Updating membership criteria? What Ontario not-for-profits should know

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The Ontario Superior Court of Justice's decision in *Barrie & District Association of Realtors v Information Technology Systems Ontario*, 2025 ONSC 3388, confirms that Ontario not-for-profit corporations may update their membership criteria, even where the changes could affect an existing member's ability to remain a member.

The decision is useful for boards because it explains when courts will defer to internal governance decisions under the Ontario *Not-for-Profit Corporations Act, 2010* (ONCA), and when they may intervene.

Key takeaways

- Ontario not-for-profits may amend membership criteria to respond to legitimate governance or operational concerns.
- Boards should ensure that amendments are adopted properly, clearly drafted, and aligned with the corporation's best interests.
- Courts will generally defer to board decisions unless there is a legal breach, procedural unfairness, or bad faith.

How the ONCA challenge arose

Barrie & District Association of Realtors was a member of Information Technology Systems Ontario, a not-for-profit corporation that pools MLS listing data for its member real estate associations.

After Barrie announced an integration with the Toronto Regional Real Estate Board, which Information Technology Systems Ontario viewed as a competitor, Information Technology Systems Ontario amended its by-laws. The amendment required members to maintain the same corporate structure and control as when they first joined.

Barrie challenged the amendment under ONCA section 191. It argued that the amendment was retroactive, unclear, inconsistent with the Act, and adopted in bad faith to target Barrie.

How the Ontario Superior Court ruled

The Court dismissed the application and upheld the by-law amendment. It confirmed that courts will usually avoid interfering in the internal affairs of not-for-profit corporations unless there is a breach of the corporation's governing documents or the Act, a denial of natural justice, or bad faith.

The Court found that the amendment did not amount to a retroactive breach of contract. There was no agreement that the membership rules would remain unchanged forever.

The Court also rejected the argument that the amendment was too vague. The requirement to maintain the same "corporate structure and control" was sufficiently clear when read in context, and the Act did not require the by-laws to list every factor the board could consider when exercising discretion.

Finally, the Court held that the amendment was not made in bad faith. Information Technology Systems Ontario had a legitimate concern about a competitor gaining control over one of its member associations and followed the proper process to amend its by-laws.

Contact us

For any questions about this case or Ontario's *Not-for-Profit Corporations Act, 2010*, please contact a member of our Charities & Not-for-Profit Group.

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