



Local Government Lawyers

Ethics, Conflicts, and Legal Obligations for Building Officials

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Session Objectives



Understand how building official decisions create or reduce legal risk



Recognize ethical and conflict-of-interest red flags



Improve communications with the public



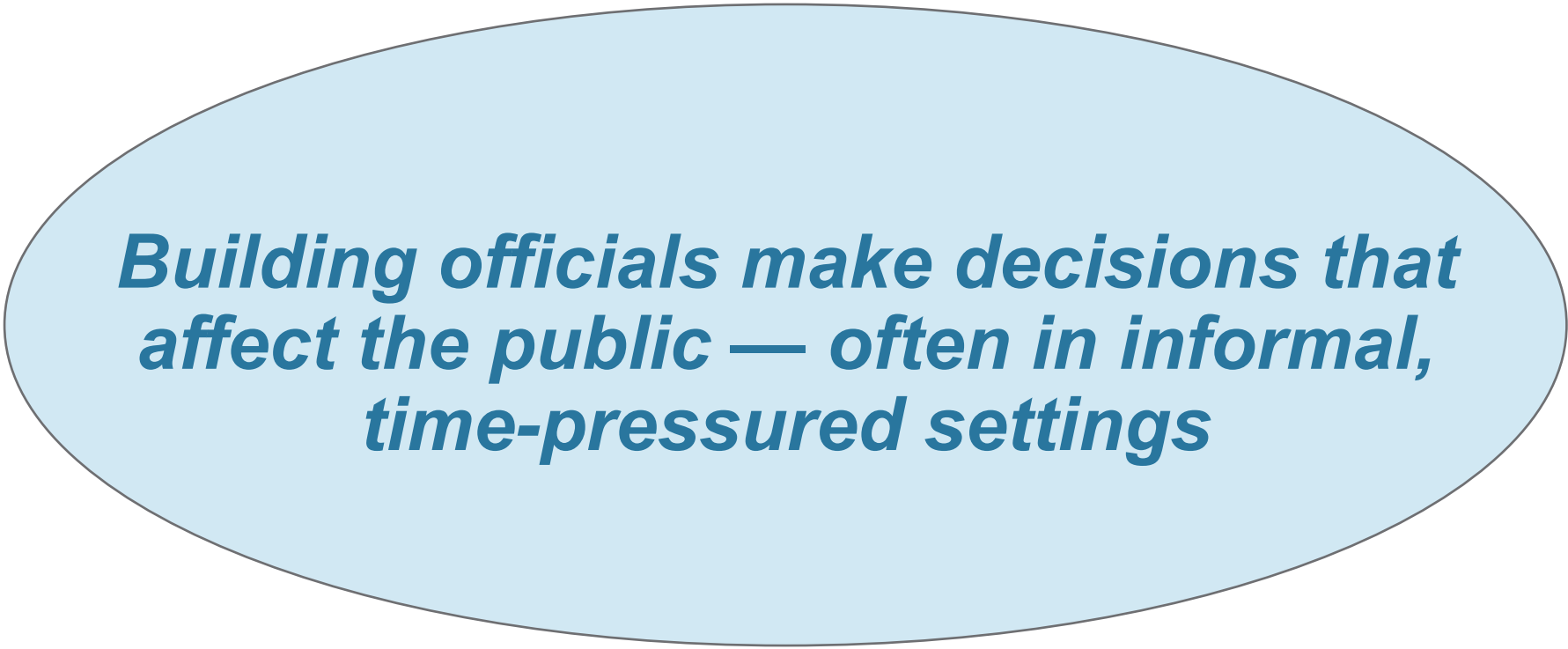
Apply defensible processes in everyday work



Topic #1

Ethical Obligations in Public Service





Building officials make decisions that affect the public — often in informal, time-pressured settings

Ethical Risk Often Arises From:



Familiar faces in a smaller community



Repeat applicants and contractors



Pressure to be “helpful” or “practical”



Long-standing informal practices



Key Ethical Principles

- Impartiality – treating similar cases alike
- Integrity – honesty and transparency
- Accountability – decisions must withstand scrutiny
- Public interest comes before convenience
- Adhere to BOABC Code of Ethics



Topic #2

Conflicts of Interest



Common Scenarios

Inspecting or Enforcing Against:

- Friends, family, neighbours
- Former clients or employers

Dealing with:

- Regular contacts
- Repeat business license holders
- Long term contractors

Accepting:

- Small favours, discounts, or hospitality

Providing:

