

P
GG
PROTOCOL
PEACE | ORDER | GOOD GOVERNANCE



Office Holder



Office Chair

**The
Public Office
Governance Guide**

Official's Playbook



PUBLIC OFFICE GOVERNANCE GUIDE

by Shelagh McFarlane

The Public Office Governance Guide (POGG) was written to help Canadians understand the two government structures which operate locally, and how elected Officials can re-establish the line between them, which was blurred by the 2001 municipality amalgamations.

There are two POGG Playbooks:

For Sitting Officials: outlines how the public office is to operate, and the duties of elected officials. Each chapter identifies a key structural defect in the present operations, and concludes with the *“Re-Public the Public Office”* protocol to take.

For Candidates & Constituents: outlines the steps to take to clarify local public authority, the *“Re-Public the Public Office”* Notice templates, and campaign materials for candidates preparing to run for their local public office this year.

Why the POGG Playbooks Exist

Local governance involves both public duties and service administration to operate side-by-side and in unison, but the dividing line between them has become dangerously blurred.

The Playbooks help constituents, candidates and sitting Officials “re-public” their local Office, to peacefully separate the public duties of stewardship from administrative (Municipality) control, and without disruption to local/municipal services.

They provide a non-adversarial protocol for ...

- ⇒ public office clarification and realignment
- ⇒ municipal record/registration correction, and
- ⇒ a simple pathway to judicial oversight if needed

Although the POGG Playbooks are not legal advice, they’re founded on the Doctrine of Competent Jurisdiction, applicable to all areas of law: that personal, subject matter, and territorial jurisdiction must be verified before any man, woman or person can be charged.

Verifying authority doesn’t destroy governing institutions, it’s the very thing needed to determine what the institution is.





TABLE OF CONTENTS

INTRODUCTION

What is Local Governance? 4

The Man and The Chair
The Local Authority Chain
Local vs Municipal Governments

LOCAL or MUNICIPAL GOVERNMENT?

Defect #1 — Election Administration & Office Confusion 6

Which office was created - public office or office of administration?
Lawful Correction - Clarify election & office jurisdiction

Defect #2 — Fiduciary Duty & Public Accountability 8

What duties are assigned to the officeholder and the office chair?
Lawful Correction - Clarify legal (signing) capacity

Defect #3 — Municipal Records & Taxation Authority 10

Who regulates land and property taxes?
Lawful Correction - Restore land registry & records

Defect #4 — Judicial Authority & By-law Enforcement Powers 14

What court holds personal, subject matter, and territorial jurisdiction?
Lawful Correction - Independent judicial review

IN CONCLUSION 16

WHAT IS LOCAL GOVERNANCE?

Most people think they have a “Local Government” (elected public representatives). But what’s actually operating day-to-day is “Municipal Administration” (operations).

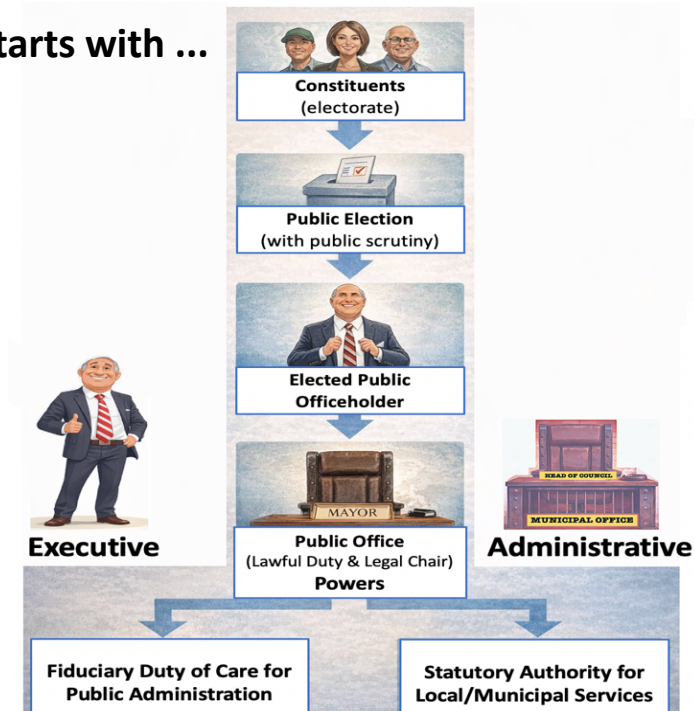
Knowing the difference between the officeholder (man) and the office (chair) is key to understanding how the local public office should function.

