

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Damon Atwood, Applicant

-and-

National Police Federation, Respondent

BEFORE: Justice A. Doyle

COUNSEL: Self-Represented Applicant

Todd J. Burke and Thomas Yates for the Respondent

HEARD: May 20, 2026 – by videoconference

DECISION ON AN APPLICATION

[1] The issue before the Court is whether the Respondent, National Police Federation (NPF) had lawful grounds to refuse a proposal advanced as a special resolution by the Applicant, Damon Atwood, to amend the articles of incorporation of the NPF so as to entrench the independence of its Nominations and Elections Committee (“NEC”).

[2] The Applicant requests that this proposal be included in the NPF’s notice of meeting to be released on May 27, 2026, for the Annual General Meeting (AGM) taking place in June 2026.

[3] This determination turns on the interpretation of several provisions of the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23 (the “Act”).

[4] The Applicant contends that the proposal was validly made pursuant to the *Act* and ought to have been included for consideration by the membership.

[5] The Respondent submits that the proposal was properly rejected because it is illegal, in that it seeks to restrict the powers of the Board of Directors (Board) absent a unanimous member agreement (“UMA”), as required by s. 170 of the *Act*.

[6] For the reasons that follow, the court dismisses the application because, among other things, the Applicant’s proposal seeks to remove core fiduciary responsibilities of the Board as required under the *Act*.

Background

[7] The Applicant is a Corporal with the Royal Canadian Mounted Police (RCMP) and an Active and Delegate Member and a voting member of the NPF. He is entitled to submit proposals and vote at meetings of its membership.

[8] The NPF, incorporated pursuant to the *Act*, is the certified bargaining agent for members of the RCMP below the rank of inspector. NPF’s mission is to provide strong, fair and progressive representation and promote and enhance the rights of its members.

[9] Membership in the NPF has three categories: Active Members, Delegate Members (who are elected to represent Active Members at the AGM) and Retired Members.

[10] The NPF Bylaws establish an independent NEC which is responsible for the conduct and execution of the Board, Delegate and Local Area Representative elections.

[11] The NEC is comprised of three voting members: a director who is up for re-election in two years and two Active Members, who are not directors (a Chair and Vice-chair) and who are appointed by Delegate Members at the AGM.

[12] The NEC is accountable to the NPF membership and provides a screening function regarding the nominees to the Board. It ensures that the nominated individuals are in good standing and that they meet the qualifications for the position being sought and have fulfilled requirements set out in the elections policy. The list of nominees is to be completed within 30 days prior to the AGM.

[13] The NEC approved the candidacy of the Applicant by a vote of 2-1 with the Board representative being the dissenting vote. He found that the Applicant was not eligible for the vacant seat on the Board because he was not “from the National Headquarters”.

[14] The Board overruled the decision of the NEC and declared the Applicant ineligible.

[15] In March 2026, concerns arose regarding the independence of the NEC. Two non-Board members of the NEC resigned. On March 23, 2026, these two non-Board members posted a public letter online urging reform and alleging interference by the Board in the committee’s work.

[16] On March 27, 2026, within the prescribed statutory timelines, the Applicant submitted a proposal to amend the NPF’s articles to ensure the independence of the NEC. It proposed that the decisions of the NEC would be “final and binding on the Board, Officers, staff and committees of the corporation, subject only to the Act and any remedy available at law”. It proposed that the Board would “cause the Articles of Amendment to be filed”.

[17] NPF’s general counsel, Jordan Levis-Leduc, told the Applicant by an email dated April 17, 2026, that the proposal had been excluded pursuant to s. 163 of the *Act*. The email indicated that the proposal was out of order.

[18] Minutes of the Proposal Review Committee record dated April 15, 2026 (Minutes), show a vote (3–0, with one abstention) confirming that the proposal would not be put to the membership in the AGM. Section 163 is not referred to in the Minutes.

Statutory Framework

[19] The relevant provisions of the *Act* for consideration include:

- Section 124 reads:

Subject to this Act, the articles and any unanimous member agreement, the directors shall manage or supervise the management of the activities and affairs of a corporation.

- Section 148 reads:

148 (1) Every director and officer of a corporation in exercising their powers and discharging their duties shall

- **(a)** act honestly and in good faith with a view to the best interests of the corporation; and
- **(b)** exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) Every director and officer of a corporation shall comply with

- **(a)** this Act and the regulations; and
- **(b)** the articles, the by-laws and any unanimous member agreement.

(3) Every director of a corporation shall verify the lawfulness of the articles and the purpose of the corporation.