- Extra-process tips
- Informal assurance outside normal channels



Conflicts of Interest

- Actual conflicts – *direct* personal interest
- Potential conflicts – *could* reasonably arise
- Perceived conflicts – *appearance* of bias

Perception matters as much as intention



Managing Conflicts Effectively

- Disclose early
- Let leadership decide next steps
- Step away from the matter
- Document the hand-off

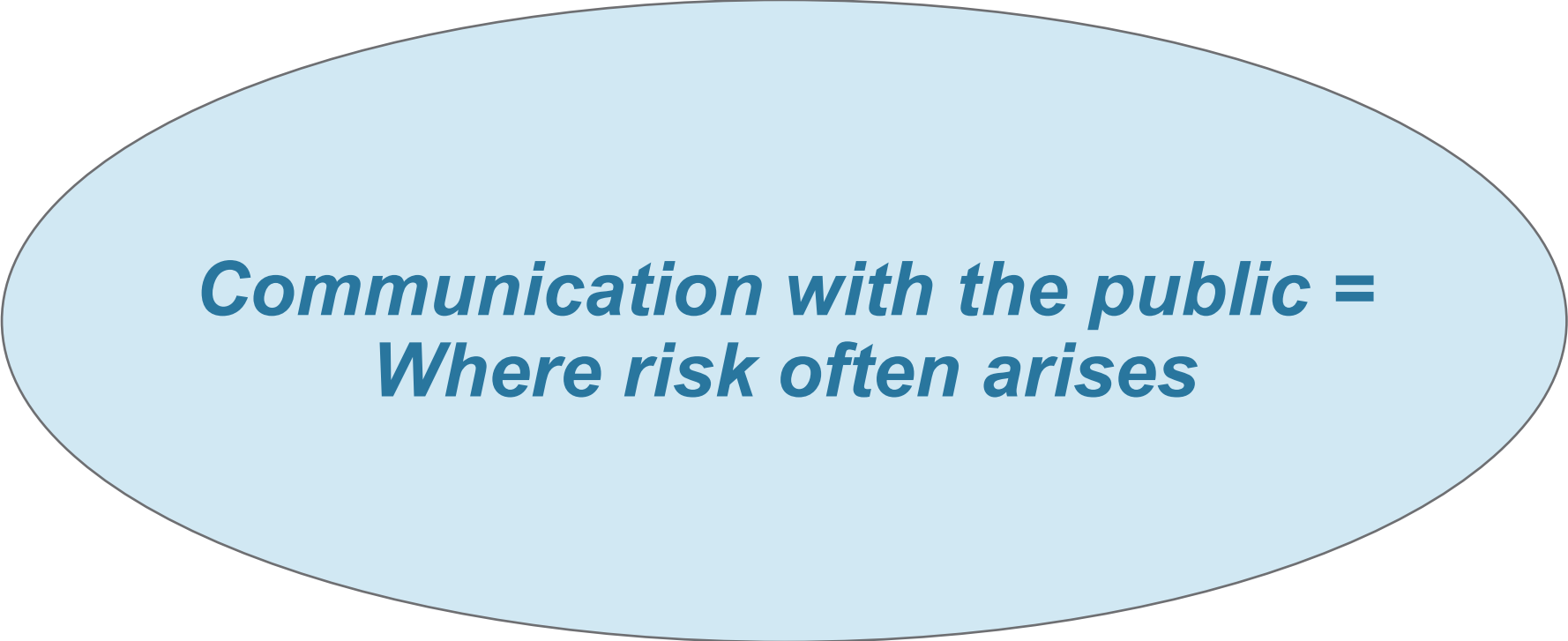




***Perception matters — particularly so
the smaller the community***

Topic #3

Communication with the Public



***Communication with the public =
Where risk often arises***

Communication with the Public

- Claims begin with *miscommunications*, as much as decisions
- Emails, texts, site visits, interactions in the community
- Words often matter more than outcomes



Two Common Scenarios

- Two common scenarios building officials encounter in discussions with the public:

1. Information-Gatherers

- Developers asking about timelines or likelihood of approval
- Homeowners asking “what they can get away with”
- Contractors seeking informal confirmation
- Businesses asking how strictly rules are enforced

2. Claimants / Pre-claimants

- Residents upset about neighbours
- Businesses affected by delays or enforcement
- People looking for fault, fairness, or compensation

Identify who the person is:

Information Gatherer

What information are they seeking?

What is the decision that this information relates to?

What are the risks involved?

Claimant

What information are they seeking?

What is the claimed/perceived fault?

What are the risks involved?