The Man and The Chair

Every legal system requires a man or woman decision-maker, however their legal authority is exercised through an office chair. This maintains continuity of government during election cycles.

The “chair” carries the legal powers, but the officeholder is the one responsible for how those administrative powers are exercised and how the public duties are executed.

Local Authority starts with ...

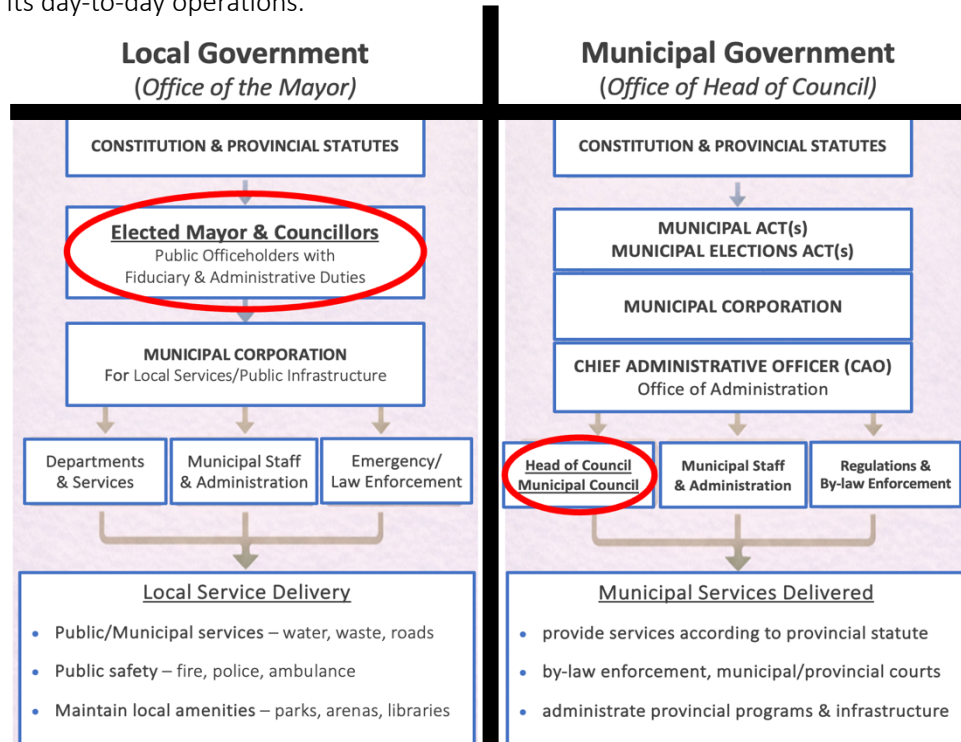


<i>Elected Man/Woman</i>	<i>Office Chair</i>
Accountable to voters	Defined by Municipal Act
Fiduciary/Public Administrator	head of Council/municipal administrator
Powers arise from nature of office	Powers granted by provincial legislation
Duty of good faith, public interest	Administration for Municipality
Uses discretion & good judgement	Limited to Acts/codes
Stewardship of public resources	Management of municipal properties
Custodial duty for the vulnerable	No
Subject to conflict-of-interest principles	No

LOCAL vs MUNICIPAL GOVERNMENTS

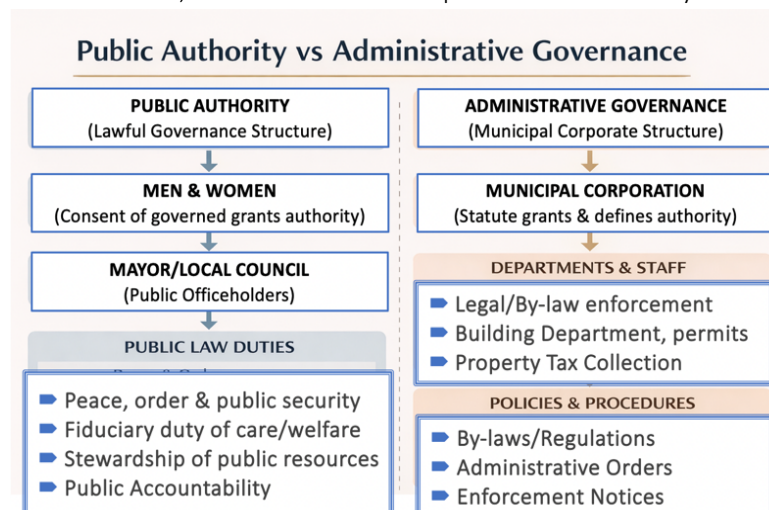
Since Mayors and Councillors are elected to represent people and are responsible for their shared public resources, “**Local Government**” is a trust relationship and stewardship.

