

Sufficiency of a Petition to Conduct a Public Vote on Borrowing Bylaw 24/2017

**A Report to the Council of the City of St. Albert, Alberta
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TABLE OF CONTENTS

DECLARATION 3
 Sufficiency of the Petition 3

BACKGROUND 3
 History of the Bylaw and the Petition 3
 Legislation Regarding Petitions 4
 Requirements for a Petition..... 4

THE PETITION 4
 Contents of the Petition 4
 Petitioners’ Signatures 5
 Affidavits 5
 Methodology for Determination of Sufficiency 5
 Petitioners’ Signatures 6
 Affidavits 6
 Conclusion of Insufficiency 6
 Additional Invalid Entries and Questionable Entries 7
 Addresses 7
 Names..... 7
 Dates..... 7
 Witness Signatures 7

APPENDIX A 9

DECLARATION

Sufficiency of the Petition

The petition requesting that the Council of the City of St. Albert, Alberta hold a public vote on Borrowing Bylaw 24/2017 is declared to be insufficient.

BACKGROUND

History of the Bylaw and the Petition

On April 3, 2017, Council unanimously passed first reading of Bylaw 24/2017, a bylaw to authorize borrowing to fund the construction of a new library facility in the City of St. Albert.

On April 18, 2017, the Bylaw was amended by Council to reduce the maximum amount of the borrowing that would be authorized by the bylaw to \$21,900,000.

As per sections 251(3) and 606(2)(a) of the Municipal Government Act (MGA), the borrowing bylaw was advertised in the St. Albert Gazette on April 22 and April 29, 2017.

As per section 231(1) of the MGA, electors may submit a petition for a vote of the electors to determine whether the proposed bylaw or resolution should be passed.

Section 231(3) of the MGA specifies that a petition for a vote of the electors on a proposed borrowing bylaw is not sufficient unless it is filed with the chief administrative officer within 15 days after the last date on which the proposed bylaw is advertised.

15 days after the date of the last advertisement (April 29, 2017) would be May 14, 2017. However, because May 14 is a Sunday, and municipal offices are not open on Sundays, a petition could be submitted on the next regular business day, Monday, May 15, 2017, as per section 22(2) of the Interpretation Act.

(2) If in an enactment the time limited for registration or filing of an instrument, or for the doing of anything, expires or falls on a day on which the office or place in which the instrument or thing is required to be registered, filed or done is not open during its regular hours of business, the instrument or thing may be registered, filed or done on the day next following on which the office or place is open.

On May 15, 2017, a petition was delivered to the City of St. Albert by Ms. Carrie Blouin, who was identified as the representative of the petitioners. The statement above the collected signatures on the petition is:

“TO: The Council of the City of St. Albert

The undersigned persons, being electors of the City of St. Albert, in the Province of Alberta, hereby petition the Council of the City of St. Albert to hold a public vote on Borrowing Bylaw 24/2017 being a Borrowing Bylaw authorizing the borrowing of not more than Twenty One Million Nine Hundred Thousand Dollars (\$21,900,000.00) to finance the Construction of the Branch Library”

As per section 226 of the MGA, the chief administrative officer must make a declaration to the council on whether the petition is sufficient or insufficient within 30 days after the date on which the petition is filed. In the case of the petition on Borrowing Bylaw 24/2017, this declaration must be made on or before June 14, 2017.

Legislation Regarding Petitions

Requirements for a Petition

The Municipal Government Act defines the requirements for a petition to be deemed sufficient.

Section 221 of the Municipal Government Act states:

Petition sufficiency requirements

221 A petition is sufficient if it meets the requirements of sections 222 to 226.

As per section 221, a petition must meet all requirements of sections 222 to 226 to be deemed sufficient. Conversely, if the petition fails to meet even one of the requirements of sections 222 to 226, the petition must be deemed insufficient.

The full text of sections 222 to 226 of the MGA are provided in Appendix A.

THE PETITION

Contents of the Petition

The petition is made up of 55 portions.

