

4.1.2 - Written Submission from Candidate

RESPONSE TO APPLICATION FOR COMPLIANCE AUDIT OF NAV NANDA

Pursuant to s. 88.33 of the *Municipal Act 1996*, S.O. 1996, c. 32, Sched.

Dated July 26, 2023

Prepared on behalf of Nav Nanda by:

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PART I - OVERVIEW

1. The Respondent, Nav Nanda, makes this response to the Application for a Compliance Audit filed by Gobinder Randhawa on June 29, 2023 (the “**Application**”), under s. 88.33 of the *Municipal Elections Act, 1996* (the “**Act**”).
2. The Application is without merit. Throughout her campaign, Ms. Nanda and her team kept detailed records of all expenditures and contributions, which are accurately and completely recorded in the Form 4 she filed on March 24, 2023. Specifically:
 - (a) All expenses associated with Ms. Nanda’s campaign launch event held at Boston Pizza on September 19, 2022 were recorded in Form 4 under “Parties and Other Expressions of Appreciation” because it was a celebration of Ms. Nanda’s candidacy and not a formal campaign “Meeting”;
 - (b) The “Breakfast and Vote” event, which was scheduled to be held on October 8, 2022, was cancelled because there were no RSVPs. The campaign incurred no costs for this event; and
 - (c) Ms. Nanda did not incur any material out-of-pocket internet or phone costs. Her campaign had volunteers manage her social media posting, and telephone/text campaigning, and an independent contractor maintained her website whose invoices were recorded under “Advertising” in Ms. Nanda’s Form 4 disclosure.
3. There is no basis for the Committee to find any election finance impropriety, much less one that warrants the appointment of a compliance auditor at significant public expense. The Application should be rejected in its entirety.

PART II - BACKGROUND

A. THE PARTIES

4. The Respondent, Nav Nanda, was elected as Town and Regional Councillor for Oakville's Ward 7 in the 2022 municipal elections. She filed her nomination on May 2, 2022.

5. Ms. Nanda's only opponent in the Ward 7 election was the incumbent Town and Regional Councillor, Pavan Parmar, who was elected to office in the 2018 municipal elections.

6. The Applicant, Gobinder Randhawa, is the spouse of Ms. Parmar's former campaign manager, Jagandeep Randhawa. Ms. Randhawa was also one of the highest donors to Ms. Parmar's campaign.

B. MS. NANDA'S CAMPAIGN LAUNCH AT BOSTON PIZZA ON SEPTEMBER 19

7. On September 19, 2022, Ms. Nanda formally launched her campaign with an event hosted at the Boston Pizza restaurant located at 499 Dundas Street West. The purpose of this event was to celebrate her nomination and to thank her supporters for encouraging her to run for public office. Screenshots of Ms. Nanda's Instagram posts from this event are attached to the Application as Appendix 1.

8. Ms. Nanda also chose to celebrate her candidacy at this event, instead of hosting an election-night party, because the October 24 voting day coincided with Diwali—an important celebration for South Asians—and many voters and members of the campaign team would be celebrating with their families that day and in the days that followed.

9. Ms. Nanda's campaign incurred a total of \$598.33 in expenses on this event. A copy of the receipt from Boston Pizza from September 19, 2022, is attached as **Appendix A**.

C. MS. NANDA'S ONLINE AND IN-PERSON CAMPAIGN

10. Ms. Nanda ran a creative campaign targeted at all age groups and demographics. Bhupinder Malhotra provided IT, mass text messaging, and website hosting services to Ms. Nanda's campaign, and also volunteered (along with others) to assist with her online and social media campaign, which included Facebook and Instagram posts. A copy of Mr. Malhotra's invoice, which covers his costs for website maintenance and out-of-pocket expenses, is attached as **Appendix B**. Mr. Malhotra helped with Ms. Nanda's social media campaign on a volunteer basis only.

11. Ms. Nanda ran all online campaigning through Mr. Malhotra and other volunteers, who used their own devices. Her efforts were deliberately limited to in-person engagement with the electorate—*i.e.*, door knocking and attending public events.

D. CANCELLED OCTOBER 8 "BREAKFAST AND VOTE" EVENT

12. Early voting began on October 8, 2022. That morning, the Nav Nanda campaign planned to host a "Breakfast and Vote" event at 10:00am and posted an e-invite for this event on social media. A copy of the e-invite is attached as **Appendix C**. The campaign intended on serving coffee, muffins, and bagels from Tim Hortons to Ms. Nanda's supporters at this event.

13. In advance of this event, the campaign team drafted the text for a social media post based on what they anticipated by way of attendance. It read, in relevant part, "Grateful to the over one hundred Ward 7 residents who dropped by our campaign office yesterday morning for breakfast on their way to vote!".

14. Unfortunately, the "Breakfast and Vote" event was cancelled the evening before it was scheduled to take place because no members of the public confirmed their attendance. The

campaign made that decision in order to avoid spending money on an event that would not be well-attended by Ward 7 voters.

15. Rather than host a formal “Breakfast and Vote” event without public support, the campaign decided instead to invite some friends and family to Ms. Nanda’s home to head together to the early voting polling station. Approximately 25 people attended, well below the 100 that the campaign anticipated when planning this event. Anyone was free to bring their own food when they met to head to the polling station, but the campaign did not provide any food.

16. Due to a miscommunication, a social media post was launched the following morning, together with the pre-drafted text and some photographs of the campaign heading to the early voting polling station. The post was removed from social media because the formal “Breakfast and Vote” event never did take place, and because some people photographed did not want their photographs published on social media.

E. MS. NANDA’S ELECTION VICTORY AND FORM 4 FILING

17. Polls closed on October 24, 2022. Ms. Nanda won the election with a total of 1,984 votes—approximately 15% more than Ms. Parmar at 1,454 votes. Because her election win coincided with Diwali, Ms. Nanda did not host a celebratory party.

18. Pursuant to s. 88.25 of the *Act*, Ms. Nanda filed her Form 4 Financial Statement & Auditor’s Report (the “**Form 4**”) on March 24, 2023. It was audited by a Chartered Professional Accountant named Sam Hurmizi. A copy of Ms. Nanda’s Form 4 is attached as **Appendix D**.

PART III - STATEMENT OF ISSUES AND SUBMISSIONS

19. The only issue before the Committee is whether a compliance audit is necessary and in the public interest to review Ms. Nanda's financial disclosure. Mr. Randhawa's Application requests a compliance audit based on three discrete allegations:

- (a) First, that Ms. Nanda's September 19 campaign kickoff event at Boston Pizza was not recorded in her Form 4 as a "Meeting";
- (b) Second, that Ms. Nanda did not record any expenditure on the October 8 "Breakfast and Vote" event (which was cancelled); and
- (c) Third, that Ms. Nanda did not record expenses for telephone or internet charges.

20. These complaints are entirely void of merit. Throughout her campaign, Ms. Nanda kept detailed records of all campaign expenditures and contributions, and her Form 4 is complete and accurate. The appointment of a compliance auditor serves no purpose, does not advance the public interest, and is not a prudent use of public funds. The Application should be rejected.

A. BOSTON PIZZA EVENT RECORDED UNDER "PARTIES & EXPRESSIONS OF APPRECIATION"

21. The Application alleges that Ms. Nanda failed to disclose her campaign's expenditure on the Boston Pizza event as a "Meeting" under the Form 4.

22. The Boston Pizza event was not a "Meeting"; it was a celebration of Ms. Nanda's nomination and an early chance for her to thank her supporters for their encouragement, regardless of the outcome of the electoral race—particularly since any party on election night would have coincided with Diwali, a celebration observed by Ms. Nanda and members of her campaign team. The \$598.33 that Ms. Nanda spent on this event, shown in the Boston Pizza receipt at **Appendix A**, was appropriately recorded in Form 4 under "Parties and other expressions of appreciation".

2. Expenses subject to spending limit for parties and other expressions of appreciation		
1. Expression of Appreciation	+ \$	598.33
2.	+ \$	
3.	+ \$	
4.	+ \$	
5.	+ \$	
Total Expenses subject to spending limit for parties and other expressions of appreciation	= \$	598.33 C3

(Page break removed.)

23. This event was appropriately included under “Expression of Appreciation” because it served as an opportunity for Ms. Nanda to acknowledge all the people who contributed to her nomination and, eventually, her successful campaign. This was made clear in the Instagram post for this event (included at Appendix 1 of the Application), which reads:

Thank you so much to our team for a wonderful Campaign Launch event this past weekend. I was so humbled by the support of friends and volunteers that came out in full force, the room was packed with Ward 7 residents, there are too many people to name but you know who you are. **I want to thank all of the speakers that came to endorse me and provide a helping hand for the next 6 weeks.** It means so much to me to see 7 out of 9 Ward 7 Town councillor candidates come and wish us luck and success. We had the Regional Candidates from the last election four years ago come and give their full support. **Thank you to Oakville Mayoral Candidate Julia Hanna** for your amazing endorsement and for wanting to step up for all residents and to help tackle the issues in Ward 7, we wish you luck.

Thank you to Ron Chhinzer, Mansoor Khan and Ibtisam Sharif, Max Khan Family, Ibrahim Daniyal, Shahrez D. Hayder, Vic. Walia, Arjun Nanda, Amir Henry, Shahab Khan, Dr. Scot Xie, Gregory Park, Nabil Arif, Kashif Chaudry, Faryal Ghazanfar, the kind endorsement of former Town Candidate Saima Zaidi, and the Halton Catholic School Board candidate Chris Saunders. It was great to have members of our Oakville Conservative, Liberal, NDP and Green Party come out to the event to support me.

We are all working together to make Ward 7 the greatest place to live. With a change, I am confident that we will be able to take our beautiful community of Ward 7 to new heights. Responsible Development, new schools and safety are priorities for all of us. I would be honoured to represent Oakville Ward 7 as your Regional and Town Councillor. [Emphasis added.]

24. Contrary to the Application’s claims, nothing in Form 4 or in the governing regulations (O. Reg. 101/97) provides that events like these are properly characterized as “Meetings” and not “Parties” for the purpose of financial disclosure. Nor is it the case that parties and expressions of appreciation must necessarily be held after voting day. To the contrary, the Province of Ontario’s “2022 Candidates’ Guide – Ontario municipal council and school board elections” (a copy of which is attached as **Appendix E**) states that expenses for parties and expressions of appreciation—like the Boston Pizza party—are to be recorded separately “regardless of whether they are incurred before or after voting day” (emphasis added), as shown below. A copy of the 2022 Candidate’s Guide was posted on the Town of Oakville’s website.¹

Spending limit for parties and expressions of appreciation

The spending limit for expenses related to holding parties and other expressions of appreciation after the close of voting is calculated as 10% of the amount of your general spending limit.

Expenses related to parties and expressions of appreciation are subject to the specific spending limit regardless of whether they are incurred before or after voting day.

25. Regardless, even if the Boston Pizza event were properly characterized as a “meeting”, the only result is a change in the attribution of the \$598.33 already recorded in Ms. Nanda’s disclosure form. It neither creates a surplus or deficit, nor exceeds the general spending limit for Ms. Nanda’s campaign:

- (a) **No Excess of General Spending Limit:** Even if the \$598.33 amount that was spent on the Boston Pizza party were attributed to the “Meetings” category in Form 4, the result is to increase the total for “Expenses subject to the general spending limit” (Box C2) from \$13,153.54 to \$13,751.87. In both cases, the total amount is below the spending limit of \$13,786.45; and
- (b) **No Surplus or Deficit:** The total campaign expenses already include the \$598.33 amount attributed to the Boston Pizza event (Box C3) in calculating the “Total Campaign Expenses” (Box C5). Therefore, irrespective of whether this amount is

¹ Available at the following link: <https://www.oakville.ca/town-hall/elections/candidates/candidate-resources/>

characterized as for “Meetings” or for “Parties”, there remains a balance between the campaign’s expenses and its total income (Box C1).