“**Municipal Government**” however, is the internal governance of the service corporation, and its day-to-day operations.



“**Stewardship**” is the responsible management of something entrusted to one's care, and the role differs significantly from “**Municipal Operations.**”

Constituents, as voters and taxpayers, need to know which structure is “Government”, which is “Administration”, and which one holds public fiscal authority.



Defect #1

Election Administration & Office Confusion

While a municipal election may be procedurally valid, it can fail entirely in its public purpose.

Election integrity relies not only on the legality of the process, but on voters and candidates fully understanding what a municipal election is actually for.

1.1 THE ISSUE - What is a municipal election for?

When election administration shifted from a public function to an administrative one, it altered both the legal character of the election and the results.

Candidates assume they're running for public office, but a municipal election is for a municipal Chair. Voters see the word "Mayor" on the ballot, but are confused when the administrative title "Head of Council" is issued at the inauguration.

1.2 THE RESULT - "Man vs. Chair" Confusion

If voters don't understand what a municipal election is for, they end up feeling confused and "administrated" instead of governed in good faith.

This is called administrative substitution or "mission creep" - when a political Agenda creeps into a public office and "reupholsters the Chair" without the elected officials even knowing.

In a municipal government structure, a provincial "Action Plan" can take over the local Office Chair, and there's no man or woman there with discretionary powers to stop it.



Local Fiduciary	Municipal Administrator
Money used to serve local people	Money pays for administration
Public trust is properly administrated	Public assets used as surety for funding
All risk is disclosed and limited	No public input on local projects/risks
Fully accountable or in dereliction of duty	Can run deficits/borrow long-term

With no fiduciary oversight, public services get sacrificed for office space & salaries

1.3 WHY THIS MATTERS

When elections create an administration in lieu of a fiduciary duty, the system may be “legal”, but not consensual; no one can agree to something they don’t know.

If voters don’t know what they’re voting for, it negates the office and the officeholder the municipal election creates. This is the first major structural defect:

A municipal election produces an officer who holds an office, but holds no legal authority over the men, women or territory they were elected to serve.

1.4 LAWFUL CORRECTION - Clarify Election & Office Jurisdiction

Most Officials don’t understand the multiple roles and legal capacities the municipality structure has them acting in, so the “POGG Official’s Playbook” is a brief summary of the conflicting roles and resulting defects.

It includes a “*Statement of Realignment in Trust*” (A1) that Officials can publicly issue, confirming the local office is once again, operating according to its public purpose.

Corrective Action Path for Candidates & Constituents:

- ⇒ See *The Candidate’s Playbook* for details
- ⇒ Send *The Official’s Playbook* with **A1 Notice** to Official

Purpose: To clarify with Clerk:

- ⇒ Next election is for public mayor, councillors & office
- ⇒ Jurisdiction of acting office and present officeholders

Corrective Action Path for Sitting Official:

- ⇒ Read *The Official’s Playbook* information package
- ⇒ **Issue A1** - Public Statement of Realignment in Trust

Purpose: To clarify and affirm:

- ⇒ fiduciary duty to constituents, public office purview
- ⇒ local public trust restored, stewardship of resources

IN CLOSING

Elections do not automatically create trust or stewardship. When legal capacities are co-mingled or concealed, verifying who holds local authority becomes the #1 priority of every sitting Official, candidate and constituent.

Local governance doesn’t need a major overhaul - it just needs to be clarified, and realigned to its public purpose and original intent.