- One portion is the “Statement of Representative of Petitioners” required by section 224(4) of the MGA.
- 53 portions contain varying numbers of pages of the petition containing signatures of petitioners along with an “Affidavit of Execution” signed by a person making the following oath:

1. THAT I was personally present and did witness all those signatures on Schedule "A" of the attached petition where I have signed my name as an adult person.
2. THAT to the best of my knowledge all the persons whose signatures I have witnessed on this petition are eligible electors of the City of St. Albert, Alberta and are:
 - a. Canadian citizens,
 - b. over 18 years of age, and
 - c. are a residents (sic) of the municipality of St. Albert, Alberta.
3. THAT I personally observed each person who is designated above on Schedule "A" duly sign this petition with their signature.

Each "Affidavit of Execution" was signed and dated by a Commissioner For Oaths In & For The Province Of Alberta before whom the oath was made.

- The one remaining portion of the petition contains one page of the petition containing 17 signatures of petitioners but did not have an accompanying "Affidavit of Execution".

Petitioners' Signatures

In total, the petition contains 6,696 entries from petitioners

Affidavits

As noted above, with only one exception, each portion of the petition contained an affidavit as required by section 224(3)(b) of the MGA. Each of these affidavits is a legal statement in which a person (the deponent) has made an oath stating that they had personally witnessed all of the signatures in the attached portion of the petition. Each affidavit was signed by the deponent in the presence of a Commissioner For Oaths, and each affidavit contained a jurat that was completed by the Commissioner For Oaths who witnessed the deponent's signature. Each jurat contains all of the required components, which includes the signature of the Commissioner For Oaths and the date on which the affidavit was completed and witnessed.

Methodology for Determination of Sufficiency

A review of every entry in the petition was conducted to identify any entries in the petition that failed to meet any of the MGA's requirements for petitions.

Although section 225(4) of the MGA allows the City to only review and analyze a representative sampling of the entries in the petition, rather than reviewing and analyzing the entire petition, this option was not chosen.

Petitioners' Signatures

Section 223(2)(a) specifies that in order to be deemed sufficient, the petition must be signed “by electors of the municipality equal in number to at least 10% of the population”.

The official population of the City of St. Albert, on record with Alberta Municipal Affairs, is 64,645. Therefore, to be deemed sufficient, the petition must contain 6,465 valid signatures.

In total, the petition contains 6,696 entries from petitioners. If all of these signatures were deemed to be valid, the petition would contain 231 more signatures than the minimum amount required to satisfy section 223(2)(a). Or conversely, if more than 231 of the signatures in the petition were found to be invalid for failing to meet any of the requirements of sections 222 to 226, the petition would be deemed to be insufficient.

Affidavits

Of the 53 portions of the petition that had accompanying affidavits, a specific irregularity was found on 4 of them. In these 4 portions, signatures had been collected after the date on which the affidavit was signed by the deponent. The affidavit is an oath stating that the deponent witnessed the attached signatures. These affidavits meet the requirement of section 224(3)(b) regarding any signatures in those portions that were collected up to the date that the affidavit was signed. However, that affidavit cannot be considered valid for any signatures in those portions that were collected after the date on the affidavit. Therefore, those signatures do not have an accompanying affidavit as required by section 224(3)(b). For this reason, the following number of signatures from these 4 portions of the petition were deemed to be invalid:

- 2 portions each contain 11 invalid signatures.
- 1 portion contains 16 invalid signatures.
- 1 portion contains 533 invalid signatures.

In total, from those 4 portions of the petition, **571 signatures are invalid** because they failed to meet the requirement of section 224(3)(b) of the MGA.

Also, as noted above, one page, containing 17 signatures, did not have an accompanying affidavit. Therefore, these **17 signatures are invalid** because they failed to meet the requirement of section 224(3)(b) of the MGA.

Conclusion of Insufficiency

As stated above, if more than 231 signatures were found to be invalid, the petition would fail to meet the requirement of section 223(2)(a) of the MGA, as the number of valid signatures would not be equal in number to at least 10% of the population.

Due to problems with affidavits, **588 signatures are not valid**. This quantity of invalid signatures is more than enough to determine that the petition is insufficient.

Because of this, the validity of the remaining signatures is moot in determining the sufficiency of the petition, and no further research was conducted beyond the initial review and identification of “questionable” entries in the petition.