(4) Subject to subsection 170(5), no provision in a contract, the articles, the by-laws or a resolution relieves a director or an officer from the duty to act in accordance with this Act or the regulations or relieves them from liability for a breach of this Act or the regulations.

- Section 163 which deals with proposals reads:

163 (1) A member entitled to vote at an annual meeting of members may

- **(a)** submit to the corporation notice of any matter that the member proposes to raise at the meeting, referred to in this section as a “proposal”; and
- **(b)** discuss at the meeting any matter with respect to which the member would have been entitled to submit a proposal.

(2) A corporation shall include the proposal in the notice of meeting required under section 162.

(3) If so requested by the member who submits a proposal, the corporation shall include in the notice of meeting a statement in support of the proposal by the member and the name and address of the member. The statement and the proposal shall together not exceed the prescribed maximum number of words.

(4) The member who submitted the proposal shall pay any cost of including the proposal and any statement in the notice of the meeting at which the proposal is to be presented, unless it is otherwise provided in

the by-laws or in an ordinary resolution of the members present at the meeting.

(5) A proposal may include nominations for the election of directors if the proposal is signed by not less than the prescribed percentage of the members of a class or group of members of the corporation entitled to vote at the meeting at which the proposal is to be presented or any lesser number of members as provided in the by-laws, but this subsection does not preclude nominations made at a meeting of members.

(6) A corporation is not required to comply with subsections (2) and (3) if

- **(a)** the proposal is not submitted to the corporation within the prescribed period;
- **(b)** it clearly appears that the primary purpose of the proposal is to enforce a personal claim or redress a personal grievance against the corporation or its directors, officers, members or debt obligation holders;
- **(c)** it clearly appears that the proposal does not relate in a significant way to the activities or affairs of the corporation;
- **(d)** not more than the prescribed period before the receipt of the proposal, the member failed to present — in person or, if authorized by the by-laws, by proxy — at a meeting of members, a proposal that at the member's request had been included in a notice of meeting;
- **(e)** substantially the same proposal was submitted to members in a notice of a meeting of members held not more than the prescribed period before the receipt of the proposal and did not receive the prescribed minimum amount of support at the meeting; or
- **(f)** the rights conferred by this section are being abused to secure publicity.

(7) No corporation or person acting on its behalf incurs any liability by reason only of complying with this section.

(8) If a corporation refuses to include a proposal in a notice of meeting, it shall, within the prescribed period after the day on which it receives the proposal, notify in writing the member submitting the proposal of its intention to omit it from the notice of meeting and of the reasons for the refusal.

(9) On the application of a member submitting a proposal who is aggrieved by the refusal, a court may restrain the holding of the meeting at which the proposal is sought to be presented and make any further order that it thinks fit.

(10) On the application of the corporation or any other person aggrieved by a proposal, a court may, if it is satisfied that subsection (6) applies, make an order permitting the corporation to omit the proposal from the notice of meeting and may make any further order that it thinks fit.

(11) An applicant under subsection (9) or (10) shall give the Director notice of the application and the Director is entitled to appear and be heard in person or by counsel.

- Section 170: Provides that a unanimous member agreement may restrict, in whole or in part, the powers of directors to manage or supervise the corporation.

170 (1) An otherwise lawful written agreement among all the members of a corporation that is not a soliciting corporation, or among all the members and one or more persons who are not members, that restricts, in whole or in part, the powers of the directors to manage, or supervise the management of, the activities and affairs of the corporation is valid.

(2) A written declaration of the sole member of a corporation that similarly restricts the directors' powers is valid.

(3) A person who becomes a member of a corporation that is subject to a unanimous member agreement is deemed to be a party to the agreement.

(4) If notice is not given to a member of the existence of a unanimous member agreement, in the manner referred to in subsection 42(2) or otherwise, the member may, no later than the prescribed period after they become aware of the existence of the agreement, rescind the transaction by which they acquired the membership and, within that period, the member is entitled to the return of any amount paid in respect of the membership.

(5) To the extent that a unanimous member agreement restricts the powers of the directors to manage, or supervise the management of, the activities and affairs of the corporation, parties to the agreement who are given that power to manage or supervise the management of the activities and affairs of the corporation have all the rights, powers, duties and liabilities of a director of the corporation, whether they arise under this Act or otherwise, including any defences available to the directors, and

the directors are relieved of their rights, powers, duties and liabilities, including their liabilities under section 146, to the same extent.

(6) Nothing in this section prevents members from fettering their discretion when exercising the powers of directors under a unanimous member agreement.

(7) Members that are party to a unanimous member agreement may not vote in accordance with section 171 when exercising the authority delegated to them under the agreement.

(8) If the unanimous member agreement does not provide for its termination, the members may terminate the agreement by a special resolution.