26. Moreover, even if this Committee were to find that the allocation of expenses on the Boston Pizza event should have been recorded as a “Meeting” expense, there was plainly no intention for Ms. Nanda to hide any campaign spending in relation to this event (or any other event). The entire amount was disclosed promptly and within the statutory requirements.

27. In *Lancaster v. Compliance Audit Committee et al.*, 2012 ONSC 5629, the Ontario Superior Court held that a Compliance Audit Committee is entitled to “look at all of the circumstances to determine whether an audit is necessary”, including whether any omission was unintentional. In that case, the Court found that it was reasonable for the Committee to have declined the appointment of an auditor because there was “not a flicker of further information to be obtained from an audit” and that any audit “would have amounted to a speculative expedition and ended up revealing what was already known”. A copy of *Lancaster* is attached as **Appendix F**.

28. The same is true here. There is no discrepancy or irregularity with the disclosure of expenses relating to the Boston Pizza party. The total amount of expenditures on this event was fully disclosed in Ms. Nanda’s Form 4 under “Parties and expressions of appreciation”, in accordance with the direction from the Ontario Government’s 2022 Candidate Guide (reproduced above). A compliance audit will reveal nothing further about this expenditure.

“BREAKFAST AND VOTE” EVENT WAS CANCELLED WITH NO FOOD EXPENDITURE

29. Mr. Randhawa’s second complaint is that Ms. Nanda did not report costs in connection with the “Breakfast and Vote” event. As explained above, that event was cancelled the previous evening, and the campaign did not incur any costs in connection with this aborted event. Instead, the campaign and some of Ms. Nanda’s friends and family met at Ms. Nanda’s home to head to vote early together, as a group.

30. The social media posts from this event were posted in error, based on a miscommunication. They were deleted because they were not accurate—the event never actually took place—and because it contained photographs of individuals who did not wish to appear on social media.

31. Again, there was no campaign expenditure on this cancelled event, no intention to mislead the Committee, and nothing to be gained from auditing this aspect of Ms. Nanda’s Form 4.

C. NO PERSONAL INTERNET OR TELEPHONE CHARGES INCURRED

32. Ms. Nanda’s campaign website was maintained by Mr. Malhotra. He and others also volunteered their time to manage social media accounts on her campaign’s behalf. Ms. Nanda’s campaign efforts were instead focused on in-person interactions with her electorate.

33. Mr. Malhotra’s invoice was properly recorded on Form 4 under “Advertising”. His rates include the cost of his access to internet that allows him to maintain Ms. Nanda’s website. Mr. Malhotra and others also placed phone calls, sent text messages, and assisted with social media posts on a volunteer basis, from their own devices, and at no cost to Ms. Nanda’s campaign.

34. The Ontario Superior Court considered a similar argument in *Lyras v. Heaps*, 2008 ONCJ 524, where an applicant challenged (among other things) a candidate’s failure to account for the cost of two telephone numbers listed on his campaign website. The Committee rejected the applicant’s argument, and it was upheld by the Court on the basis that the expense was “negligible” and because it would be “unrealistically onerous (if not impossible)” to determine the types of usage of what are essentially private lines:

38 The decision that an audit of the costs of these lines was unnecessary is reasonable, given the privacy interests at stake and the unrealistically onerous (if not impossible) burden of determining different types of usage of what are essentially private lines. In my view, the legislative intent is not to extend the ambit of the MEA to the privacy of the home telephone lines of candidates for public office and their families. To hold otherwise would only lead to fishing expeditions which could well deter persons from seeking public office. If

correctness were the standard of review this court was to apply, I would also say that this decision is correct.

35. A copy of the Court’s decision is attached as **Appendix G**.

D. MR. RANDHAWA’S STANDING TO BRING AN APPLICATION UNDER S. 88.33 OF THE ACT

36. Pursuant to s. 88.33 of the *Act*, only an “elector who is entitled to vote in an election” is permitted to apply for a compliance audit. In other words, an application can only be brought by a voter who was eligible to vote for the candidate during the election in question. The corollary is that individuals who were not entitled to vote in the election are not permitted to bring an application for a compliance audit.

37. Mr. Randhawa’s address is redacted from the Application provided to Ms. Nanda, but it is believed that Mr. Randhawa and his spouse may reside outside the boundaries of Ward 7.²

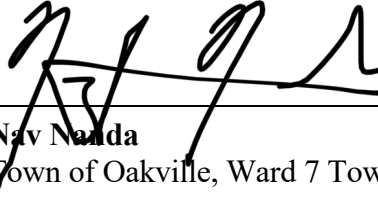
38. Mr. Randhawa’s residential address is available to the Committee in the unredacted Application, and his “entitle[ment] to vote” in the Ward 7 Town and Regional Councillor election can be independently verified in advance of the Committee meeting scheduled for August 1, 2023. If it is determined that Mr. Randhawa resides outside Ward 7, his Application must be rejected because he would have no standing as an applicant under s. 88.33 of the *Act*.

PART IV - CONCLUSION

39. For all the foregoing reasons, Ms. Nanda respectfully submits that the appointment of a compliance auditor—which may cost more than the campaign’s entire spending limit—is unnecessary and not in the public interest. Mr. Randhawa’s application should be entirely rejected.

² The source of this information, and the address at which Mr. Randhawa is believed to reside, was deliberately omitted from Ms. Nanda’s response to respect Mr. Randhawa’s privacy.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 26th day of July, 2023.



Nav Nanda
Town of Oakville, Ward 7 Town and City Councillor



John Carlo Mastrangelo
Lax O'Sullivan Lissus Gottlieb LLP
Counsel for Nav Nanda

APPENDIX A



Boston Pizza #478

499 DUNDAS ST. WEST, OAKVILLE

0001 Table 402 #Party 0

RACHEL C SvrCk: 1 11:47 09/18/22

L-VEGETARIAN	32.49
L-VEGETARIAN	32.49
L-VEGETARIAN	32.49
L-VEGETARIAN	32.49
L-VEGETARIAN	32.49
L-VEGETARIAN	32.49
L-MEDI	33.49
L-MEDI	33.49
NACHOS, no protein	18.49
NACHOS, no protein	18.49
NACHOS, no protein	18.49
NACHOS, no protein	18.49
NACHOS, no protein	18.49
NACHOS, no protein	18.49
NACHOS, no protein	18.49
L-BOURBON CHKN	34.79
L-BOURBON CHKN	34.79
OPEN FOOD, amount	
25.00	25.00

Sub Total: 467.44

Tax: 60.77

15% GRATUIT 70.12

09/18 11:50 TOTAL: 598.33

THANK YOU

HST # 799507298R001

PLEASE PAY SERVER

PASTA TUESDAY

Gourmet Pasta only \$12.99

TELL US HOW WE DID!

We value your feedback and time.
 Complete our SUPER SHORT SURVEY and
 receive a chance to WIN an AWESOME
 \$200 Boston Pizza gift card.
 Keep this receipt and visit
TellBostonPizza.com

For complete rules and eligibility.

Please visit TellBostonPizza.com

Your Survey/Team HQ ACCESS CODE is below

11804-80000-87111

This code will expire in 28 days

APPENDIX B

Bhupinder Malhotra

Home address redacted

Invoice

Bill to
Nav Nanda
nav@navnanda.com

Invoice Date: Dec 16, 2022

Date	Transaction Description	Vendor	Amount Paid(CAD)
Nov. 20, 2022	Website Maintenance	n/a	\$50.00
Oct. 20, 2022	Website Maintenance	n/a	\$50.00
Sep. 20, 2022	Website Maintenance	n/a	\$50.00
Aug. 20, 2022	Website Maintenance	n/a	\$50.00
Aug. 13, 2022	Website Maintenance	n/a	\$50.00
Oct. 24, 2022	SIMPLETEXTING.COM 866-2591887, FL 70.00 USD @ 1.420571	SimpleTexting	\$99.44
Oct. 24, 2022	SIMPLETEXTING.COM 866-2591887, FL 32.12 USD @ 1.420298	SimpleTexting	\$45.62
Sep. 29, 2022	SIMPLETEXTING.COM 866-2591887, FL 49.00 USD @ 1.417959	SimpleTexting	\$69.48
Oct. 24, 2022	CLICKSEND.COM RECHARGE SOUTH PER	ClickSend	\$200.00
Oct. 17, 2022	CLICKSEND.COM RECHARGE SOUTH PER	ClickSend	\$50.00
Oct. 11, 2022	CLICKSEND.COM RECHARGE SOUTH PER	ClickSend	\$100.00
Oct. 10, 2022	CLICKSEND.COM RECHARGE SOUTH PER	ClickSend	\$50.00
		Total	\$864.54

APPENDIX C

JOIN US FOR A BREAKFAST & VOTE!

With Nav Nanda, Regional Councillor Candidate, Oakville Ward 7



Saturday October 8



10:00AM



**218 McWilliams Cres
Oakville, ON**

Join us for refreshments and snacks as our team and supporters make their way to vote at Sixteen Mile Sports Complex. Bring your family, appetite, and ID!

APPENDIX D

Instructions

All candidates must complete Boxes A and B. Candidates who receive contributions or incur expenses must complete Boxes C, D, Schedule 1 and Schedule 2 as appropriate. Candidates who receive contributions or incur expenses in excess of \$10,000 must also attach an Auditor's Report.

All surplus funds (after any refund to the candidate or their spouse) shall be immediately paid to the clerk who is responsible for the conduct of the election.

For the campaign period from (day clerk received nomination)

YYYY	MM	DD
2 0 2 2	0 5	0 2

 to

YYYY	MM	DD
2 0 2 3	0 1	0 3

- Initial filing reflecting finances from start of campaign to December 31 (or 45 days after voting day in a by-election)
- Supplementary filing reflecting finances from start of campaign to end of extended campaign period

Box A: Name of Candidate and Office

Candidate's name as shown on the ballot

Last Name or Single Name
NANDA

Given Name(s)
NAV

Office for Which the Candidate Sought Election
REGIONAL AND TOWN COUNCILLOR

Ward Name or Number (if any)
7

Municipality

Spending Limit

General
\$13,786.45

Parties and Other Expressions of Appreciation
\$1,378.65


Contribution Limit

Contributions from Candidate and Spouse
\$7,067.40

I did not accept any contributions or incur any expenses. (Complete Boxes A and B only)

Box B: Declaration


I, NAV NANDA, declare that to the best of my knowledge and belief that these financial statements and attached supporting schedules are true and correct.