Additional Invalid Entries and Questionable Entries

When reviewing the petition, some entries were identified that failed to meet one of the requirements of the MGA. Some other entries were identified that would require further research to be certain whether they were valid or not. All of these entries were labelled as “questionable”.

Reasons for identifying these signatures as “questionable” are listed below, along with the quantities that had been identified for each of those reasons.

Addresses

321 signatures may have been invalid due to issues with their address. Inclusion of the petitioner’s address is required by section 224(2)(c). These issues included: incomplete address – no house number; incomplete address – no unit number for a multi-parcel address; illegible – could not determine address; non-existent address; address located in City of Edmonton; address located in Sturgeon County.

Names

69 signatures may have been invalid due to issues with their printed name as required by section 224(2)(a). These included: illegible printed name; first name only; surname only; initial but no surname.

Dates

26 signatures may have been invalid due to an incomplete date in their entry as required by section 224(2)(d).

Witness Signatures

26 signatures may have been invalid due to the witness signature not matching the signatures of any of the deponents who submitted affidavits as required by section 224(3).

2 signatures may have been invalid because the petitioner witnessed their own signature.

In total, there were **444 “questionable” entries** in the petition. Without conducting additional research, it cannot be conclusively stated how many of these entries would ultimately have been determined to be valid or invalid. But as noted above, the validity of the “questionable” entries is moot because 588 signatures had already been determined to be invalid, more than the 231 required to establish insufficiency of the petition.

APPENDIX A

Sections 222 to 226 of the Municipal Government Act

Who can petition

222 Unless otherwise provided in this or any other enactment, only electors of a municipality are eligible to be petitioners.

Number of petitioners

223(1) A petition must be signed by the required number of petitioners.

(2) If requirements for the minimum number of petitioners are not set out under other provisions of this or any other enactment then, to be sufficient, the petition must be signed,

- (a) in the case of a municipality other than a summer village, by electors of the municipality equal in number to at least 10% of the population, and
- (b) in the case of a summer village, by 10% of the electors of the summer village.

Other requirements for a petition

224(1) A petition must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.

(2) The petition must include, for each petitioner,

- (a) the printed surname and printed given names or initials of the petitioner,
- (b) the petitioner's signature,
- (c) the street address of the petitioner or the legal description of the land on which the petitioner lives, and
- (d) the date on which the petitioner signs the petition.

(3) Each signature must be witnessed by an adult person who must

- (a) sign opposite the signature of the petitioner, and
- (b) take an affidavit that to the best of the person's knowledge the signatures witnessed are those of persons entitled to sign the petition.

(4) The petition must have attached to it a signed statement of a person stating that

- (a) the person is the representative of the petitioners, and

(b) the municipality may direct any inquiries about the petition to the representative.

Counting petitioners

225(1) A petition must be filed with the chief administrative officer and the chief administrative officer is responsible for determining if the petition is sufficient.

(2) No name may be added to or removed from a petition after it has been filed with the chief administrative officer.

(3) In counting the number of petitioners on a petition there must be excluded the name of a person

(a) whose signature is not witnessed,

(b) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,

(c) whose printed name is not included or is incorrect,

(d) whose street address or legal description of land is not included or is incorrect,

(e) if the date when the person signed the petition is not stated,

(f) when a petition is restricted to certain persons,

(i) who is not one of those persons, or

(ii) whose qualification as one of those persons is not, or is incorrectly, described or set out,

or

(g) who signed the petition more than 60 days before the date on which the petition was filed with the chief administrative officer.

(4) If 5000 or more petitioners are necessary to make a petition sufficient, a chief administrative officer may use a random statistical sampling method with a 95% confidence level to determine the sufficiency of the petition, instead of counting and checking each petitioner.

Report on sufficiency of petition

226(1) Within 30 days after the date on which a petition is filed, the chief administrative officer must make a declaration to the council or to the Minister on whether the petition is sufficient or insufficient.

(2) Repealed 1995 c24 s26.

(3) If a petition is not sufficient, the council or the Minister is not required to take any notice of it.