- Section 197: Addresses amendments to articles.

197 (1) A special resolution of the members — or, if section 199 applies, of each applicable class or group of members — is required to make any amendment to the articles or the by-laws of a corporation to

- **(a)** change the corporation's name;
- **(b)** change the province in which the corporation's registered office is situated;
- **(c)** add, change or remove any restriction on the activities that the corporation may carry on;
- **(d)** create a new class or group of members;
- **(e)** change a condition required for being a member;
- **(f)** change the designation of any class or group of members or add, change or remove any rights and conditions of any such class or group;
- **(g)** divide any class or group of members into two or more classes or groups and fix the rights and conditions of each class or group;
- **(h)** add, change or remove a provision respecting the transfer of a membership;
- subject to section 133, increase or decrease the number of — or the minimum or maximum number of — directors fixed by the articles;

- **(j)** change the statement of the purpose of the corporation;
- **(k)** change the statement concerning the distribution of property remaining on liquidation after the discharge of any liabilities of the corporation;
- **(l)** change the manner of giving notice to members entitled to vote at a meeting of members;
- **(m)** change the method of voting by members not in attendance at a meeting of members; or
- **(n)** add, change or remove any other provision that is permitted by this Act to be set out in the articles.

(2) The directors of a corporation may, if authorized by the members in the special resolution effecting an amendment under this section, revoke the resolution before it is acted on without further approval of the members.

(3) Despite subsection (1), if a corporation has a designating number as a name, the directors may amend its articles to change that name to a verbal name.

Applicant's Position

[20] The Applicant submits that he has a right to propose amendments to the articles by way of special resolution as Section 197 permits a voting member to propose amendments to the articles, including adding, changing, or removing provisions.

[21] Section 163 provides a list of reasons upon which a proposal may be refused. Illegality is not expressly enumerated.

[22] The Respondent bears the onus of demonstrating that an exception under s. 163 applies. The Applicant argues that this is a high threshold, drawing on analogous jurisprudence under the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16 (*OBCA*).

[23] The Applicant notes inconsistencies between the Minutes and the explanation provided by counsel for the Board as to the reason why his proposal was determined improper.

[24] The proposal is not advanced for the primary purpose of addressing a personal grievance. It affects the membership as a whole and his sole intent is to improve governance.

[25] The Applicant argues that the *Act* contemplates that articles may impose limits on directors' authority. Section 124 expressly states that directors' powers are subject to the articles.

[26] The Applicant submits that the Respondent's interpretation improperly narrows s. 124 by limiting it to original articles.

[27] The *Act* was designed to enhance member participation and accountability in governance. Hansard materials indicate an intention to clarify directors' responsibilities and expand members' rights.

[28] The Applicant submits that the proposal is not illegal. Section 163 does not grant the corporation broad veto power nor does s. 148 prohibit lawful amendments that alter governance structures.

Discussion

[29] Justice Penny in *OneMove Capital Corporation v. Dye & Durham Limited*, 2024 ONSC 5114 (CanLII) at para 40, set out the governing legal principles which are applicable here given the similarities between the *OBCA* and the *Act*:

[40] The leading case interpreting these exceptions is the decision of the Divisional Court in *Koh v Ellipsiz Communications Ltd.*, [2017 ONSC 3083](#). *Koh* is a s. 105 case. The applicable legal principles set out in *Koh* include:

- (a) section 99(5) of the *OBCA* “sets a very high threshold”;
- (b) “the onus of proof, that the circumstances in any particular case fall within the exception in s. 99(5)(b), rests on the Board”;
- (c) the “necessary standard” to apply “both for a Board of Directors, and for this Court on review, is correctness”;
- (d) a board “is not making a business decision and, accordingly, the business judgment rule does not apply”;

(e) the substantive rights of shareholders should not be interfered with lightly;

(f) “the mere fact of an element of personal interest does not satisfy the exception”; and

(g) “one of the indicators of a personal grievance is that the subject matter of that grievance bears no real or direct relationship, nor is it otherwise integral, to the business and affairs of the company, or, for that matter, to the griever’s role as a shareholder”.

[30] First, I note that the Applicant had expressed concerns that he was improperly removed from the ability to run in the 2026 Board elections. The NPF has filed a video with the affidavit of Michael Brennan which purports to advertise Mr. Atwood’s complaints about the NPF. The video has been properly identified and authenticated by the affiant and is admissible.

[31] However, the court gives little or no weight to the impressions that Mr. Brennan makes regarding the content and objective of these materials. Any characterization by the affiant of what the video “shows” is interpretative and amounts to opinion. The assessment of the video is properly a matter for the court, which can view the footage directly.