Signature of Candidate

2023/03/07

Date (yyyy/mm/dd)

Date Filed (yyyy/mm/dd) <u>2023/03/24</u>	Time Filed <u>11:24 am</u>	Initial of Candidate or Agent (if filed in person) <u>NV</u>	Signature of Clerk or Designate 
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Box C: Statement of Campaign Income and Expenses

LOAN

Name of bank or recognized lending institution

Amount borrowed
\$

INCOME

Total amount of all contributions (from line 1A in Schedule 1)	+ \$	15,272.62
Revenue from items \$25 or less	+ \$	
Sign deposit refund	+ \$	194.00
Revenue from fundraising events not deemed a contribution (from Part III of Schedule 2)	+ \$	
Interest earned by campaign bank account	+ \$	
Other (provide full details)		
1. _____	+ \$	
2. _____	+ \$	
3. _____	+ \$	
4. _____	+ \$	
5. _____	+ \$	
6. _____	+ \$	

Total Campaign Income (Do not include loan)

= \$ 15,466.62 C1

EXPENSES (Note: Include the value of contributions of goods and services)

1. Expenses subject to general spending limit

Inventory from previous campaign used in this campaign (list details in Table 2 of Schedule 1)

Advertising	+ \$	864.54
Brochures/flyers	+ \$	5,387.34
Signs (including sign deposit)	+ \$	6,816.36
Meetings hosted	+ \$	
Office expenses incurred until voting day	+ \$	69.50
Phone and/or internet expenses incurred until voting day	+ \$	
Salaries, benefits, honoraria, professional fees incurred until voting day	+ \$	
Bank charges incurred until voting day	+ \$	15.80
Interest charged on loan until voting day	+ \$	
Other (provide full details)		
1. _____	+ \$	
2. _____	+ \$	
3. _____	+ \$	
4. _____	+ \$	
5. _____	+ \$	
6. _____	+ \$	

Total Expenses subject to general spending limit

= \$ 13,153.54 C2

2. Expenses subject to spending limit for parties and other expressions of appreciation

1. Expression of Appreciation	+ \$	598.33
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2.	_____	+ \$	_____
3.	_____	+ \$	_____
4.	_____	+ \$	_____
5.	_____	+ \$	_____
Total Expenses subject to spending limit for parties and other expressions of appreciation		= \$	598.33 C3

3. Expenses not subject to spending limits

Accounting and audit	_____	+ \$	1,695.00
Cost of fundraising events/activities (list details in Part IV of Schedule 2)	_____	+ \$	_____
Office expenses incurred after voting day	_____	+ \$	_____
Phone and/or internet expenses incurred after voting day	_____	+ \$	_____
Salaries, benefits, honoraria, professional fees incurred after voting day	_____	+ \$	_____
Bank charges incurred after voting day	_____	+ \$	19.75
Interest charged on loan after voting day	_____	+ \$	_____
Expenses related to recount	_____	+ \$	_____
Expenses related to controverted election	_____	+ \$	_____
Expenses related to compliance audit	_____	+ \$	_____
Expenses related to candidate's disability (provide full details)	_____		
1.	_____	+ \$	_____
2.	_____	+ \$	_____
3.	_____	+ \$	_____
4.	_____	+ \$	_____
5.	_____	+ \$	_____
Other (provide full details)	_____		
1.	_____	+ \$	_____
2.	_____	+ \$	_____
3.	_____	+ \$	_____
4.	_____	+ \$	_____
5.	_____	+ \$	_____
Total Expenses not subject to spending limits		= \$	1,714.75 C4

Total Campaign Expenses (C2 + C3 + C4) = \$ **15,466.62 C5**

Box D: Calculation of Surplus or Deficit

Excess (deficiency) of income over expenses (Income minus Total Expenses) (C1 – C5)	+ \$	_____	D1
If there is a surplus, deduct any refund of candidate's or spouse's contributions to the campaign	- \$	_____	
Surplus (or deficit) for the campaign	= \$	_____	D2

If line D2 shows a surplus, the amount must be paid in trust, at the time the financial statements are filed, to the municipal clerk who is responsible for the conduct of the election.

Schedule 1 – Contributions

Part I – Summary of Contributions

Contributions in money from candidate and spouse	+ \$	5,621.62
Contributions in goods and services from candidate and spouse: (include value listed in Table 1 and Table 2)	+ \$	_____
Total value of contributions not exceeding \$100 per contributor • Include ticket revenue, contributions in money, goods and services where the total contribution from a contributor is \$100 or less (do not include contributions from candidate or spouse).	+ \$	300.00
Total value of contributions exceeding \$100 per contributor (from line 1B; list details in Table 3 and Table 4) • Include ticket revenue, contributions in money, goods and services where the total contribution from a contributor exceeds \$100 (do not include contributions from candidate or spouse).	+ \$	9,351.00
Less: Ineligible contributions paid or payable to the contributor	– \$	_____
Contributions paid or payable to the clerk, including contributions from anonymous sources exceeding \$25	– \$	_____
Total Amount of Contributions (record under Income in Box C)	= \$	15,272.62 1A

Part II – Contributions from candidate or spouse

Table 1: Contributions in goods or services

Description of Goods or Services	Date Received (yyyy/mm/dd)	Value (\$)
Total		

Additional information is listed on separate supplementary attachment, if completed manually.

**Table 2: Inventory of campaign goods and materials from previous municipal campaign used in this campaign
(Note: Value must be recorded as a contribution from the candidate and as an expense.)**

Description	Date Acquired (yyyy/mm/dd)	Supplier	Quantity	Current Market Value (\$)
Total				

Additional information is listed on separate supplementary attachment, if completed manually.

Part III – Contributions exceeding \$100 per contributor – individuals other than candidate or spouse

Table 3: Monetary contributions from individuals other than candidate or spouse

Name	Full Address	Date Received (yyyy/mm/dd)	Amount Received (\$)	Amount Returned to Contributor or Paid to Clerk (\$)
NAVJOT HOTHI	3104 HIRAM TERRACE, OAKVILLE, ON, L6M0P7	2022/09/09	1,200.00	
RANDEEP CHHINZER	3104 HIRAM TERRACE, OAKVILLE, ON, L6M0P7	2022/09/09	1,200.00	
EKTA KUMAR	224 Shoreacres Rd, Burlington, On L7L2H2	2022/09/13	500.00	
SUMIT SINGH SABHARWAL	2404 Rideau Dr., Oakville, On L6H7P8	2022/09/13	250.00	
BALDEV DHANOA	3-2390 PARKHAVEN BLVD., OAKVILLE, ON L6H0E7	2022/09/12	1,000.00	
ANUJ SETHI	3216 Stocksbridge Ave, Oakville On L6M0A7	2022/09/13	250.00	
ASHISH SETHI	23 Donherb Cres., Caledon, On L7C1E4	2022/09/13	1,000.00	
JAGMOHAN SINGH KAPOOR	2316 Delnice Dr., Oakville, On L6H0A9	2022/09/13	1,000.00	
NEERAJ SINGHAL	3158 Hines Drive, Oakville, On L6M0Z7	2022/09/14	500.00	
MUNESH BHARDWAJ	3304 Meadow Marsh Cres, Oakville On L6H0T5	2022/09/13	250.00	
AMAR BEDI	11843 Sixth Line, Limehouse, On L0P1H0	2022/09/21	250.00	
CHARANJEET KAUR	3100 Preserve Dr, Oakville, On L6M0T8	2022/09/26	300.00	
GAURAV ARORA	174 McWilliams Cres, Oakville On L6M0W5	2022/09/19	250.00	
ARPIT BHANDARI	590 Conservation Dr., Brampton, On L6Z0B8	2022/10/04	500.00	
HIMMAT LAL	411 HIDDEN TRAIL, OAKVILLE, ON L6M0N3	2022/10/06	501.00	
PREETI NANDA	571 North Park Blvd, Oakville On L6M0N5	2022/10/24	400.00	
Total			9,351.00	

Additional information is listed on separate supplementary attachment, if completed manually.

Table 4: Contributions in goods or services from individuals other than candidate or spouse (Note: Must also be recorded as Expenses in Box C.)

Name	Full Address	Description of Goods or Services	Date Received (yyyy/mm/dd)	Value (\$)

Name	Full Address	Description of Goods or Services	Date Received (yyyy/mm/dd)	Value (\$)
Total				

Additional information is listed on separate supplementary attachment, if completed manually.

Total for Part III – Contributions exceeding \$100 per contributor
 (Add totals from Table 3 and Table 4 and record the total in Part 1 – Summary of Contributions) \$ 9,351.00 1B

Schedule 2 – Fundraising Events and Activities

Complete a separate schedule for each event or activity held.

 Additional schedule(s) attached, if completed manually.**Fundraising Event/Activity 1**

Description of fundraising event/activity _____

Date of event/activity (yyyy/mm/dd) _____

Part I – Ticket revenue

Admission charge (per person) \$ _____ 2A

(If there are a range of ticket prices, attach complete breakdown of all ticket sales)

Number of tickets sold x _____ 2B

Total Part I (2A X 2B) (include in Part I of Schedule 1) = \$ _____**Part II – Other revenue deemed a contribution**

Provide details (e.g., revenue from goods sold in excess of fair market value)

1.	_____	+ \$
2.	_____	+ \$
3.	_____	+ \$
4.	_____	+ \$
5.	_____	+ \$

Total Part II (include in Part I of Schedule 1) = \$ _____**Part III – Other revenue not deemed a contribution**

Provide details (e.g., contribution of \$25 or less; goods or services sold for \$25 or less)

1.	_____	+ \$
2.	_____	+ \$
3.	_____	+ \$
4.	_____	+ \$
5.	_____	+ \$

Total Part III (include under Income in Box C) = \$ _____**Part IV – Expenses related to fundraising event or activity**

Provide details

1.	_____	+ \$
2.	_____	+ \$
3.	_____	+ \$
4.	_____	+ \$
5.	_____	+ \$

Total Part IV Expenses (include under Expenses in Box C) = \$ _____

Auditor's Report – Municipal Elections Act, 1996 (Section 88.25)

A candidate who has received contributions or incurred expenses in excess of \$10,000 must attach an auditor's report.

Professional Designation of Auditor

Chartered Professional Accountant

Municipality Mississauga	Date (yyyy/mm/dd)
-----------------------------	-------------------

Contact Information

Last Name or Single Name Hurmizi	Given Name(s) Sam	Licence Number 1-6359
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Address

Suite/Unit Number 200	Street Number 197	Street Name County Court Boulevard
--------------------------	----------------------	---------------------------------------

Municipality Brampton	Province ON	Postal Code L6W 4P6
--------------------------	----------------	------------------------

Telephone Number 905-944-0444	Email Address samh@smca.ca
----------------------------------	-------------------------------

The report must be done in accordance with generally accepted auditing standards and must:

- set out the scope of the examination
- provide an opinion as to the completeness and accuracy of the financial statement and whether it is free of material misstatement

Report is attached

Personal information, if any, collected on this form is obtained under the authority of sections 88.25 and 95 of the *Municipal Elections Act, 1996*. Under section 88 of the *Municipal Elections Act, 1996* (and despite anything in the *Municipal Freedom of Information and Protection of Privacy Act*) documents and materials filed with or prepared by the clerk or any other election official under the *Municipal Elections Act, 1996* are public records and, until their destruction, may be inspected by any person at the clerk's office at a time when the office is open. Campaign financial statements shall also be made available by the clerk in an electronic format free of charge upon request.



SHCPA Professional Corporation
18-309 Crown Steel Drive
Markham ON, L3R 9X8
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Fax: (905) 489-2770
www.smca.ca

INDEPENDENT AUDITOR'S REPORT

PURSUANT TO SECTION 88.25 OF THE MUNICIPAL ELECTIONS ACT, 1996

To City Clerk and Returning Officer, Municipality of Oakville.

Qualified Opinion

I have audited the Financial Statement- (Form 4) of **Navjot Nanda**, Candidate, for the campaign period from **May 2, 2022, to January 3, 2023**, relating to the election held on **October 24, 2022**, including Box C: Statement of Campaign Income & Expense and Box D: Calculation of Surplus or Deficit. The financial information has been prepared by **Navjot Nanda**, the Candidate, based on the financial reporting provisions of Section 88.22 of the Municipal Elections Act, 1996.

In my opinion, except for the effect of adjustments, if any, which I might have determined to be necessary had I been able to satisfy myself as to the records as described in the Basis of Qualified Opinion paragraph, these accompanying financial statements present fairly, in all material respects, the income and expenses of the campaign period from **May 2, 2022, to January 3, 2023**, and the calculation of surplus or deficit in accordance with the accounting treatment described by the section 88.22 of Municipal Elections Act 1996.

Basis for Qualified Opinion

I conducted my audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. I am independent of the campaign in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and I have fulfilled my other ethical responsibilities in accordance with these requirements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Due to the nature of the types of transactions inherent in an election campaign, it is impracticable through auditing procedures to determine that the accounting records include all donations of goods and services, and receipts and disbursements. Accordingly, my verification of these transactions was limited to ensuring that the financial statements reflect the amounts recorded in the accounting records of **Navjot Nanda**, candidate, in accordance with the accounting procedures established by the Municipal Elections Act, 1996 and I was not able to determine whether any adjustments might be necessary to income and expenses, and surplus/deficit

Basis of Accounting

Without modifying our qualified opinion, I draw attention to the fact that the financial statement is prepared to assist the Candidate to meet the requirements of the Municipal Elections Act, 1996, and as a result, the financial statement may not be suitable for another purpose.

Responsibilities of Candidate and Those Charged with Governance for the Financial Statements

The Candidate is responsible for the preparation and fair presentation of the financial statements in accordance with the financial reporting provisions of section 88.25 of the Municipal Elections Act, 1996 and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. Those charged with governance are responsible for overseeing the Candidate's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company entity's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.

