stadium Corporation of Ontario Limited. The Respondent will have no direct interest in the Dome Stadium and hence, its contribution cannot be regarded as an extraordinary benefit conferred in exchange for direct or indirect consideration to be received.

Appellants' Record Book, Tab H  
- Letter from T. Eyton to the  
Honourable William G. Davis,  
dated January 17, 1985.

26. It is submitted that in determining what constitutes a "commercial enterprise" within the meaning of section 112 of the Municipal Act, R.S.O. 1980, c. 302, as amended, regard must be had both to the nature of the organization and the totality of its activities. Only where the preponderant purpose of the organization is the making of a profit may the organization properly be regarded as a commercial enterprise within the meaning of section 112.

Re Regional Assessment Commissioner et al. and  
Caisse Populaire de Hearst Ltee. (1983), 143  
D.L.R. (3d) 590 (S.C.C.)

Re Whitton and City of Ottawa (1967), 64 D.L.R.  
(2d) 265 (Ont. H.C.)

Maple Leaf Services v. Township of Essa and  
Petawawa (1963), 37 D.L.R. (2d) 657 (Ont. C.A.)

27. The preponderant purpose of the Stadium Corporation of Ontario Limited, as a Crown corporation, is to develop and operate the Dome Stadium as a public facility for the benefit of the community. Stadium Corporation of Ontario Limited will share in the distribution of the cash flow of the Dome Stadium only to accommodate miscellaneous costs and expenses not otherwise provided for in the ordinary cash flow of the Dome Stadium partnership. As the general partner of the Dome Stadium, Stadium Corporation of Ontario Limited will not be entitled to receive a share of generated distributable cash flow save for these purposes. Its primary purpose cannot therefore be said to be the making of a profit in preference to the interests of the community generally. Having regard to its status as a Crown corporation, wholly owned by the Province, and its primary objects it cannot properly be regarded as a "commercial enterprise".

Appellants' Record Book, Tab H

- Letter from T. Eyton to the Honourable William G. Davis, dated January 17, 1985, pgs. 3 and 4 and Appendix "C" thereto, pgs. 1 and 2.

Appellants' Record Book, Tab I, pgs. 3, 12, 13 and 18

- Statement by the Honourable William G. Davis Re: A New Stadium for Ontario, dated January 16, 1985.

### PART III - ADDITIONAL ISSUES RAISED

#### TEST APPLICABLE ON MOTION FOR LEAVE TO APPEAL

28. It is respectfully submitted that leave to appeal a decision of the Ontario Municipal Board should only be granted

pursuant to section 95 of the Ontario Municipal Board Act, R.S.O. 1980, c. 347, as amended, where the proposed Appeal would involve an important question of law which, in the interests of the administration of justice, warrants the attention of the Divisional Court. Where no such question of law arises, as in this case, a motion for leave to appeal should be dismissed.

Re Lexton Developments Ltd. et al. and  
Town of Vaughan et al. (1983), 14 O.M.B.R.  
445 (Div. Ct.)

PART IV - ORDER SOUGHT

29. Stadium Corporation of Ontario Limited therefore respectively requests that:

- (a) the motion for leave to appeal the decision of the Ontario Municipal Board dated March 12, 1985 be dismissed; and
- (b) it be granted its costs of this motion.

ALL OF WHICH IS RESPECTIVELY SUBMITTED.

*E.A. Cronk*

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SCHEDULE "A"

LIST OF AUTHORITIES

A. STATUTES

1. The Municipality of Metropolitan Toronto Act,  
R.S.O. 1980, c. 314, as amended, sub-section 245(1)
2. The Municipality of Metropolitan Toronto Amendment Act, 1982,  
S.O. 1982, c. 29, section 13
3. The Municipal Act, R.S.O. 1980, c. 302, as amended,  
Sections 112 and 113 (1) and (2)