Managing expectations is a critical element of communications. Create reasonable and appropriate expectations by:

Under-promising

Over-delivering



Managing Expectations

- Be polite and listen
- Refer to appropriate person
- Do not discuss or debate responsibility
- Be aware that people often usually hear what they want to hear
- Avoid creating expectations as to outcomes
- Commit to a “process” and not an “outcome”
- Take photos, measurements, retain possession of relevant documents and infrastructure elements



Value of a Confirming Letter/Email

- Creates a **clear written record** of discussions and decisions
- Reduces misunderstanding and misalignment
- Clarifies **what was — and was not — decided**
- Supports continuity when staff or Council change
- Demonstrates **fairness and reasonableness** if decisions are later challenged

Best practice:

- Send promptly
- Keep it factual and neutral
- Invite correction

A short confirming letter today can prevent a long dispute tomorrow.



Dealing with Difficult Individuals:

- Establish single point of contact
- Always two staff members present
- Consider “in writing only” protocol
- Confirming letters/emails
- Keep good notes
- Remain professional & take the high road
- Make no promises as to outcomes
- Refer to your organization’s policies and procedures if verbal abuse or threats of physical abuse



***The wrong expectation, once created,
is almost impossible to undo***

Topic #4

Procedural Fairness in Everyday Work

How Fairness Issues Arise:

- Inconsistent enforcement across neighborhoods
- Prioritizing some files over others without explanation
- Different building officials handling similar issues differently
- Different departments handling similar issues differently



Practical Fairness Principles:

- Be consistent
- Explain the process
- Avoid pre-judgment
- Give affected people a chance to respond



Why this Matters - Fair Process:

**Reduces
Escalation**

**Improves
Acceptance of
Decisions**

**Protects
Credibility**



Topic #5

Balancing the Building Official's Statutory and Employment Functions

What are Statutory Decision-makers?

- Created or empowered by statute (e.g., an Act or Regulation)
- Exercise public authority (often affecting rights, interests, or obligations)
- Must follow statutory limits and procedures
- Generally subject to administrative law principles (fairness, reasonableness, jurisdiction)



Examples of Statutory Decision-makers in Local Government:

- **Chief Administrative Officer (CAO)** – e.g. statutory administration and implementation duties
- **Corporate Officer** – e.g. bylaw certification, elections, statutory records
- **Approving Officer** – e.g. subdivision approvals under the *Land Title Act*
- **Building Official** – e.g. issuance, refusal, or revocation of building permits
- **Fire Chief** – e.g. fire safety orders, inspections, occupancy restrictions
- **Bylaw Enforcement Officer** – e.g. compliance and enforcement decisions
- **Business Licensing Official** – e.g. issuance, suspension, or refusal of licenses
- **Director of Engineering** – e.g. servicing approvals, drainage and infrastructure requirements
- **Development Permit Delegate** – e.g. delegated development permit decisions



Statutory Accountabilities for Building Officials

- *Building Officials' Association Act*
 - Establishes BOABC oversight of education, certification, and member discipline
- *BOABC Code of Ethics*
 - Contains the principles of ethical conduct for members to fulfill their duty to the public, the profession and the BOABC
- *Building Act*
 - Sets provincial standards for qualifications and practice
 - Must make decisions within scope of certification
- *Building Code*
 - Provincial regulation enacted under the *Building Act*
 - Establishes technical standards for construction within the province
- *Local Government Act and Community Charter*
 - Municipalities and regional districts delegate authority to building officials



Employment Accountabilities for Building Officials

- Compliance with regulations and bylaws
- Procedural fairness
- Documentation and administrative requirements
- Enforcement steps
- Maintenance of professional qualifications
- Confidentiality and other employment obligations
- Public service



Statutory and Employment Functions

- Two distinct but overlapping roles:

1. Statutory functions

- Act in the public interest
- Accountable to the BOABC
- Perform the functions of the Building Official under the *Building Code and Community Charter*

2. Employment functions

- Act in the interest of local government employer (and therefore the public)
- Accountable to local government employer (and therefore to the public)



BOABC Code of Ethics

- Hold paramount the safety, health and welfare of the public, protection of the environment and promotion of health and safety.
- Uphold and advance the integrity, honour and dignity of the Association.
- Strive to increase the public awareness regarding the Association.
- Endeavour to extend public knowledge and appreciation of the relevance and importance of building regulations.
- Enhance the reputation of the Association by meeting high standards of public service.
- Provide impartial, courteous, fair, efficient and effective service to the public.
- Keep themselves informed and up-to-date on current practices in order to maintain their level of competence, strive to advance the body of knowledge under which they practice and provide and take opportunities for the professional development of themselves and their associates.
- Conduct themselves in a manner which promote the dignity and integrity of the Association.
- Maintain devotion to high ideals of personal honour and professional integrity.