- Evaluate the overall presentation, structure, and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.
- I also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

From the matters communicated with those charged with governance, we determine those matters that were of most significance in the audit of the financial statements of the current period and are therefore the key audit matters. We describe these matters in our auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, we also determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.

Brampton, Ontario

March 20, 2023.

SHCPA Professional Corporation

*Authorized to practice public accounting by
The Chartered Public Accountants of Ontario*

APPENDIX E

2022 Candidates' Guide - Ontario municipal council and school board elections

2022 Candidates' Guide – Ontario municipal council and school board elections

This guide provides information to candidates for the 2022 municipal council and school board elections. The information also applies to any by-elections that may be held during the 2022-2026 council and school board term.

This guide is not meant to replace provincial legislation. It provides general information about the rules contained in the *Municipal Elections Act, 1996* and other legislation and regulations, such as:

- *Municipal Act, 2001*
- *City of Toronto Act, 2006*
- *Education Act*

New election rules for 2022

Nominations may be filed electronically if permitted by your municipal clerk. [Contact your municipal clerk](#) to find out if nominations can be filed electronically in your municipality, and for information about how to file your nomination.

The deadline for filing your nomination is August 19, 2022 at 2 p.m.

The council and school board term of office will run from November 15, 2022 to November 14, 2026.

Contact us

If you have further questions or would like to give feedback on this Guide, please contact us at mea.info@ontario.ca.

You can also contact your regional [Municipal Services Office at the Ministry of Municipal Affairs and Housing](#).

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General information

Every four years, voters across Ontario elect municipal councillors and school board trustees.

The Province of Ontario sets out common rules that all candidates and voters must follow. However, municipalities are responsible for conducting elections to their council and for conducting the election of school trustees to Ontario's school boards. This guide contains information about the rules that are the same for all municipal elections, such as who is eligible to run for office, and rules about campaign spending.

Your municipality may have specific rules on issues such as:

- where and when election signs may be displayed
- whether campaign activities may occur on municipal property
- whether those who make contributions to candidates may receive a rebate

Contact your municipal clerk if you have questions about the election in your municipality.

To learn more about the duties of municipal councillors and the role of council, please see the [Ontario Municipal Councillor's Guide](#).

The municipal clerk

Every municipality has a municipal clerk who is in charge of running the election.

Contact the municipal clerk if you are interested in becoming a candidate. You must file any election forms, such as the nomination form and campaign financial statements, with your municipal clerk. The clerk is also responsible for providing information about spending limits and filing deadlines to candidates.

[If your municipality does not have a website](#) you could visit or contact your municipality's offices for more information.

Public health and safety at the voting place

The municipal clerk is responsible for setting up and running the voting places used in a municipal election. The clerk must follow any provincial or local public health measures that are in effect. They may also put in place additional procedures that they consider necessary for conducting the election. If you have questions about public health and safety at the voting place, you should contact your municipal clerk.

Emergency declaration by the clerk

If the municipal clerk believes that circumstances have arisen that prevent the election from being conducted appropriately, they may declare an emergency. This declaration is specific to the election and separate from an emergency that may be declared by the municipality or the province.

Once the clerk has declared an emergency, they can decide what arrangements to make to allow the election to proceed appropriately. The arrangements that the clerk makes will depend on the nature of the emergency.

If your municipal clerk has declared an emergency in relation to an election or by-election in your municipality, you should contact the clerk for information about the arrangements that they have put in place and how those arrangements may affect voting and campaigning.

Eligibility to run for election

Running for municipal council

To run for a position on council you must be eligible to vote in that municipality. On the day you file your nomination, you must be a Canadian citizen aged 18 or older, and qualify as a resident or non-resident elector. For more information about eligibility to vote, please see [the 2022 Voters' Guide](#).

You must be eligible to hold office on the day you file your nomination. For example, a person who is 17 years old but will turn 18 before nomination day must wait until they have turned 18 to file their nomination.

If your municipality has wards, you can run in any ward – you do not have to live in a particular ward in order to be its councillor. However, if you run in a ward where you do not live, you will not be able to vote for yourself. Having a campaign office or a business in a ward where you would not otherwise be eligible to vote does not make you eligible to vote in that ward.

Municipal employees

You cannot work for a municipality and be on its council at the same time. If you are an employee of a municipality and you want to run for office on that municipality's council, you must take a leave of absence that begins the day you are nominated. If you are elected, you must resign from your job.

If you are an employee of a municipality and you want to run for office in a different municipality, you do not have to take a leave of absence or resign. However, you should check with your employer to see if there are any policies in place that could affect you.

If you are an employee of an upper-tier municipality, you can run for office in a lower-tier municipality without taking a leave of absence or resigning unless being elected to the lower tier council means that you would also be a member of the upper-tier council.

Who is not eligible?

The following people are disqualified from being elected to municipal office:

- any person who is not eligible to vote in the municipality
- an employee of a municipality who has not taken an unpaid leave of absence and resigned (see above)
- a judge of any court
- an MP, an MPP or a senator
- an inmate serving a sentence in a penal or correctional institution

Running for school board trustee

To run for a trustee position on a school board you must be a resident within the jurisdiction of the board and you must be eligible to vote in a school board election. On the day you file your nomination, you must be a Canadian citizen aged 18 or older and you must meet any other qualifications to vote for the school board (for example, being a Roman Catholic, or holding French language rights). For more information about eligibility to vote, please see [the 2022 Voters' Guide](#).

Additional information about [French-language rights](#) is available from the Ministry of Education.

School board employees

You cannot work for a school board and be a trustee in Ontario at the same time.

If you are an employee of any Ontario school board and you want to run for a trustee position on any school board in the province, you must take an unpaid leave of absence that begins the day you are nominated. If you are elected, you must resign from your job.

Municipal officials

If you are a clerk, deputy clerk, treasurer or deputy treasurer of a municipality within the jurisdiction of a school board, you are not permitted to run for office as a trustee of that board unless you take a leave of absence. If you are elected, you must resign from your job.

Who is not eligible?

The following people are disqualified from being elected as a school trustee:

- any person who is not eligible to vote in the school board election
- an employee of a school board or a municipal official who has not taken an unpaid leave of absence and resigned (see above)
- a judge of any court
- an MP, an MPP or a senator
- an inmate serving a sentence in a penal or correctional institution

Note for MPs, MPPs and senators

If you are an MP, MPP or senator, you may file your nomination for municipal or school board office without resigning your current seat in parliament, the legislature or the senate. However, you must resign your seat by the close of nominations (2 p.m. on Friday August 19, 2022). If you are a federal or provincial cabinet minister, you must step down from cabinet prior to filing your nomination and must resign your seat by the close of nominations.

If you have not resigned by nomination day, your nomination will be rejected and your name will not appear on the ballot.

Nominations

Filing your nomination

To file your nomination you must give the following to your municipal clerk:

- a completed [nomination form \(Form 1\)](#)
- the nomination fee
- completed [endorsement of nomination forms \(Form 2\)**](#)

**If you are running for municipal council and your municipality has more than 4,000 electors, you must submit original endorsement signatures from 25 people who are eligible to vote in the municipality. Candidates for school board trustee and candidates for municipal council in municipalities with 4,000 or fewer electors do not have to submit endorsement signatures.

When you fill out the nomination form, write down your name as you want it to appear on the ballot. If you normally go by a different name than your legal first name, you may use that name provided that the clerk agrees.

You do not have to provide all of your names under the box entitled “Given Name(s)” on the form. Only provide the one(s) that you want to appear on the ballot. If your legal name is a single name you do not have to provide any given names.

Clerks can decide to allow nominations to be filed electronically. If your municipality allows electronic filing, contact the clerk for more information about how to file your nomination.

If electronic filing is not allowed in your municipality, you must file the nomination form that you have signed – the form may not be a copy and may not be scanned and submitted electronically. You must file the nomination form in person or have an agent file it on your behalf.

The clerk may require you to show identification or fill in an additional form to prove that you are eligible to be nominated. If an agent is going to file the form on your behalf you should check with the clerk to see if you are required to provide identification or additional paperwork.

Your campaign period begins when the clerk has received your nomination. If you file your nomination electronically at a time when the clerk’s office is not open, you may have to wait to begin your campaign. You should contact the clerk for more information.

The nomination fee

The fee to file a nomination is \$200 to run for head of council and \$100 for all other positions. This fee must be paid to the clerk at the time you submit your nomination form.

Your nomination fee will be refunded if you file your campaign financial statement by the deadline.

Endorsement signatures

If you are running for municipal council in a municipality that has more than 4,000 electors, you must submit 25 original signatures endorsing your nomination.

You must use [Form 2](#) to collect the endorsement signatures.

Anyone providing an endorsement signature must also fill in their name and address, including the postal code.

Anyone providing an endorsement signature must be eligible to vote in the municipality on the day that they signed the endorsement. In addition to their endorsement, they will also be required to sign a declaration that they are eligible to vote in the municipality.

A person who is eligible to vote in the municipality may provide endorsements to as many candidates as they would like and may endorse candidates for any office on the municipal council. A person who is running for a ward councillor office may submit signatures from voters who do not live in that ward.

Collection of signatures should be undertaken safely by following guidance related to and in compliance with all applicable laws and emergency orders, as well as any [guidance and safety standards established by the province for COVID-19](#). These measures are intended to keep Ontarians safe.

If you submit 25 original endorsement signatures and find out later that a person (or persons) was not eligible to vote on the day that they signed the endorsement, you will not lose your nomination. The person who supplied false information (by declaring that they were eligible to endorse your nomination when they were not eligible) could be subject to prosecution.

If the clerk has allowed electronic filing, you must still collect the endorsement signatures in person. You can submit an electronic copy of the forms when you file your nomination. You must keep the forms with the original signatures as part of your campaign records.

School board trustee candidates are not required to submit endorsement signatures.

The [Endorsement of Nomination Form \(Form 2\)](#) is a public document. Endorsements of candidates cannot be revoked if the document has already been filed with the clerk.

Deadline to file your nomination

The nomination period begins on May 1, 2022. As May 1 is a Sunday, you may not be able to file your nomination until May 2, 2022 when the clerk's office is open. The last day to file a nomination is Friday, August 19, 2022 by 2 p.m.

The clerk has until 4 p.m. on Monday, August 22, 2022 to certify or reject your nomination. The clerk must be satisfied that you are eligible to run in order to certify your nomination. If your nomination is not certified, your name will not appear on the ballot.

Where to file

If you are running for council office in a single-tier or lower-tier municipality (city, town, township, village, etc.), you must file your nomination with the clerk of that municipality.

If you are running for an office in an upper-tier municipality (region or county) that does not also sit on a lower-tier council, you must file your nomination with the clerk of the upper-tier municipality. For example, a person running for chair of Durham Region would file their nomination with the clerk of Durham Region rather than the clerk of a lower-tier municipality such as Oshawa or Pickering.

If you are running for a school trustee position that represents more than one municipality, contact your municipal clerk for information about where to file your nomination.

Changing your mind – withdrawal

If you decide to withdraw your nomination, you must notify the clerk in writing by the close of nominations (2 p.m. August 19, 2022).

If you withdraw your nomination, you are still required to file a campaign financial statement covering all the financial transactions you made in your campaign.

If your campaign did not have any financial transactions, you must file a financial statement reporting this. Your nomination fee will be refunded by the clerk if you file your financial statement by the deadline.

Changing your mind – running for a different office

You can only run for one office at a time. If you decide to run for a different office, your first nomination is deemed to be withdrawn when you file your second nomination.

If you decide to run for a different office on the same council or school board, and both offices are elected at large (for example, an office such as the mayor, which everyone in the municipality may vote for), everything (contributions, expenses, etc.) from your first campaign is simply transferred to your second campaign.

Example:

You file your nomination to run for deputy mayor on May 12, 2022. During the summer you decide to run for mayor instead, and file your second nomination form on June 29, 2022.