Defect #2

Fiduciary Duty & Public Accountability

Canadian courts have consistently recognized that public officeholders carry fiduciary duties of proper purpose to those who put them into office. (see page 15)

This section explains how the local office slowly drifted from trusteeship to operations, which contributed to the current role and governance confusion.

2.1 THE ISSUE- Head Fiduciary/Trustee or Head of Council?

A public office is “fiduciary” in nature, which means it’s to be administrated for the benefit of others, not for administrative convenience or personal gain.

Local officials are deemed “fiduciaries” because they manage public land, infrastructure, and public revenue for the benefit of those living in the geographical area. This carries a duty of care and public accountability, performed under two different roles/titles:

1. **Fiduciary Role: Mayor** (warden/peace officer), with discretionary powers, duty to protect
2. **Statutory Role: Head of Council** (CEO), with administrative powers, duty to service

A Mayor/trustee would receive an honorarium for public service, however, a CEO would receive a salary from the corporation for services rendered (Clearfield Trust Doctrine).

2.2 THE RESULT - Administrative Substitution or Mission Creep

When public service is substituted by municipality (administrative) priorities, local governance quickly becomes misaligned.



2.3 WHY THIS MATTERS - Public or Municipal Administrator?

When these roles merge, Officials may be administering an office, but not one that can recognize the will of the people. Officials soon find themselves immersed in the existing municipal system, rather than exercising sound judgment for the area's best interest.

2.4 LAWFUL CORRECTION - Clarify Legal (signing) Capacity

For a legal trusteeship to exist, there must be:

- ⇒ clearly defined parties (who is trustee, who holds beneficial interest?)
- ⇒ acceptance of fiduciary duties and purview, and
- ⇒ transparency in all matters pertaining to the trust.

Corrective Action Path for Sitting Official:

- ⇒ Read *The Official's Playbook* information package
- ⇒ **Issue A1** - Public Statement of Realignment in Trust

Purpose: To clarify and affirm:

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IN CLOSING

Public trust depends on more than just “legality” and an office chair. It depends on fully disclosed capacity, clearly defined limits, and the officeholders to act in good faith.

Municipal staff - although unelected and “doing their job” - are **ALSO** expected to act as stewards of the local resources, even though **Municipalities hold no constitutional (public) status**. They are non-governmental entities providing municipal services only.

The POGG Action Paths



A-Path for Sitting Official

- ✓ Preserves dignity of the office and all officeholders
- ✓ Restores local fiduciary powers immediately
- ✓ Corrects all municipal land registrations and records at once
- ✓ Simplest way to end co-mingling of public/private trust accounts



B-Path for Candidates

- ✓ Clarifies jurisdiction of the office and all officeholders
- ✓ Preserves the integrity of local public elections
- ✓ Ensures public stewardship & the POGG Doctrine in the future
- ✓ Educates constituents and initiates the transition to lawful governance



C-Path for Constituents

- ✓ A safe & effective way to clarify municipality records
- ✓ Provides an inexpensive judicial process for unresolved concerns
- ✓ Offers Officials an opportunity to realign without penalty
- ✓ Easy 3-Notice Protocol to empower and restore balance, equity & peace

Defect #3

Municipal Records & Taxation Authority

Because elected Officials deal with public lands, people and their shared resources, the position carries heightened expectations of fiscal responsibility and transparency.

When administration acts as if it *IS* the public office, administrating the office file will always take priority over the man or woman behind the original municipal record.

3.1 THE ISSUE - Municipal Record Administration

Municipal authority begins with an application or recording, and municipal record registration operates very quietly behind the scenes, out of public view.

With no public oversight or stewardship, taxation powers soon drift from “for public purpose only” to funding a Municipality’s growing administration, i.e., Regional staff, District offices, administrative “Sunshine Salaries”, and retirement pensions (OMERS).