Common Tension Points

Pressure to:

- Expedite decisions
- “Fix” problems pragmatically
- Accommodate political or operational concerns

Expectations from:

- Applicants
- Other departments
- Management



***Your employer is the local government —
your authority comes from statute***

Topic #6

Records, Notes, and Documentation

Records, Notes, and Documentation

- Notes often become the only contemporaneous evidence
- Good records protect you and the organization
- Files last longer than memory
- FOI requests are routine



Practical Examples

- Notes from site visits
- Summaries of conversations
- Inspection observations
- Reasons for decisions
- Internal consultations



Documentation Best Practices

- Record key interactions and decisions
- Document reasons briefly and factually
- Avoid speculation, sarcasm, or commentary
- Assume notes may be read years later, by someone not familiar with the context



“Invariable Practice” =

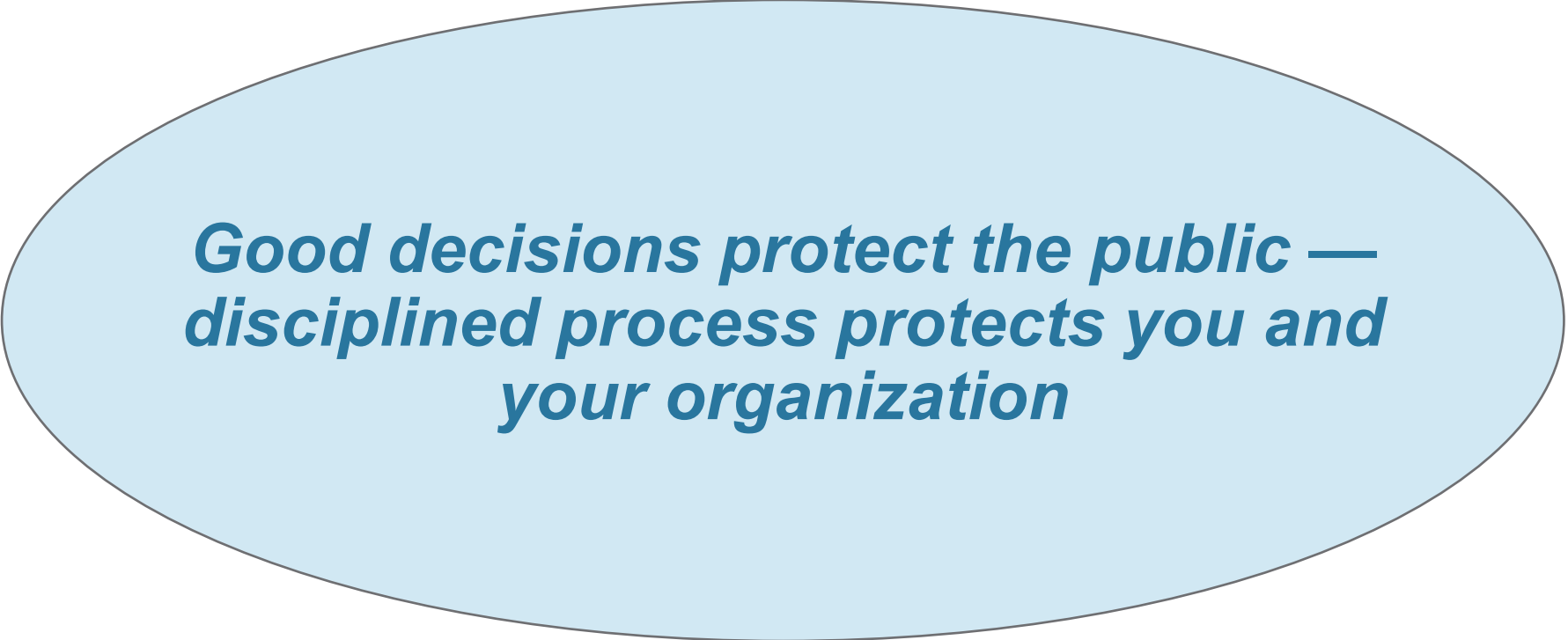
- Maintain the exact same practice so that you are reliably able to attest to the fact of something on that basis.



Conclusion and Key Takeaways

- Most risk is created early and informally
- Process protects you, your employer and the public
- Consistency and documentation matter
- When in doubt: pause, check, and report up to your supervisor





***Good decisions protect the public —
disciplined process protects you and
your organization***

Questions?



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