- Your first nomination for deputy mayor is deemed to be withdrawn.
- The nomination fee you paid on May 12 is transferred to your second nomination (in this case, you would have to pay an additional \$100 to make up the \$200 fee to run for head of council).

- You do not have to submit new endorsement signatures. Your initial 25 original endorsement signatures still qualify since you withdrew and filed a nomination for a different office on the same municipal council.
- Your campaign for mayor is deemed to have started on May 12.
- Any campaign contributions or expenses that occurred prior to June 29 are transferred to your mayoral campaign.
- You must file one campaign financial statement covering your campaign finances from May 12 until January 3, 2023.
- Your nomination fee will be refunded if you file your campaign financial statement by the filing deadline.

If you decide to run for a different office on the same council or school board, and one or both of the offices is elected by ward, then you must keep the two campaigns separate.

Example:

You file your nomination to run for mayor on May 12, 2022. During the summer you decide to run for councillor in ward 1 instead and file your second nomination form on June 29, 2022.

Your first nomination for mayor is deemed to be withdrawn, and your campaign for mayor ends. You may not transfer any contributions or expenses from your mayoral campaign to your ward councillor campaign.

- You must pay a separate nomination fee when you file your nomination for ward councillor.
- You do not have to submit new endorsement signatures. Your initial 25 original endorsement signatures still qualify since you withdrew and filed a nomination for a different office on the same municipal council.
- You must file a campaign financial statement covering your campaign for mayor (May 12 to June 29) – your first nomination fee will be refunded if you file this financial statement by the filing deadline.
- You must file a separate campaign financial statement covering your campaign for ward councillor (June 29 to January 3) – your second nomination fee will be refunded if you file this financial statement by the filing deadline.

If you decide to run for office on a different council or school board, then you must keep the two campaigns separate. If you decide to run for council in a municipality that has more than 4,000 electors, you will need to submit original endorsement signatures from electors eligible to vote in that municipality. If you are unsure if the municipality has more than 4,000 electors, you should contact the municipal clerk.

Example:

You file your nomination to run for school board trustee on May 12. During the summer you decide to run for councillor instead, and file your second nomination form on June 29, 2022.

- Your first nomination for school board trustee is deemed to be withdrawn.
- You are required to pay a nomination fee when you file your nomination for ward councillor.
- If the municipality where you are running for ward councillor has more than 4000 electors, you must submit 25 endorsement signatures.
- Your campaign for school board trustee ends. You may not transfer any contributions or expenses from your trustee campaign to your ward councillor campaign .
- You must file a campaign financial statement covering your campaign for school board trustee (May 12 to June 29) – your first nomination fee will be refunded if you file this financial statement by the filing deadline.
- You must file a separate campaign financial statement covering your campaign for ward councillor (June 29 to January 3) – your second nomination fee will be refunded if you file this financial statement by the filing deadline.

Acclamations

If there is only one certified candidate running for an office at 4 p.m. on Monday, August 22, that candidate will be declared elected by acclamation. Similarly, in a municipality where multiple candidates are elected at large, if the number of certified candidates is the same as or less than the number of offices, those candidates will be declared elected by acclamation.

If you are elected by acclamation, you must still file a campaign financial statement.

Additional nominations

If there are positions that no candidates have run for or positions that are still vacant after the candidates who did run have been acclaimed, the clerk will call for additional nominations.

Additional nominations for the remaining vacant seats must be filed between 9 a.m. and 2 p.m. on Wednesday, August 24, 2022. The clerk must either certify or reject each nomination by 4 p.m. on Thursday, August 25, 2022.

Campaigning

Signs

Your municipality may have rules about when you can put up campaign signs and how signs may be displayed on public property.

All of your campaign signs and other advertising must identify that you are responsible for the sign. This is so that people seeing the sign or advertisement can tell that it is from your campaign, rather than from a third party advertiser.

Please see [Leftover campaign inventory](#) (page 23) if you plan to reuse signs from the last election.

You are responsible for ensuring that your campaign signs are removed after voting day. Your municipality may require a sign deposit or have penalties for failing to remove your signs. Contact your local clerk for more information.

You are entitled to have your nomination fee refunded if you file your campaign financial statement by the filing deadline. The clerk cannot make removing your signs a condition for receiving your refund.

Getting information out

It is up to you to provide voters with information about you as a candidate and about your campaign. The municipal clerk is not responsible for providing your contact information to voters.

All candidates' debates

The *Municipal Elections Act, 1996* does not require candidate debates to be held, and the municipal clerk is not responsible for organizing meetings or debates. Debates can be organized by community groups, media outlets, candidates or any other interested persons.

Joint campaigns / running on a slate

There is nothing in the *Municipal Elections Act, 1996* that would prevent like-minded candidates from campaigning on the same platform or identifying themselves as a group or slate. However, each candidate must keep their campaign finances separate and any joint expenses (for example, signs with two candidates' names on them) must be divided between the campaigns.

For information on campaign finance rules please see [Campaign Finance](#) (page 16).

Third party advertising

General information

There are rules for third party advertising in Ontario's municipal council and school board elections.

A third party advertisement is an ad that supports, promotes or opposes a candidate or a "yes" or "no" answer to a question on the ballot.

The meaning of "third party" in this context means a person or entity who is not a candidate. Eligible individuals, corporations and trade unions can register to be third party advertisers. Third party advertising is separate from any candidate's campaign and must be done independently from a candidate.

Third party advertisers who want to spend money on advertisements during the election must register with the municipal clerk and must file a financial statement.

For more information about third party advertising rules, including eligibility, spending limits and enforcement, see the [Third Party Advertisers' Guide](#).

On voting day

Campaigning on voting day

The *Municipal Elections Act, 1996* does not prohibit campaigning on voting day. While there are restrictions on advertising for federal and provincial elections on voting day, these “blackouts” do not exist for municipal council and school board elections.

The Act prohibits the display of campaign material inside a voting place. The “voting place” could include the entire property of a building that has a voting place inside it, including the parking lot. You are not allowed to have campaign brochures, campaign buttons, signs or any other material inside the voting place.

Remaining in a voting place

As a candidate, you are allowed to stay in a voting place to observe but you are not allowed to interfere with voters, attempt to influence how they vote or ask a voter how they voted. Scrutineers may also stay in the voting place.

You and your scrutineers are entitled to be in the voting place 15 minutes before it opens and to inspect the ballot boxes, the ballots and any other papers or forms relating to the vote. However, you may not delay the opening of the voting place.

You and your scrutineers are entitled to place a seal on the ballot box so that ballots put in the box cannot be removed without breaking your seal.

Note: If you have been acclaimed, you are not allowed to be in the voting place or to appoint scrutineers.

Scrutineers

You may appoint a scrutineer for each ballot box in a voting place. You do not have to appoint that many scrutineers, or any scrutineers at all. If you have appointed one scrutineer for each ballot box, a scrutineer must leave while you are in the voting place.

Scrutineers may observe but they are not allowed to interfere with voters, attempt to influence how they vote, or ask a voter how they voted.

You must provide each of your scrutineers with an appointment in writing. Scrutineers may be required to show their appointment document to election officials at the voting place.

Scrutineers may be required to take an oath of secrecy.

There are no general restrictions on who you can appoint as a scrutineer (for example, a scrutineer can be any age and does not have to be a citizen). However, an acclaimed candidate cannot be appointed as a scrutineer for another candidate.

Counting votes

If your municipality is using voting machines or vote counting equipment, the clerk must have the processes and procedures for use of this equipment in place by June 1, 2022. If vote counting equipment is used, the clerk will be able to provide you with information on how the votes will be counted and how many scrutineers may be present.

The vote count begins immediately after the close of voting at on October 24, 2022 at 8 p.m.

If the votes are counted manually, you and your scrutineers are entitled to view the ballots as they are counted, but you cannot touch the ballots. You and your scrutineers may object to a ballot or how it is counted (for example, if it is unclear who the vote is for or if the ballot has extra markings on it). The deputy returning officer is responsible for deciding whether to accept the objection and must keep a list of all the objections raised.

Results

After the votes have been counted, the deputy returning officer will prepare a statement showing the results and seal all the other election documents, including the ballots, inside the ballot box. You and your scrutineers are entitled to put your or their own seal on the ballot box at this time, and are entitled to sign the statement showing the results.

The sealed ballot box and the statement of the results will then be delivered to the municipal clerk, who will compile the results and declare who has been elected.

Note: results announced on voting night are unofficial. It may take the clerk a few days or more to make the official declaration.

After voting day

Recounts

The *Municipal Elections Act, 1996* requires an automatic recount only if the votes are tied.

Your municipal council or school board may have a policy in place that sets out other specific circumstances under which the clerk must conduct an automatic recount. For example, a council may decide that if two candidates are within 10 votes of each other, an automatic recount will be held. The policy must be adopted at least 60 days before voting day.

A municipal council or school board may also order a recount within 30 days after the clerk has officially declared the results of the election. If you feel there should be a recount, you must either persuade council (or the school board) to order one or you may apply to the Superior Court of Justice to request that a judge order a recount. This application may be made by any eligible elector, and must be made within 30 days of the clerk declaring the results of the election.

Recounts must be conducted in the same way that the votes were originally counted, unless the recount is ordered by the court. For example, if the votes were counted by a vote tabulator, they may not be counted by hand during the recount.

If the recount is ordered by the court, the judge may order that the votes be counted in a different manner if the judge believes that the way the votes were counted the first time was an issue.

Tied votes

If two or more candidates get the same number of votes and they cannot all be elected, there is an automatic recount. The recount must be held within 15 days of the clerk declaring the results of the election. If you are one of the candidates in the tie, you are entitled to be present at the recount.

If the recount shows that there is still a tie, then the legislation states that the clerk will choose the winner by lot. This means putting the names of the tied candidates into a hat (or other suitable container) and drawing the name of the winner.

Wrapping up your campaign

After voting day, remove any election signs that have been put up and take down your campaign website, if you have one. If you would like to keep using your website, remove any references to the campaign. Websites that say “Vote for me” which are left up for years after the election can make it look like you are attempting to campaign for the next election early.

Usually, campaigns must end on December 31. However, since December 31, 2022 is a Saturday, the deadline moves to January 3, 2023. Your campaign must end on January 3, 2023 unless you have a deficit and inform the clerk in writing that you are going to extend your

campaign. Once your campaign has ended, you should close your campaign bank account and prepare your campaign financial statement.

Financial statements must be filed with the clerk by 2 p.m. on Friday, March 31, 2023.

Term of office

The council and school board term of office will run from November 15, 2022 to November 14, 2026.

Campaign finance

General information

Record keeping

You are responsible for keeping records of the financial activities related to your campaign. The *Municipal Elections Act, 1996* does not require you to use any specific accounting system. You may want to consult with an auditor or an accountant early in your campaign to make sure that you are using a bookkeeping and accounting system that will suit your needs.

You should also look through the [campaign financial statement \(Form 4\)](#) that you will be required to file to make sure that you are keeping records of all the information that must be included on the statement.

You are required to keep all of your campaign financial records until November 15, 2026 when the next council or school board takes office.

You must keep the following campaign records:

- receipts issued for every contribution including when you accepted the contribution and the date you issued the receipt (remember to issue receipts to yourself for any contributions you make)
- the value of every contribution, whether it is in the form of money or goods or services, and the contributor's name and address
- all expenses, including the receipts obtained for each expense
- any claim for payment of an expense that the campaign disputes or refuses to pay
- the funds raised and expenses incurred from each separate fundraising event or activity
- the terms of any loan received from a bank or other recognized lending institution

Campaign period

You may accept contributions or incur campaign expenses during your campaign period only.

Your campaign period begins on the day the clerk receives your nomination.