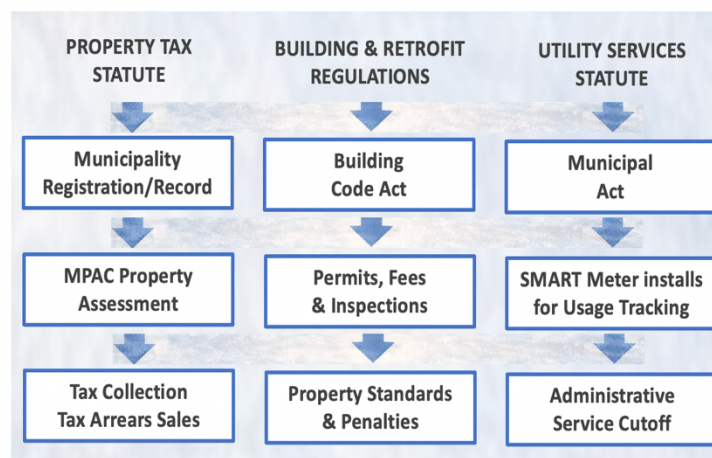
3.2 THE RESULT - Regulatory (Statutory) Capture

“Regulatory capture” is when a regulatory body, tasked with acting in the area’s best interest, ends up serving the private interests of a Board of Directors and a corporate Agenda instead.

When local revenue is used to fund private initiatives in lieu of essential services, everyone in the area is affected, especially registered home owners and their families.

The area experiences escalating property taxes, huge budgets/deficits, and ultimately, either the people or the town itself face bankruptcy, a mathematical inevitability.

Municipal Power Over Property



(a) Regulatory Capture of Taxation, Assessment and Tax Sale Powers

Property tax powers are powerful. Landholders can receive an unexpected tax claim or arrears notice based on inaccurate records, or an error made at registration.

(b) Regulatory Capture of Enforcement Powers over Public/Private Property

Municipalities enforce their code using by-law officers, inspectors, and administrative penalty systems. These all operate administratively, outside of the judiciary.