B. RULES OF CIVIL PROCEDURE

4. Subrule 37.07(1)
5. Subrule 61.03(1)
6. Subrule 13.01

C. CASE AUTHORITIES

7. Re Powell and Attorney-General for Ontario et al.  
(1980), 11 O.M.B.R. 1983 (Div. Ct.)
8. Re Damien and Ontario Human Rights Commission  
(1976), 12 O.R. (2d) 262 (Div. Ct.)
9. Re Schofield and Min. of Consumer and Commercial Rel.  
(1980), 28 O.R. (2d) 764, 112 D.L.R. (3d) 132 (C.A.)
10. Re Doctors Hospital and Minister of Health et al.  
(1976), 12 O.R. (2d) 164 (Div. Ct.)
11. Re Multi-Malls Inc. and Minister of Transportation and  
Communications (1975), 7 O.R. (2d) 717 (Div. Ct.);  
(1976), 14 O.R. (2d) 49 C.A.
12. Re Starr and Puslinch (1976), 12 O.R. (2d) 40 (Div.Ct.)
13. Wilson v. Albert, [1943] 3 D.L.R. 129 (Alta. C.A.)
14. Mayor of Portsmouth v. Smith (1885), 10 A.C. 364
15. Great Western Garment Co., Ltd. v. Ministry of  
National Revenue, [1947] Ex. C.R. 458

16. Ward v. Edmonton, [1932] 3 W.W.R. 451 (Alta. S.C.)
17. Shelford v. Mosey, [1917] 1 K.B. 154 (C.A.)
18. GTE Sylvania Canada Ltd. v. The Queen,  
(1974) 28 D.T.C. 6315 (Fed. Ct.), Appeal denied  
28 D.T.C. 6673 (Fed. C.A.)
19. Re Board of Education for City of Toronto  
and Doughty, [1935] 1 D.L.R. 290
20. Re Regional Assessment Commissioner et al.  
and Caisse Populaire de Hearst Ltee.  
(1983), 143 D.L.R. (3d) 590 (S.C.C.)
21. Re Whitton and City of Ottawa (1967), 64 D.L.R.  
(2d) 265 (Ont H.C.)
22. Maple Leaf Services v. Township of Essa and  
Petawawa (1963), 37 D.L.R. (2d) 657 (Ont. C.A.)
23. Re Lexton Developments Ltd. et al. and  
Town of Vaughan et al. (1983), 14 O.M.B.R.  
445 (Div. Ct.)
- D. TEXTS
24. E.A. Driedger, Construction of Statutes, 2nd Ed.  
(1983) at pgs. 239-240
25. Rogers, The Law of Canadian Municipal Corporations,  
2nd Ed. Vol. 2 at p. 863
26. Shorter Oxford English Dictionary, 3rd Ed. at pgs. 202 and 822

SCHEDULE "B"

**MUNICIPALITY OF METROPOLITAN TORONTO ACT**

R.S.O. 1980, Chap. 314

Amended 1981, c. 73; in force December 18, 1981

Amended 1982, c. 29; in force July 7, 1982, except as noted

Amended 1983, c. 5, ss. 14 and 15; proclaimed in force August 1, 1983

Amended 1983, c. 9; in force February 23, 1983 except as noted

Amended 1983, c. 14; in force February 23, 1983

Amended 1983, c. 39; in force June 15, 1983

Amended 1983, c. 56, s. 10; in force December 2, 1983

Amended 1984, c. 1; deemed in force January 1, 1984

Amended 1984, c. 18; Act, except ss. 14, 15 and 16, in force May 29, 1984;

ss. 14 and 16 deemed in force January 1, 1984;

s. 15 deemed in force January 1, 1975

Amended 1984, c. 57, s. 44; to come into force on proclamation

**Section 245**

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 105, 106, 113, 114, 115, 116 and 122, subsection 165 (3), paragraphs 3, 11, 12, 23, 24, 27, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation:

**CHAPTER 29**

**An Act to amend the  
Municipality of Metropolitan Toronto Act**

*Assented to July 7th, 1982*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 13.** Subsection 245 (1) of the said Act is repealed and the following substituted therefor: s. 245 (1),  
re-enacted

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 105, 106, 113, 114, 115, 116 and 122, subsection 165 (3), paragraphs 3, 11, 12, 23, 24, 27, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation. Application of  
R.S.O. 1980,  
c. 302