In most cases, your campaign will end on January 3, 2023. Exceptions are if you:

- withdrew your nomination, your campaign ends on the date you informed the clerk in writing that you wanted to withdraw
- were not certified as a candidate and your name did not appear on the ballot, your campaign ends on nomination day (August 19, 2022)

- know you will not have any more financial activity, you can end your campaign at any time after voting day and before January 3, 2023

If you have extended your campaign to pay down a deficit, the end date for the extended campaign period will be the earliest of:

- the day you notify the clerk in writing that you will be ending your campaign and not accepting any more contributions
- June 30, 2023

Bank account

You must open a bank account exclusively for your campaign if you accept any contributions of money (including contributions from yourself or your spouse) or incur any expenses. You do not have to open a campaign bank account if you do not spend any money and do not receive any contributions of money. If you receive contributions of goods or services, but no contributions of money, you do not have to open a campaign bank account.

You cannot use your personal bank account for campaign finances, even if you are planning a very small campaign.

All contributions – including contributions you make to yourself – must be deposited into the campaign bank account. All expenses must be paid for from the campaign account.

The nomination fee is considered to be a personal expense, not a campaign expense. You do not need to have a campaign bank account in order to pay the nomination fee.

Contributions and campaign income

Contributions

Campaign contributions are any money, goods or services that are given to you for use in your campaign, including money and goods that you contribute to yourself.

If you are given a special discount on a good or service that you are purchasing for your campaign, the difference between what you were charged and what the market value would be is considered to be a contribution.

Corporations and other businesses are not permitted to make contributions to candidates. If you are being offered a discount, you should make sure that whoever is offering the discount is entitled to make a personal contribution to your campaign.

If a professional who would normally charge for a service gives you that service for free, the market value of the service is considered to be a contribution.

If you sell tickets to a fundraising event, the cost of the ticket is considered to be a contribution. If you sell goods at a fundraising event for more than their market value, the difference between what the person attending the fundraising event paid you and what they would have normally paid for the item is considered to be a contribution.

If you have inventory such as signs left over from a previous campaign and you use them again, the current market value of the signs (what it would cost you to buy those signs today) is considered to be a contribution that you make to your campaign.

If you or your spouse guarantees your campaign loan and the campaign is unable to repay the full amount, any unpaid balance is considered to be a contribution by the guarantor.

Things that are not contributions

If you have volunteers working for your campaign, the value of their volunteer labour is not considered to be a contribution.

A cash donation of \$25 or less received at a fundraising event is not considered to be a contribution, and you may accept such donations without keeping track of who gave them to you. You will have to report the total amount of money that you received from these donations on your financial statement.

The value of free political advertising, provided that such advertising is made available to all candidates and is in accordance with the *Broadcasting Act* (Canada) is not considered to be a contribution.

If you obtain a campaign loan from a bank or a recognized lending institution, the amount of the loan is not considered to be a contribution.

Who can make a contribution

You can accept contributions only from individuals who are residents of Ontario. Corporations and trade unions are not permitted to make contributions to candidates.

If your spouse is not a resident of Ontario, they can still make contributions to your campaign. They may not make contributions to any other candidate.

Groups such as clubs, associations or ratepayer's groups are not eligible to make contributions. The members of these groups may make individual contributions from their personal funds (as long as they are residents of Ontario).

Who cannot make a contribution

The following individuals and organizations are not permitted to make contributions to municipal council and school board campaigns:

- a corporation
- a trade union
- an individual who is not normally a resident in Ontario
- a federal political party, constituency association, or a registered candidate in a federal election

- a provincial political party, constituency association, or a registered candidate or leadership contestant
- a federal or provincial government, a municipality or a school board

When you can receive contributions

You can only accept contributions after the clerk has received your nomination, and you cannot accept contributions after your campaign period has finished. Any contributions received outside the campaign period must be returned to the contributor. If you cannot return the contribution to the contributor, you must turn it over to the clerk.

Contribution limits – contributions from yourself and your spouse

If you are running for municipal council, there is a limit on the total amount that you and your spouse may collectively contribute to your own campaign. The contribution limit is calculated based on the number of electors who are eligible to vote for the office that you are running for. The formula to calculate the limit is:

- for head of council: \$7,500 plus \$0.20 per eligible elector
- for council member: \$5,000 plus \$0.20 per eligible elector

There is a cap of \$25,000. If the formula results in a number greater than \$25,000, the limit will still be \$25,000.

The clerk will tell you what your self-funding limit is.

All of the contributions that you and your spouse make to your own campaign count towards this limit, including:

- contributions of money
- the value of goods or services that you or your spouse donate to the campaign
- the value of any inventory from the previous election that you use again in this campaign

This limit does not apply to school board trustee candidates.

Contribution limits – contributions from other people

There is a \$1,200 limit that applies to contributions from other individuals. If a person makes more than one contribution (for example, contributes money, contributes goods, and purchases a ticket to a fundraising event), the total value of all the contributions cannot exceed \$1,200.

If you are running for mayor in the City of Toronto, the limit is \$2,500.

The maximum total amount that a contributor can give to candidates in the same jurisdiction (for example, running for the same council or for the same school board) is \$5,000.

You are required to inform every contributor of the contribution limits. An easy way to make sure that this is done is to include the contribution limits on the receipt that you provide for each contribution.

Only a contribution that is \$25 or less can be made in cash. All contributions above \$25 must be made by cheque, money order or by a method that clearly shows where the funds came from (such as certain debit, credit or electronic transfer transactions).

Contribution receipts

You must issue a receipt for every contribution you receive. The receipt should show who made the contribution, the date and the value. If the contribution was in goods or services, you must determine the value of the goods or services and issue a receipt for the full value.

If you receive a contribution from a joint account, the contribution can only come from one person. You must determine who is making the contribution and issue the receipt to that person.

You are required to list the names and addresses of every contributor who gives more than \$100 total to your campaign in your financial statement. You should keep a record of the names and addresses of every contributor, regardless of the value of their contribution, because the same contributor may make multiple contributions that end up totalling more than \$100.

Note: Contribution receipts are not tax receipts. Contributions to municipal council and school board campaigns cannot be credited against provincial or federal income taxes.

Returning ineligible contributions

You are required to return any contribution that was made or accepted in contravention of the *Municipal Elections Act, 1996* as soon as you learn that it was an ineligible contribution. If you cannot return the contribution, you must turn it over to the clerk.

Contributions should be returned or paid to the clerk if the contribution is:

- made outside your campaign period
- from an anonymous source (except for donations of \$25 or less at a fundraising event)
- from an ineligible source (someone who doesn't live in Ontario, a corporation, etc.)
- greater than the individual \$1,200 limit or the \$5,000 total limit per jurisdiction
- a cash contribution greater than \$25
- from funds that do not belong to the contributor who gave them to you

Unused contributions

If your campaign ends with a surplus, you can withdraw the value of contributions that you and your spouse made from the surplus. If you still have a surplus once you have withdrawn your contributions, the remaining surplus must be turned over to the clerk.

You are not permitted to refund eligible contributions made by anyone other than yourself or your spouse.

Contribution rebates

Your municipality may have a contribution rebate program. Contact your clerk for more information.

Contributions to municipal council and school board campaigns are not tax deductible.

Fundraising

Fundraising functions are events or activities held by you or on your behalf for the primary purpose of raising money for your campaign. If you hold an event to promote your campaign and you happen to receive some contributions or ask people to consider contributing to your campaign, this would not qualify as a fundraising event.

Similarly, if you have a sentence in your campaign brochure asking people to make a contribution or giving them information about how to contribute, this would not be a fundraising brochure since its primary purpose is to promote your campaign, not to raise money.

Fundraisers can only be held during your campaign period. You must record the gross income (including ticket revenue and other revenue) and the expenses related to each event and activity on your campaign financial statement.

If you sell tickets to an event, the ticket price is considered to be a contribution to your campaign and you must issue a receipt to each person who purchases tickets. If the ticket price is higher than \$25, tickets cannot be paid for in cash.

Campaign income

If you raise funds by selling goods or services for more than fair market value, the difference between the fair market value and the amount paid is considered to be a contribution. If the good or service is sold for \$25 or less, the amount paid is considered to be campaign income that is not a contribution.

Campaign expenses

Expenses

Campaign expenses are the costs that you incur (or that a person such as your campaign manager incurs under your direction) during your campaign.

Reminder: the nomination fee is a personal expense rather than a campaign expense. It should not be reported on your campaign financial statement.

Expenses must be paid from your campaign bank account. If you use a credit card to pay for purchases you should make sure that you keep clear records showing that the expense on the credit card was reimbursed from the campaign account.

Any taxes such as HST paid on purchases should be included in the amount of the expense.

You can incur expenses only during your campaign period, except for expenses related to the preparation of an auditor's report. If you are required to include an auditor's report with your financial statement, you may incur these expenses after the campaign period has ended. These expenses must also be reported on your financial statement.

Goods and services

Goods or services that are contributed to your campaign are also expenses. They should be treated as if the contributor gave you money and you went out and purchased the goods and services. You must record both the contribution and the expense.

Spending limits

Candidates are subject to two spending limits – a general limit, and a separate limit for expenses relating to parties and expressions of appreciation after voting day.

General spending limit

The general spending limit for your campaign is calculated based on the number of electors who are eligible to vote for the office that you are running for. The formula to calculate the limit is:

- for head of council: \$7,500 plus \$0.85 per eligible elector
- for council member or trustee: \$5,000 plus \$0.85 per eligible elector

When you file your nomination, the clerk will give you an estimate of your general spending limit. This estimate will be based on the number of electors in the previous election.

On or before September 25, 2022, the clerk must give you a final general spending limit which is based on the number of electors on the voters' list for the current election.

If the spending limit estimate that you received when you filed your nomination is higher than the final spending limit you receive in September, the estimate becomes your official spending limit.

While most of your expenses will be subject to the general spending limit, the following expenses are not:

- expenses related to holding a fundraising event or activity
- expenses relating to a recount
- expenses relating to a court action for a controverted election
- expenses relating to a compliance audit
- expenses incurred by a candidate with a disability that are directly related to the candidate's disability and would not have been incurred if not for the election
- audit and accounting fees

Note: Any materials, events or activities must have fundraising as the primary purpose in order to be exempt from the spending limit. An incidental mention of contributions is not enough to qualify as fundraising.

When the general spending limit applies

Your spending limit covers expenses that you incur between the beginning of your campaign and voting day. Expenses that you incur between the day after voting day and the end of your campaign are not subject to the spending limit.

Note: If you incur an expense before voting day, but don't get around to paying for it until after voting day, it would still be subject to the spending limit.

Spending limit for parties and expressions of appreciation

The spending limit for expenses related to holding parties and other expressions of appreciation after the close of voting is calculated as 10% of the amount of your general spending limit.

Expenses related to parties and expressions of appreciation are subject to the specific spending limit regardless of whether they are incurred before or after voting day.

Leftover campaign inventory

If you ran in the last municipal council or school board election and you want to reuse leftover goods such as signs or office supplies you must establish the current market value of the goods – what it would cost you to purchase them today. You must record the current market value as an expense.

If you have inventory left at the end of your campaign it becomes your personal property. If you want to store materials such as signs for use in another election, any costs related to storage are personal costs, not campaign expenses.

Note to accountants: The value of all goods must be recorded as an expense regardless of whether the campaign ends with used or unused goods in inventory. Do not deduct the value of unused goods from the campaign expenses, as this will result in the campaign having a surplus on paper that the candidate does not actually have.

Surplus and deficit

If your campaign has a surplus after you have refunded contributions made by yourself or your spouse, you must pay the surplus over to the clerk when you file your financial statement. The surplus will be held in trust, and you can use it if you incur expenses related to a compliance audit. If the surplus is not needed for these expenses it becomes the property of the municipality or the school board.

If your campaign expenses are greater than your campaign income, your campaign will be in deficit.

Note: Ending your campaign with a deficit may result in questions being raised about how expenses were paid for, and whether you contributed more than your self-funding limit by paying outstanding expenses with personal funds.

Campaign financial statement

It is your responsibility as a candidate to file a **complete and accurate financial statement on time**.

The filing deadline is 2 p.m. on the last Friday in March following the election (**March 31, 2023**).

If you have a bookkeeper or accountant complete the financial statement for you, you are still responsible for ensuring that it is complete and accurate and filed on time.

