

# MINUTES OF THE CIVIL SECTION, 2019

## REVISED UNIFORM INFORMAL PUBLIC APPEALS ACT (CROWD FUNDING)

Presenter: Arthur Close, Q.C., ULCC

Mr. Close, Q.C., presented the report of the working group on the *Uniform Informal Public Appeals Act*. It was indicated that the focus of this project is to update and revise the 2011 common law version of the Act.

Mr. Close, Q.C. reviewed the history of the Act for delegates, identifying two issues that were focused on in the 2011 Act: (i) possibility of a surplus, and (ii) appeals conducted with inadequate or non-existent documentation. It was noted that the working group adopted a report of the British Columbia Law Reform Commission and used the recommendations contained therein as a starting point for drafting the uniform Act.

It was noted that the emergence of “crowd funding” was the main reason the 2011 Act is being revisited. It was noted that the purpose of this project is not to “reinvent” the wheel, but to ensure revisions to the Act properly take into account the changing nature of public appeals in the age of the internet.

The working group was formed in March 2019 and met five times. Most of the meetings were devoted to identifying issues for possible change given the changing landscape of public appeals. Mr. Close, Q.C. reviewed several issues identified by the working group, which are identified at paragraph 28 of the working group’s report. It was noted that the working group determined that the Act ought to expressly exclude appeals that should be regulated under other laws. For example, investment opportunities, political purposes/funding, and appeals that provide economic benefit to the donor, etc.

It was noted that if the new revised Act is to embrace internet fundraising, a new vocabulary is required. It was suggested that the name of the Act be changed to “*Uniform Public Appeals and Crowdfunding Act*”. It was noted that a change in name to include crowdfunding would better identify what the Act is intended to cover. It was further noted that the proposed project is a revision process, not a repeal process. It was noted that 80-90 percent of the revised Act will consist of the 2011 Act, either intact or with some reasonably small amendments and new additions.

Mr. Carl Lisman, from the AULC delegation, discussed the AULC project on crowdfunding legislation in the United States. Mr. Lisman noted that the AULC committee hopes to have a final version by summer 2020. A decision was made to move away from the trust model as the AULC drafting committee concluded that the trust model was more oppressive and restrictive than the committee thought the standard should be. The bulk of the concern that the AULC drafting committee dealt with was the surplus issue. The AULC is of the view that with a surplus, the public appeal organizer could distribute the surplus to a charity or organization with a similar purpose, moving away from the trust model.

**RESOLVED:**

THAT the report of the working group on a Revised *Uniform Informal Public Appeals Act* be accepted;

THAT the working group continue its work in accordance with the recommendations contained in the report; and

THAT the working group report back to the Conference with a draft Act and commentaries at the 2020 meeting.