**MUNICIPAL ACT**  
**R.S.O. 1980, Chap. 302**

Amended 1981, c. 47, s. 23; in force November 1, 1981  
Amended 1981, c. 70, ss. 23 and 24; proclaimed in force February 1, 1982  
Amended 1982, c. 24; in force July 7, 1982  
Amended 1982, c. 40, s. 4; proclaimed in force January 1, 1983  
Amended 1982, c. 50; in force November 18, 1982  
Amended 1983, c. 5, s. 1; proclaimed in force August 1, 1983  
Amended 1983, c. 8, s. 16; proclaimed in force March 1, 1983  
Amended 1983, c. 41; in force June 21, 1983  
Amended 1984, c. 45, s. 18; deemed in force January 1, 1984  
Amended 1984, c. 48, s. 20; in force January 1, 1985 (but see s. 23)

**112.** Notwithstanding any general or special Act, a council shall not grant bonuses in aid of any manufacturing business or other industrial or commercial enterprise. R.S.O. 1980, c. 302, s. 112.

**113.**—(1) Notwithstanding any special provision in this Act or in any other general or special Act related to the making of grants or granting of aid by the council of a municipality, the council of every municipality may, subject to section 112, make grants, on such terms and conditions as to security and otherwise as the council may consider expedient, to any person, institution, association, group or body of any kind, including a fund, within or outside the boundaries of the municipality for any purpose that, in the opinion of the council, is in the interests of the municipality.

(2) The power to make a grant includes,

- (a) the power to guarantee a loan and to make a grant by way of loan and to charge interest on the loan;
- (b) the power to sell or lease land for nominal consideration or to make a grant of land, where the land being sold, leased or granted is owned by the municipality but is no longer required for its purposes, and includes the power to provide for the use by any person of land owned or occupied by the municipality upon such terms and conditions as may be fixed by the council;
- (c) the power to sell, lease or otherwise dispose of, at a nominal price, or to make a grant of, any furniture, equipment, machinery, vehicles or other personal property of the municipality or to provide for the use thereof by any person on such conditions as may be fixed by the council; and
- (d) the power to make donations of foodstuffs and merchandise purchased by the municipality for such purpose.

(3) A guarantee of loan made under this section shall be deemed to be a debt for the purposes of section 149 and, where the term of the loan in respect of which such guarantee is made may extend beyond the current year, such guarantee shall be deemed to be an act, the cost of which is to be raised in a subsequent year and shall be subject to the provisions of section 64 of the *Ontario Municipal Board Act*.

(4) In this section,

- (a) "land" includes a building or structure or a part thereof;
- (b) "person" includes a municipality as defined in the *Municipal Affairs Act* and includes a metropolitan, regional and district municipality and the County of Oxford. R.S.O. 1980, c. 302, s. 113.

# RULES OF CIVIL PROCEDURE

## LEAVE TO INTERVENE AS ADDED PARTY

13.01(1) Where a person who is not a party to a proceeding claims,

- (a) an interest in the subject matter of the proceeding;
- (b) that he or she may be adversely affected by a judgment in the proceeding; or
- (c) that there exists between him or her and one or more of the parties to the proceeding a question of law or fact in common with one or more of the questions in issue in the proceeding,

the person may move for leave to intervene as an added party.

(2) On the motion, the court shall consider whether the intervention will unduly delay or prejudice the determination of the rights of the parties to the proceeding and the court may add the person as a party to the proceeding and may make such order for pleadings and discovery as is just.

## SERVICE OF NOTICE

### *Required as General Rule*

37.07(1) The notice of motion shall be served on any person or party who will be affected by the order sought, unless these rules provide otherwise.

## MOTION FOR LEAVE TO APPEAL

### *Notice of Motion for Leave*

61.03(1) Where an appeal to an appellate court requires the leave of that court, the notice of motion for leave shall,

- (a) state that the motion will be heard on a date to be fixed by the Registrar;
- (b) be served within fifteen days after the date of the order or decision from which leave to appeal is sought, unless a statute provides otherwise; and
- (c) be filed with proof of service in the office of the Registrar, within five days after service.