[32] Second, I note that the refusal of the Proposal Review Committee to approve the Applicant’s proposal did not articulate that this proposal was rejected because it amounted to a personal grievance.

[33] Therefore, I find that the Applicant’s proposal does not seek to enforce a personal claim or redress a personal grievance but rather it is an exercise of a member’s right to put forward proposals that he seeks to address with respect to issues with the Board and its management of nominations and who can sit on the Board. The Respondent has filed an Ottawa Citizen article describing the recent resignation of two members of the NEC which demonstrates certain discontent amongst members regarding the current process and how matters are run at the NPF Board level.

[34] In addition, the court does not find that NPF has satisfied its burden that the Applicant submitted this proposal in an effort for publicity.

[35] The dispute centers on whether the proposed amendment constitutes a permissible governance change under the *Act*, or an impermissible restriction on directors' powers requiring a UMA.

[36] The established principles of statutory interpretation are articulated in *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC) which requires that statutory provisions be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme and object of the *Act*.

[37] The presumption against tautology confirms that every word in a statute is intended to have meaning, that is: Parliament does not use meaningless words and that words are used purposefully. See Ruth Sullivan, *The Construction of Statutes*, 7th ed, (Toronto: LexisNexis Canada, 2022), at 628.

[38] The Applicant emphasizes member rights and the flexibility of articles as a governance tool. The Respondent emphasizes structural integrity, statutory coherence, and that directors retain core managerial authority and responsibility, even in the face of member disagreement.

[39] At its core, the tension lies between section 124, which subjects directors' authority to the articles and Section 170, which prescribes a specific and unanimous mechanism for restricting that authority.

[40] This case raises significant questions regarding:

- the balance between member democracy and director authority in non-profit corporations;
- the role of articles versus unanimous member agreements; and
- the proper interpretation of the *Act* as a coherent legislative scheme.

[41] The *Act* has set out a structure for a not-for-profit corporation which includes members who vote, a Board of Directors who manage or supervise management of the corporation and committees which derive authority through the Board.

[42] Section 163 confirms a member has a statutory right to submit proposals to the AGM.

[43] Section 124 is a foundational provision confirming directors' duty to manage and supervise the management of the corporation which establishes its ultimate governance authority and accountability. In short, it is an obligation to exercise oversight over key corporate processes.

[44] The Board has the ultimate responsibility for governance and can delegate within limits. Committees exist by Board creation and normally cannot displace the Board's supervisory role

[45] Section 124 of the *Act* specifically provides that the directors manage or supervise the management of the activities and affairs of the corporation subject "to this Act, the articles and any unanimous member agreement". He argues that Parliament expressly contemplated that the articles may qualify the way in which directors exercise their authority. This is different from the *CBCA* section 102 (1) which frames the director's authority as "Subject to any unanimous shareholder agreement, the directors shall manage, or supervise the management of, the business and affairs of a corporation".

[46] Section 7(3) of the *Act* reads:

(3) The articles may set out any provisions that may be set out in the by-law

[47] The Applicant submitted that an UMA is not the only way to limit the directors' powers and relies on the Corporations Canada's guidance on Articles of Continuance under the *Act* "Instructions for Form 4011 – Articles of Continuance (import) (9June 2025) online: which states that "there is no limit to the provisions that could be part of this section of the articles" which include examples such as restrictions on directors' borrowing powers remuneration, and board vacancies,

[48] Since there is a bylaw which requires a director to sit on the NEC, the Applicant suggests that his proposal seeks to amend the articles to govern the way that the directors' powers are exercised withing the existing governance structure. The proposal is not an effecting a transfer of management authority but rather imposing a governance *constraint* (emphasis added).

[49] In my view, this is the essence of the problem with this proposal. It provides a *constraint* on the Board.

[50] The Board has responsibilities and proposals cannot restrict the Board's overall duties to manage the NPF which bears the liability for management powers.

[51] Section 197 provides that there is authority to amend the articles by special resolution which is defined under section 2(1) as "means a resolution passed by not less than two-thirds (2/3) of the votes cast by members entitled to vote".

[52] On the other hand, s. 170 does not speak of amending the articles but rather it speaks about limiting the powers of the directors to manage the activities and affairs of the corporation.

[53] There is some contradiction here in that: a special resolution can amend the articles but then s. 170 prohibits any change that would limit the directors' duties without a UMA.

[54] In my view, a reading the *Act* in its entire context taking into consideration the scheme and object of the *Act*, a special resolution could amend the articles but not if it affects the Board's powers that can only be done by way of a UMA.