Financial statements are not required to have original signatures. You should contact your clerk for information about whether you can file your financial statement electronically if you are not able to file your statement in person.

If you filed a nomination form, you must file a financial statement. This includes candidates who withdrew their nomination, candidates who were not certified and did not appear on the ballot, and candidates who were acclaimed.

If you did not receive any contributions (including contributions from yourself) or incur any expenses, you are only required to fill out the first page of the financial statement and sign it.

If you received contributions or incurred any expenses you must complete the relevant parts of the financial statement.

If your campaign contributions (including contributions from yourself) or campaign expenses are greater than \$10,000 you must have your financial statement audited and include the auditor's report when you submit your financial statement to the clerk.

Filing early

You can file your campaign financial statement after you have ended your campaign. If you file your statement early and then discover that there is an error in it, you can submit a corrected statement at any time before the filing deadline on March 31, 2023. Your original statement is deemed to be withdrawn when you file the corrected statement. You cannot withdraw a financial statement without submitting a corrected one.

Applying for an extension

If you think that you will be unable to file your financial statement by the deadline, you may apply **before March 31, 2023** to the Superior Court of Justice for an extension. If the court grants the extension, you will receive the refund of your nomination fee if you file by the deadline given to you by the court.

Grace period for filing

If you have not filed your financial statement by the deadline, you may file your financial statement within 30 days after the deadline if you pay the municipality a \$500 late filing fee. This grace period ends at 2 p.m. on Monday, May 1, 2023. You will not receive a refund of your nomination fee if you file during the 30-day grace period.

If you have not filed your financial statement by the end of the 30-day grace period and you did not apply to the court for an extension prior to the deadline, automatic penalties apply:

- you will forfeit your elected office (if you won the election)
- you will be ineligible to run for office or be appointed to fill a vacancy until after the 2026 election

If you did not file your financial statement by the end of the grace period, you may still file it for the purposes of having your finances on the record. The clerk will accept the financial statement and make it available to the public. The penalties will still apply.

Separate statement for each office

If you filed a nomination and then changed your mind and filed a nomination for a different office, you may be required to file a separate financial statement for each campaign.

Extended campaigns

Your campaign period ends on January 3, 2023. However, if your campaign has a deficit, you can extend your campaign in order to do some additional fundraising. If you want to extend your campaign, you must notify the clerk on or before January 3, 2023 using the [Notice of Extension of Campaign Period form \(Form 6\)](#).

Your campaign may be extended until June 30, 2023.

If you extend your campaign you must file two financial statements:

- a financial statement reflecting your campaign until January 3, 2023 (due March 31, 2023)
- a supplementary financial statement that includes the information from your initial statement and adds financial information from your extended campaign

The supplementary financial statement must be filed with the clerk by 2 p.m. on Friday, September 29, 2023.

Auditor's report

You must have an auditor review your financial statement and provide a report if any of the following are true:

- your campaign expenses exceed \$10,000
- the contributions you received (including contributions from yourself) exceed a total of \$10,000
- both your expenses and your contributions exceed \$10,000 each

The auditor's report must be prepared by an auditor licensed under the [Public Accounting Act, 2004](#). Before you hire someone to prepare the report, ensure that they are properly qualified.

You can incur expenses relating to the auditor's report after January 3, 2023. These expenses do not count toward your spending limit. Include these expenses on the financial statement that you are filing.

Compliance and enforcement

Enforcement of the *Municipal Elections Act, 1996* is done through the courts. The Ministry of Municipal Affairs and Housing does not have a role in investigating elections or in determining penalties.

Automatic penalties

There are three contraventions of the *Municipal Elections Act, 1996* where penalties apply automatically:

1. if you fail to file a financial statement by the end of the 30-day grace period or fail to apply to the court before March 31, 2023 for an extension by the filing deadline
2. if your financial statement shows that you exceeded your spending limit
3. if you fail to turn over your surplus to the clerk when you file your financial statement

The penalty is that you forfeit your office (if you won the election) and you become ineligible to run or be appointed to fill a vacancy until after the 2026 election.

Compliance audits

Each municipality and school board must appoint a compliance audit committee.

If an eligible elector believes that you have contravened the election finance rules, they may apply for a compliance audit of your campaign finances. The application must be in writing and must set out the reasons why they believe you contravened the rules.

An application for a compliance audit must be submitted to the municipal clerk who conducted the election within 90 days of the deadline to file the campaign financial statement.

The compliance audit committee will consider the application and decide whether to grant or reject the application. You may appeal the committee's decision to the Superior Court of Justice within 15 days after the decision is made.

If the committee grants the application, it will appoint an auditor to conduct a compliance audit of your campaign finances. The auditor is entitled to have access to all of the financial records related to your campaign. The auditor will produce a report, which you are entitled to receive.

The compliance audit committee will meet to consider the auditor's report. If the report concludes that there is an apparent contravention of the *Municipal Elections Act, 1996* the committee will decide whether to commence legal action.

The compliance audit committee does not have any authority to set penalties. Only the court can decide if you contravened the Act and, if so, which penalties should apply.

A person who does not want to or who is not able to apply for a compliance audit may decide to commence legal action on their own. A prosecution related to the 2022 election must be commenced before November 15, 2026.

Penalties

If you are convicted of an offence, you may be subject to the following penalties:

- a fine of up to \$25,000
- ineligibility to vote or run in the next general election
- up to six months in prison
- forfeiture of your elected office, if the judge finds that you committed the offence knowingly

If you are convicted of exceeding the spending limit, you may also be fined the amount by which you exceeded the limit.

Completing the financial statement

General information

All candidates must file a financial statement. This includes candidates who withdrew their nomination, candidates who were not certified and did not appear on the ballot, and candidates who were acclaimed.

Candidates must use [Form 4](#).

All candidates must complete Box A: Name of Candidate and Office and Box B: Declaration.

- **If you did not receive any contributions** (including contributions from yourself) or incur any expenses, check the box indicating this, and complete the Declaration in Box B. No further information is required.
- **If you did receive contributions** (including contributions from yourself) or incur expenses, you must fill in the information in Box C, Box D, Schedule 1 and Schedule 2, as appropriate. You may find it easier to fill out the form if you start with the more detailed sections such as the tables in Schedule 1 before filling in Box C (Statement of Campaign Income and Expenses).

If you received contributions or incurred expenses in excess of \$10,000, you must include an auditor's report with your financial statement.

Your completed financial statement must be submitted to the clerk by **2 p.m. on the last Friday in March (March 31, 2023)**.

Supplementary financial statements must be submitted to the clerk by **2 p.m. on the last Friday in September (September 29, 2023)**.

Tips for completing Form 4

Learn more about how to correctly fill out the campaign financial statement.

Box A: Name of Candidate and Office

Record your general spending limit and your spending limit for parties and other expressions of appreciation.

Note: automatic penalties will apply if the form reports that either of the spending limits have been exceeded.

If you are running for a council position, record your self-funding limit.

Box B: Declaration

By signing the form, you are declaring that the information recorded in the financial statement is true and accurate. If your financial statement was prepared by someone else, you as the candidate are still responsible for its accuracy.

Box C: Statement of Campaign Income and Expenses

Loan

If you obtained a loan for your campaign you must record the name of the bank or recognized lending institution and the amount borrowed.

You are permitted to get a loan only from a bank or other recognized lending institution in Ontario, and it must be paid directly into your campaign bank account. You may not receive a loan from family members or from any corporate accounts that you may have access to.

The loan is not considered to be campaign income, and paying it back is not a campaign expense. However, if you or your spouse guarantee the loan and the campaign does not repay all of it, the remaining balance is considered to be a contribution (since the guarantor is basically providing the campaign the means to repay the loan). This amount counts towards your self-funding limit.

Any interest that the campaign pays on the loan is a campaign expense.

Income

Your campaign income includes all contributions received from yourself, your spouse and other eligible contributors. This includes the value of contributions of goods and services. Income also includes any refunds of deposits, interest earned by your campaign bank account, and revenue from fundraising events or activities that is not deemed a contribution (for example, if you sold refreshments at market value).

Example:

You have 100 t-shirts printed to sell at a fundraiser. The cost to the campaign is \$10 per shirt, and you sell them for \$25 each.

The \$25 is not a contribution. You do not have to collect names and contact information, or issue a contribution receipt to anyone who buys a shirt.

The \$1,000 that you spent on the shirts must be recorded as a campaign expense.

The \$2,500 that you raised by selling the shirts must be recorded as revenue from fundraising events not deemed a contribution.

If you sell goods (such as food and drink) at market value, the revenue is not considered to be a contribution and must be recorded as revenue from fundraising events not deemed a contribution.

Sign deposit

If your municipality requires a deposit for election signs, this should be recorded as a campaign expense and paid for using campaign funds. If your deposit is refunded, record the amount under Income.

Expenses

Your campaign expenses include the value of any goods or services that have been contributed to your campaign (it is as if the contributor gave money to the campaign, which the campaign then spent on acquiring the goods or services).

The general spending limit applies only to expenses incurred until the end of voting day. Expenses incurred after voting day are not subject to the spending limit.

Note: An expense subject to the general spending limit that was incurred prior to voting day but not paid for until after voting day is still subject to the limit.

Some types of expenses are not subject to the general spending limit even if they are incurred prior to voting day.

Expenses related to parties and expressions of appreciation after voting day are subject to that spending limit regardless of when they are incurred.

Box D: Calculation of Surplus or Deficit

Campaign deficit

At the top of Box D, you must subtract the total amount of your campaign expenses from the total amount of your campaign income. If your expenses are greater than your income, your campaign is in deficit.

If you have extended your campaign in order to fundraise, you must still file a financial statement reflecting your campaign finances to January 3, 2023.

Campaign surplus

At the top of Box D, you must subtract the total amount of your campaign expenses from the total amount of your campaign income. If your income is greater than your expenses, your campaign has a surplus.

You are entitled to reimburse contributions made by yourself or your spouse out of the surplus. For example, if the surplus was \$500 and you contributed \$400 to your campaign, you may deduct that \$400, leaving your campaign with a surplus of \$100. If the surplus was \$500 and you contributed \$600, you may deduct \$500 of your contribution, leaving your campaign with \$0. You may not deduct more than the value of the surplus.

If, after deducting contributions made by yourself or your spouse, the campaign still has a surplus, these funds must be turned over to the clerk.

Schedule 1: Contributions

Schedule 1 includes a summary of contributions from your campaign.

The following tables are included in Schedule 1 and need to be filled in, if applicable:

- Table 1: Contributions in goods or services from candidate or spouse
- Table 2: Inventory of campaign goods and materials from previous municipal campaign used in this campaign
- Table 3: Monetary contributions from individuals other than candidate or spouse where contributions exceed \$100 per contributor
- Table 4: Contributions in goods or services from individuals other than candidate or spouse where contributions exceed \$100 per contributor

Contributions from yourself and/or your spouse

If you are running for municipal council, you and your spouse are subject to limits on how much you can contribute to your campaign. This limit applies to contributions of money, goods and services, as well as the value of any inventory from a previous campaign that you have used in your current campaign.

Record these amounts on the lines provided in Schedule 1. Do not include them in the tables of contributions (Table 1 or Table 2). The other reason to identify the contributions from you and your spouse is because those contributions can be reimbursed by you and your spouse if the campaign ends with a surplus.

Note: you must report the full amount of the contributions made by you and your spouse, including any amounts that have been reimbursed from a surplus.

Contributions totalling \$100 or less

If the total amount contributed (including the value of goods and services) from a single contributor is \$100 or less, you do not need to provide details on the form. Simply indicate the total value of all such contributions on the line provided at the top of Schedule 1.

If an anonymous contribution is \$100 or less, include it in the total value of contributions not exceeding \$100 per contributor. Any anonymous contribution that is greater than \$25 must be turned over to the clerk.

Goods and services from candidate or spouse

If you or your spouse contribute goods and services to your campaign, this must be recorded as a contribution. Record any contributions in Table 1 of Schedule 1.