3.3 THE PROPERTY “ASSESSMENT TO TAX SALE” CHAIN

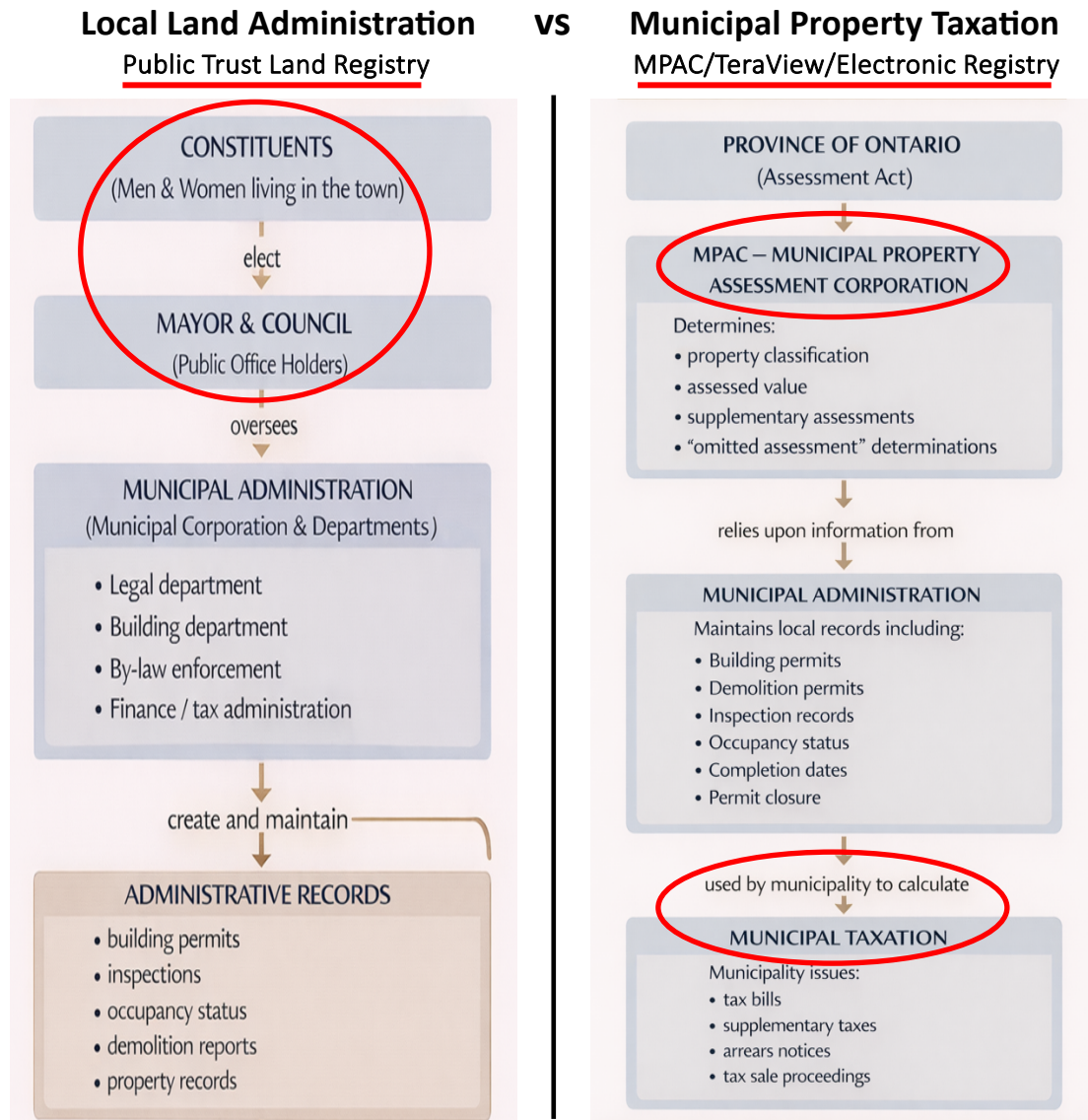


THE WEAKEST LINK: Record & Registration Errors

Most by-law enforcement actions rely on unverified records created internally and quietly. Because of this, tax classifications and statements can be grossly inaccurate and indefensible.

However, if the registration was wrong to begin with, the tax bill will be wrong too. This is why clarifying all municipal records is crucial to restoring local land registries and stewardship.

Which recording triggers a tax bill? Local Land Registry or MPAC?



3.4 LAWFUL CORRECTION - Restore Land Registry & Records

The accuracy of municipal records is *paramount* to restoring trust in local governance. Full disclosure can quickly restore public land stewardship in lieu of MPAC's electronic registration, and with no restructuring required.

Public confidence soon returns when authority is clearly defined and the area is back under trusted stewardship and local regulatory control.

The POGG Protocol is used to establish:

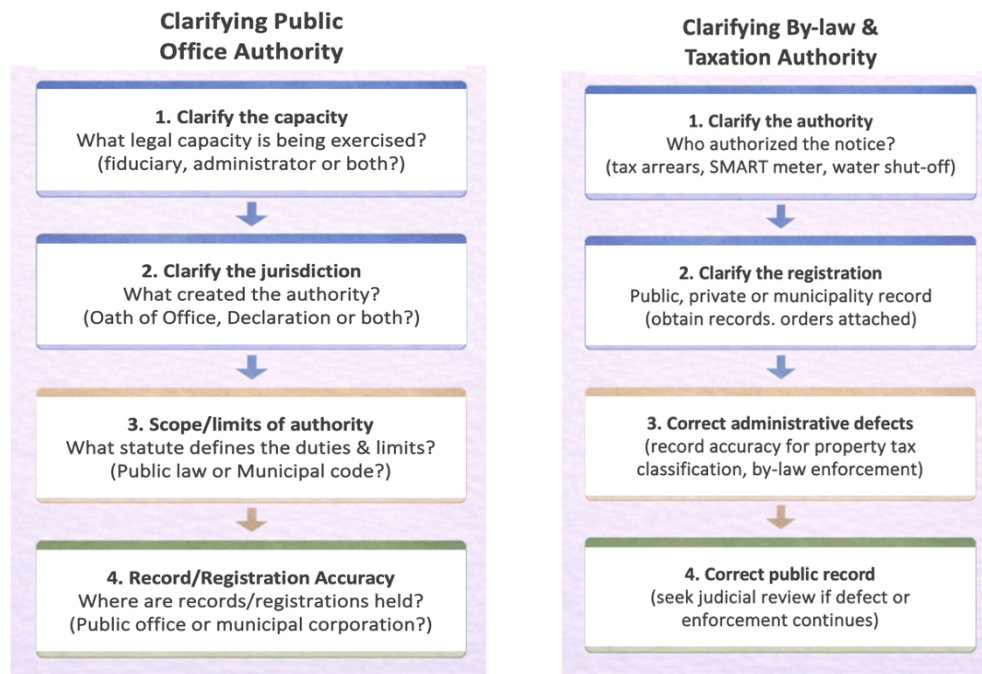
- ⇒ jurisdictional defects with respect to parties (trustee/benefactor)
- ⇒ errors in public record administration, and
- ⇒ willful negligence by a public (peace) officer