[55] The Applicant's proposal purports to abdicate the Board's statutory role of oversight and would allow NEC to have final unreviewable authority on what candidate can run for the Board.

[56] This proposal is illegal and impermissible as it proposes to restrict the powers of the Board to manage NPF and the powers of the Board can only be restricted through the implementation of a UMA.

[57] I note that RSJ MacLeod when deciding on the Applicant's oppression remedy claim against NPF in *Atwood v. National Police Federation* 2026 ONSC 2693 at para. 22 held that "the decision of the nominating committee was clearly wrong and the decision of the Board to overrule the decision (which the Board viewed as contrary to the by-laws) was reasonable".

[58] As stated in *Rizzo & Rizzo Shoes Ltd.* at para 21, the proper approach to statutory interpretation is to read the legislation in its entirety in the grammatical and ordinary sense of the words harmoniously with the scheme of the legislation, the object of the legislation and the intention of Parliament.

[59] The Ontario court of Appeal in *Oakville (Town) v. Clublink Corporation UIC* 2019 ONCA 826, at para. 38, stated that statutes must be interpreted purposively and in context.

[60] Section 170 must have a meaning and not be rendered redundant in light of s. 124.

[61] I am guided by *Charities Legislation and Commentary* by Terrance Carter, Elena Hoffstein & Adam Parachin (Toronto: LexisNexis Canada 2021) at 23 “With respect to the control of members over the affairs of the corporation, the CNCA provides for ‘unanimous member agreements’. This mechanism allows members in limited circumstances to restrict powers of the directors to manage or supervise the management of the corporation.

[62] Another consideration is that the Applicant’s proposal does not relieve the directors of an associated liability as required under s. 170(5) which states:

(5) To the extent that a unanimous member agreement restricts the powers of the directors to manage, or supervise the management of, the activities and affairs of the corporation, parties to the agreement who are given that power to manage or supervise the management of the activities and affairs of the corporation have all the rights, powers, duties and liabilities of a director of the corporation, whether they arise under this Act or otherwise, including any defences available to the directors, and the directors are relieved of their rights, powers, duties and liabilities, including their liabilities under section 146, to the same extent.

[63] This was dealt squarely in a case under the *Canada Business Corporations Act* (R.S.C., 1985, c. C-44) in *Bioartificial Gel Technologies (Bagtech) Inc. v. The Queen* 2012 TCC 120 at para. 46, where the Tax Court confirmed that under that legislation which mirrors s. 170(5) above the UMA had to relieve the directors of their liabilities.

[64] In order to provide meaning to both s. 124 and s. 170, the court held that the proper and purposeful interpretation is that s. 124 refers to articles at the time of the incorporation and that s. 170 outlines the requirements if there are to be restrictions on the management powers of the directors.

[65] In addition, S. 148 stipulates that a director can only be relieved from their liability through s. 170(5) by way of UMA.

[66] If the Applicant's proposal is adopted, the Board would risk liability if the NEC rendered a wrong decision and would be exposed to possible claims from the members.

[67] In addition, as stated in the House of Commons Debates (Hansard) the NPF is a not-for-profit organization, and the *Act* was intended to modernize the not-for-profit law to provide Board members with clarity regarding their rights and responsibilities.

[68] The Applicant's proposal would allow the NEC to make decisions without the oversight of the Board which would expose the Board to risk under the process where only 2/3 of the membership vote and not the onerous requirement of a UMA.

[69] I also find that the Board has the general power to deny a proposal which they find is illegal and rely on s. 148(3) which states that "Every director of a corporation shall verify the lawfulness of the articles and the purpose of the corporation".

[70] Although s. 163(6) of the *Act* does not enumerate "illegality" as an exception to justify excluding a proposal for consideration, it is inherent in a proper reading of the *Act* that the Board has the power and obligation under s. 148(3) of the *Act* to ensure that its articles are lawful.

[71] In conclusion, the Applicant's proposal constitutes an impermissible abdication of the Board's governance role, contrary to s. 170 as it cannot override statutory rights and core governance structures and not permissible under ss. 124 and 197 as it effectively reallocates authority in a manner contrary to the *Act*.

[72] Accordingly, the application is dismissed.

[73] If the parties cannot agree on costs, they are to submit their 2-page costs submissions by June 4, 2026

Justice A. Doyle

Date: May 26, 2026

CITATION: *Atwood v. National Police Federation*, 2026 ONSC 3092
COURT FILE NO.: CV-26-103356
DATE: 2026/05/26

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: Damon Atwood, Applicant

-and-

National Police Federation, Respondent

COUNSEL: Self-Represented Applicant

REASONS FOR DECISION

DOYLE J.

Released: May 26, 2026