

Type of Decision									
Meeting Date	Friday, May 31, 2013				Report Date	Tuesday, May-15-13			
Decision Required		Yes	X	No	Priority	X	High		Low
Direction Only		Information Only		x	Type of Meeting	X	Open		Closed

REPORT TITLE
Clerk's Report -on Oaths and Affidavits Training On-line - #31/05/13/801-A

Kathy Coulthart Dewey – on January 1, 2013 – the act changed. The following are brief notes made during a lunch time one hour webinar on taking oaths and affidavits. There are practices that we have taken at HCM that need to be changed including:

- Only acting as a commissioner for taking affidavits and oaths.
- We do not have authority to declare that a copy of anything is a true copy unless it is our own documents – by-laws, minutes, resolutions etc. We should no longer provide this service.
- We are only authorized to take oaths for Ontario government (or municipal) purposes. Anything for the Federal government or other governments, we do not have the authority.
- We require a proper stamp for both Noella and I. We will have these created a.s.a.p.

Commissioner for affidavits – do not attempt to authenticate anything.

Notary – one who attests a deed or document to make it authentic in another jurisdiction, and is empowered to take declarations and affidavits... and... include commissioner's duties but is much more.

1. Statutory declaration – solemn declaration in form and manner provided by provincial evidence act or Canada evidence act.
 - a. Confirm eligibility for a provincial service – end up in court if eligibility is challenged.
2. Oath and Affirmation is verbal
 - a. Oath – a higher power witnesses the truth of the statement “God” or other deity
 - b. Affirmation – is a promise to tell the truth – make an affirmation not swear an affirmation
3. Penalties – deponent or declarant lies in/on an oath or affirmation they commit perjury – defined in the Criminal Code of Canada s132 – everyone who commits perjury is guilty of an indictable offense.
 - a. That is the penalty for making a false statement on a document someone has brought to you to swear. Also the person making an incorrect statement.
 - b. Improperly administering an oath
4. Must be solemnized – verbal part – more than witnessing – must look you in the eye and tell you that they are confirming the truth and know that there is a penalty for lying on the declaration.
5. Change 2013 – limited by territory – limited to geographic municipality – Clerks, Treasurers and their deputies; head of municipal council; all upper tier members.
6. Requires the deponent/declarant **be present while signing.** – **No exemptions.** Administering the oath.

7. To swear or not to swear – must understand the differences. Swear an oath to a higher being vs. make an affidavit on conscience or making a promise to yourself. (Black's Law)
8. A guarantor may have a religious oath to a being other than God in our multi-cultural society. Don't need to have a religious object/bible. Must be sensitive to something that someone might bring with them. – Example used – Feather and a Native American.
9. The oath is to be read by me out loud and then attested to by the deponent or declarant – can follow up with “Are you bound by this oath or affirmation?”
10. Need to make sure that I have the authority to act – province of Ontario; read the document; have you filled this in yourself?; if not, you may want to explore that, do they know what it said; is it written in the correct form? If signature is there, stroke it out, both initial it, resign; ask for identification to compare signatures – 1 piece government issue id with photo and signature plus name and signature. Read the oath or affirmation. Do they understand perjury? You state the oath and wait for their clear response. Then have them sign it. You then compare signatures to id. You sign the jurat.
11. The person is actually who they say they are and you administered the oath in a way that they understood.
12. Attachments – if referred to in the affidavit – write exhibit A referred to in the affidavit of Mr. X sworn before me on May... sign jurat and initial each page.
13. Pension forms for other countries. **Our authority is limited to documents associated with Ontario courts. We should not be signing those documents.** State that “I am no longer confident in the authority that I have”. If they insist, then that's on them. Administer the oath to the document that they presented to you noting your reticence.