Corrective Action Path for Sitting Official:

- ⇒ Read *The Official's Playbook* information package
- ⇒ **Issue A1** - Public Statement of Realignment in Trust

Purpose: To clarify and affirm:

- ⇒ fiduciary duty to constituents, public office purview
- ⇒ local public trust restored, stewardship of resources



IN CLOSING

Municipal actions must be founded in lawful authority, public purpose, and supported by verifiable records.

Under the **Public Stewardship Doctrine**, elected officials have inherent obligations of welfare, transparency and due diligence. Their role requires balancing the interests of constituents and guaranteeing fiscal responsibility over their shared public resources.

All parties to the local trust - constituents, officials and municipal staff - need to understand (and agree on) what is the “law,” what is a municipal “by-law,” and what is just a non-public **Municipality’s “Recommendation to the Public.”**

Defect #4

Judicial Authority & By-law Enforcement Powers

Historically, peace officers kept the peace and county courts were available to handle man/merchant disputes. Today, local “justice” consists of administrative procedures.

When people become the objects of a Municipality structure, unelected staff can “legally” claim authority over private property by quoting a Municipal Act in lieu of verifiable proof.

4.1 THE ISSUE - Judicial Capture

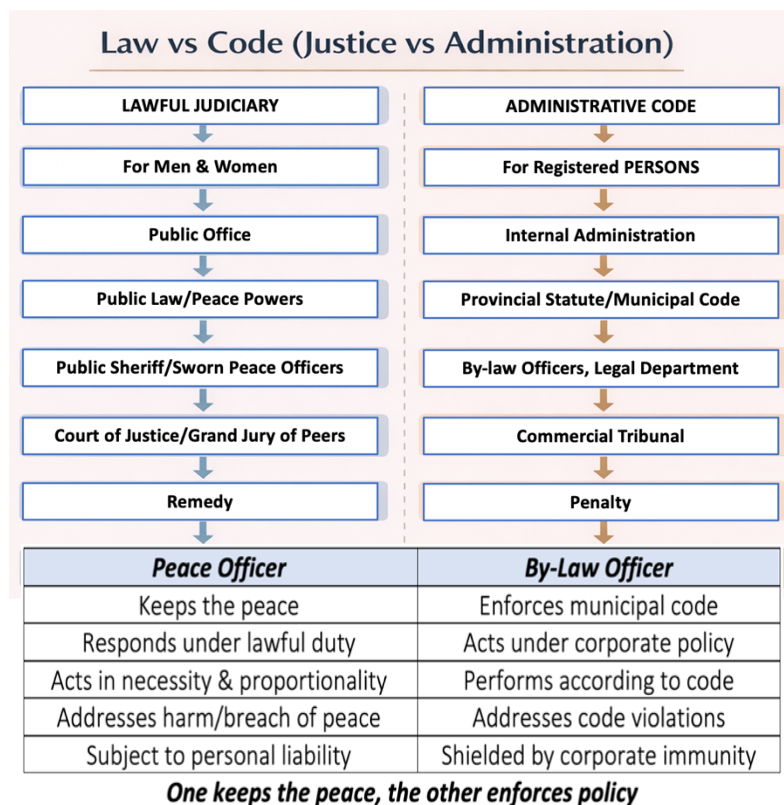
“Judicial capture” is the gradual shift from de jure law enforcement to municipal by-law interventions and legal administrative loops.

Municipalities (funded by local public revenue) will quickly move to a Municipality Solicitor when “administrative defects” are mentioned, i.e., a broken election system, blurred authority lines and land title registration inaccuracies.

If a landowner questions a Municipality’s authority too “aggressively”, hired lawyers will issue a “Prohibition Notice” - not for public safety, but for risk and damage control.

Sending the local land matter to “LEGAL” does two things:

- ⇒ stops public input & direct contact with the elected Officials and municipal staff
- ⇒ prevents land (title) registrations & MPAC property records from being corrected.



4.2 THE RESULT - Administrative Penalty Loops

When justice is replaced by an “*Administrative Penalty System*” that operates outside the judiciary, people soon become the subjects and objects of commercial regulations.

This produces a system where:

- ⇒ public services (water, hydro) can be shut off for refusing a SMART meter
- ⇒ properties can be over-assessed to increase provincial tax revenue, and
- ⇒ officers enforce de facto (corporate) by-laws in lieu of de jure (public) law.

When this happens, there is no “law” - only administrative powers and penalty loops.

4.3 LAWFUL CORRECTION - Independent judicial review

If the powers of sitting Officials are limited, and municipal staff are incapable of correcting a public registration, both the town and constituents are in a “*Local State of Emergency*.” The only solution is to seek independent judicial review.

Without independent judicial review:

- ⇒ local election defects will continue unchecked
- ⇒ local fiduciary authority can’t be realigned to public purpose, and
- ⇒ municipal records remain inaccurate and subject to arbitrary fines/taxation

Due to the economic emergency for all parties involved, The POGG Notices address all structural defects at once. The Notices themselves don’t correct the defects — they set the stage for non-administrative (judiciary) oversight.

Canadian courts have consistently ruled that public officials are personally liable if they:

- ⇒ knowingly act beyond their legal authority and purview of the office
- ⇒ willingly engage in actions that cause harm or risk public health/security, or
- ⇒ deliberately use a public office for personal, political or financial gain.



SUPREME COURT OF CANADA CASES

RE. OFFICIALS’ PERSONAL LIABILITY

 1. RONCARELLI v. DUPLESSIS (1959) Punished small business for political purpose. The Supreme Court held that public power cannot be used arbitrarily or for an improper purpose.	 PRINCIPLE: Officials must act within their authority and for a proper purpose. Abuse of power can lead to personal liability.
 2. GUERIN v. QUEEN (1984) Crown’s fiduciary of land (in trust) & the vulnerable. The Court recognized that the Crown can owe fiduciary duties when managing land for others.	 PRINCIPLE: Fiduciary duties arise where discretion is exercised over the interests of vulnerable persons or communities.
 3. SHELL CANADA v. VANCOUVER (1994) Elected Council used powers to boycott oil. The Court held that municipal powers must be exercised for municipal purposes and within statutory authority.	 PRINCIPLE: Municipal (and public) powers must be used only for the purposes for which they were granted by law.
 4. ODHAVJI ESTATE v. WOODHOUSE (2003) Officials liable for harm caused, misfeasance. The Court confirmed that public officials can be personally liable for deliberate unlawful conduct that causes harm.	 PRINCIPLE: Public officials can be personally liable for misfeasance in public office – deliberate misuse of power causing harm.



NO ONE IS ABOVE THE LAW. Public power must be used lawfully, for proper purpose, and in good faith.

IN CONCLUSION

“**Authority**” relies on three foundational jurisdictional elements which must be stated *and proven* before any man or woman can be charged:

1. **Personal** - who are the parties involved? (man or registered resident?)
2. **Subject matter** - what law is being relied on? (public law or municipal code?)
3. **Territorial** - where did it occur? (public/private land or municipal/ity property?)

Under the POGG Doctrine in Law, a public office is to operate in complete alignment with “*Peace, Order and Good Governance*” or the administration is deemed “tyrannical.”

Elected Officials have a duty to protect the health, welfare and security of every person in their geographical area. If they don’t, their local authority is “illegitimate” and “de facto.”

Every living man, woman and child in Canada has a moral (and statutory) duty to disobey de facto possession of their sovereign, lawful, peaceful powers, especially if a “government” is causing harm to their loved ones, homestead, and public/private affairs.

So Help Them God, and thank you.

Shelagh McFarlane

(She/Law)

The POGG Protocol Playbooks can be used by anyone in any town or city across Canada.

See The POGG Candidate’s Playbook for the Notice Templates and Step-by-Step Instructions ...

- Step 1:** Read The POGG Primer, Protocol, and Playbook (≈ 20 pages each)

Step 2: Form your local Council assembly to do the Action Paths together

Step 3: Send “*The Official’s Playbook*” & initial letter to your sitting Official

Step 4: When ready, send the Notice associated with each Action Path

Step 5: Allow reasonable response time between Notices, and if necessary

Step 6: File for estate (public trust) claim and municipal record correction