Inventory from previous campaign

Any inventory from a previous campaign that you are using again is a contribution in goods that you make to your campaign and counts towards your self-funding limit. You must calculate the

current market value (for example, if you have 100 signs left over from 2018 and use them again, you must calculate how much it would cost to purchase those same signs in 2022) and record it in Table 2. This inventory must also be recorded as a campaign expense.

Contributions totalling more than \$100

If a contributor makes 1 or more contributions totalling more than \$100 (including the value of goods and services and the cost of tickets to fundraising events), you must record all of these contributions in the tables provided in Schedule 1 (Tables 3 and 4).

If an anonymous contribution is more than \$100, include it in the total value of contributions exceeding \$100 per contributor, and include it in Table 3 (listing "anonymous" as the name of the contributor). Any anonymous contribution that is greater than \$25 must be turned over to the clerk.

Note: it is the total amount contributed that matters – if an individual buys a ticket to a fundraising event for \$50, and then later in the campaign contributes \$75, each of these contributions must be recorded in Table 3 because the total exceeds \$100.

Goods and services from individuals other than candidate or spouse

Eligible contributors may donate goods and services to the campaign. These must be recorded as a contribution and as an expense (as if the contributor donated money, which the campaign then spent on the goods and services).

Corporations and trade unions are not permitted to make contributions to candidates. This includes contributions of goods and services.

Example:

Your friend spends \$150 on coffee and baked goods which they donate for a campaign event. You should record a contribution of \$150 in goods or services from your friend and record an expense of \$150.

If you are given a special discount on a good or service that you are purchasing for your campaign, you should record the expense as if you were not given the discount (since the value of the discount is considered to be a contribution of the good or service to your campaign).

Example:

Your order for campaign signs would normally cost \$500, but the vendor lets you have them for \$300 because he wants to help out your campaign. You should record an expense of \$500 for the signs and record a contribution of \$200 in goods or services from the vendor. **Note:** As businesses are not permitted to make contributions, the contribution would have to be a personal contribution from the vendor.

Contributions in goods or services from individuals other than the candidate or spouse must be recorded in Table 4 of Schedule 1.

Schedule 2: Fundraising Events and Activities

The cost of holding fundraising events or activities is not subject to the spending limit. However, in order to be considered a fundraising cost, the primary purpose for the expense must be related to fundraising rather than promoting the candidate. Incidental fundraising that happens to occur during a promotional event is not sufficient to make it a fundraising event. Similarly, a line at the bottom of a campaign brochure asking people to donate does not make the production of the brochure a fundraising expense.

If you have included costs of fundraising events/activities as an expense in Box C, you must provide details of these events and activities in Schedule 2.

Contributions received at a fundraising event may include:

- the price of the ticket
- if goods or services are offered for sale, any amount of money paid that exceeds their market value (for example, if a \$100 item is sold for \$175, the purchaser has made a \$75 contribution to the campaign)
- personal cheques collected from contributors at the event

If contributors have donated goods or services for the fundraising event, these must be recorded as contributions and as expenses.

These contributions must be recorded in Schedule 1, and where the total from a contributor exceeds \$100, be detailed in the appropriate tables. Refer to [Schedule 1: Contributions](#) (page 32) for more information.

The fundraising event may also generate revenue that is not considered to be a contribution:

- donations of \$25 or less
- if goods or services are offered for sale, the market value of those goods and services sold (for example, if a \$100 item is sold for \$175, \$100 is revenue)
- the amount paid for goods or services offered for sale for \$25 or less

Anonymous contributions

You may keep anonymous contributions that do not exceed \$25 each that are received at a fundraiser (such as those collected by passing the hat or having a tip jar). Report the total amount of money received from these donations in Schedule 2 for that fundraiser.

All other anonymous contributions must be turned over to the clerk.

You will then subtract the contribution as paid or payable to the clerk to arrive at the Total for Part II Contributions in Schedule 2.

Auditor's report

If your campaign expenses or the contributions you received total more than \$10,000 you must have an auditor review your financial statement and provide a report.

The auditor's report must be prepared by an auditor licensed under the [Public Accounting Act, 2004](#). Before you hire someone to prepare the report, you should ensure that they are properly qualified.

Forms referred to in this guide

You can get copies of forms from your municipal clerk, or you can download them from the [Government of Ontario's Central Form Repository](#).

- [Nomination Paper \(Form 1\)](#)
- [Endorsement of Nomination \(Form 2\)](#)
- [Financial Statement – Auditor's Report – Candidate \(Form 4\)](#)
- [Financial Statement – Subsequent Expenses \(Form 5\)](#)
- [Notice of Extension of Campaign Period \(Form 6\)](#)

APPENDIX F

2012 ONSC 5629
Ontario Superior Court of Justice
Lancaster v. St. Catharines (City)

2012 CarswellOnt 12351, 2012 ONSC 5629, 222 A.C.W.S. (3d) 124, 3 M.P.L.R. (5th) 117

Eleanor Lancaster, Appellant and Compliance Audit Committee of the Corporation of the City of St. Catharines, Matthew Harris, Mathew Siscoe, Lenard Stack and Brian Dorsey, Respondents

J.W. Quinn J.

Heard: June 26, 2012
Judgment: October 9, 2012
Docket: St. Catharines 53579/12

Proceedings: affirming *Lancaster v. St. Catharines (City)* (2012), 2012 ONCJ 70, 2012 CarswellOnt 1595, 95 M.P.L.R. (4th) 113 (Ont. C.J.)

Counsel: Luigi De Lisio, for Appellant
Christopher C. Cooper, for Respondent, Compliance Audit Committee of the Corporation of the City of St. Catharines
Thomas A. Richardson, J. Patrick Maloney, for Respondents, Matthew Harris, Mathew Siscoe, Lenard Stack
Brian Dorsey, Respondent, for himself

J.W. Quinn J.:

Introduction

1 I have in front of me an appeal from a decision of the Ontario Court of Justice which dismissed an appeal of four denied applications requesting a compliance audit under the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched.

2 This proceeding principally revolves around three legal principles that govern the campaign finances of candidates in municipal elections: (1) Contributions from a contributor shall not exceed \$750 to any one candidate; (2) A candidate must complete and file a Financial Statement — Auditor's Report, in the prescribed form, reflecting his or her election campaign finances; and, (3) Corporations that are associated with one another under s. 256 of the *Income Tax Act (Canada)* are deemed to be a single corporation and, thus, one contributor.

Background

municipal election

3 On October 25, 2010, there was a municipal election in the City of St. Catharines. The individual respondents were candidates. Three of them were elected: Matthew Harris ("Harris"); Mathew Siscoe ("Siscoe"); and, Lenard Stack ("Stack"). The respondent, Brian Dorsey ("Dorsey"), was unsuccessful.

contribution limit

4 Section 71(1) of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched. ("Act"), states that "a contributor shall not make contributions exceeding a total of \$750 to any one candidate in an election."

5 It has been said that "one very important component of the Act is to control the election expenses of the candidates" in municipal elections: see *Braid v. Georgian Bay (Township)*, [2011] O.J. No. 2818 (Ont. S.C.J.), at para. 12.

6 One way of controlling election expenses is to control revenue and that is accomplished somewhat by limiting campaign contributions. Supposedly, this has the effect of "levelling ... the playing field to prevent a candidate backed by deep pockets from outspending his or her opponents and thus potentially skewing the results of the election ... [and of ensuring] that elections cannot be 'bought'": see *Braid v. Georgian Bay (Township)*, *supra*, at paras. 12 and 22.¹

requirement to file Financial Statement — Auditor's Report

7 Section 78(1) of the *Act* requires all candidates (even if unsuccessful in the election) to file a Financial Statement — Auditor's Report, "in the prescribed form, reflecting the candidate's election campaign finances ..." The prescribed form is Form 4.

8 The Financial Statement — Auditor's Report ("Form 4") is to be filed "with the clerk with whom the nomination was filed" on or before the last Friday in March following the election.² The filing date here was March 25, 2011.

9 The individual respondents each filed a Form 4 with the Clerk of the City of St. Catharines (who acted as the election returning officer) and they did so in a timely manner.

Form 4

10 Form 4 is generated by the Ontario Ministry of Municipal Affairs and Housing. It is eight pages in length and consists of boxes, schedules and parts.

11 First, we have: Box A ("Name of Candidate and Office"); Box B ("Summary of Campaign Income and Expenses"); Box C ("Statement of Campaign Period Income and Expenses"); Box D ("Statement of Assets and Liabilities as at ..." (date to be inserted)³; Box E ("Statement of Determination of Surplus or Deficit and Disposition of Surplus"); Box F ("Declaration").

12 The "Declaration" reads,

I _____ a candidate in the municipality of _____ hereby declare that to the best of my knowledge and belief that these financial statements and attached supporting schedules are true and correct.

signature

It must be signed before the City Clerk or a Commissioner of Oaths.

13 Four schedules are found in Form 4:

- Schedule 1 is titled "Contributions" and it has two parts: "Part 1 — Contribution"; and, "Part II — List of Contributions from Each Single Contributor Totalling More than \$100." Part II has three tables: "Table 1: Monetary contributions from individuals other than candidate or spouse"; "Table 2: Monetary contributions from unions or corporations"; "Table 3: Contributions in goods or services."
- Schedule 2 — "Fund-Raising Function," has three parts:⁴ "Part 1 — Ticket Revenue"; "Part II — Other Revenue Deemed a Contribution"; "Part III — Other Revenue Not Deemed a Contribution"; "Part IV — Expenses Related to Fund-Raising Function."
- Schedule 3 has the title "Inventory of Campaign Goods and Materials (From Previous Campaign) Used in Candidate's Campaign."
- Schedule 4 is headed "Inventory of Campaign Goods and Materials at the End of Campaign."

14 The final section of Form 4 is "Auditor's Report." It is to be completed where a candidate has received contributions or incurred expenses in excess of \$10,000.

penalties involving Form 4

15 The importance of the requirement to file a proper Form 4 is obvious from the penalty provisions of the *Act*.

16 If prosecuted under s. 92(5), a candidate who files a Form 4 "that is incorrect or otherwise does not comply with [s. 78(1)]" must forfeit "any office to which he or she was elected ..."⁵

17 Forfeiture also results where a candidate "fails to file [a Form 4] ... by the relevant date."⁶

Lancaster seeks compliance audit

18 Pursuant to s. 81(1) of the *Act*, an elector may apply for a compliance audit:

81(1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances.

19 On June 23, 2011, the appellant, Eleanor Lancaster ("Lancaster"), a St. Catharines elector with a long and productive history of community interest and involvement, applied to the respondent, Compliance Audit Committee of the Corporation of the City of St. Catharines ("Committee"), for an audit of the election campaign finances of Harris, Siscoe, Stack and Dorsey. Her applications (one for each of the individual respondents) stated:

... I have reasonable grounds to believe that these candidates, and some of their corporate contributors, have contravened some of the campaign finance provisions of the [*Act*].

20 The applications went on to detail "... obvious over-contributions by related or associated corporations" and to catalogue various shortcomings in the preparation of the Form 4s.

21 I should point out that the only direct consequence or "penalty" that flows from an application under s. 81(1) is an audit. The results of the audit may trigger other sanctions found in the *Act*.

individual respondents asked to return excess contributions

22 On June 29, 2011, John A. Crossingham, a lawyer for three corporations who had contributed \$750 each to Stack's campaign — York Bancroft Corporation, Port Dalhousie Management Corporation and Lakewood Beach Properties Ltd. — wrote to Stack saying, in part:

... While the corporations are not obviously related, i.e. they do not have similar names, they are associated within the meaning of the *Income Tax Act*. Associated corporations are limited to one \$750 contribution for the group.

The [*Municipal Elections Act*] requires, in [section 69\(1\)\(m\)](#), that you, as 'a candidate shall ensure that a contribution of money made or received in contravention of the *Act*, is to be returned to the contributor as soon as possible after the candidate becomes aware of the contravention' ... We are, therefore, requesting that repayment cheques for \$750 each, payable to Lakewood Beach Properties Ltd. and York Bancroft Corporation, be sent to Crossingham, Brady ...

23 Similar letters were forwarded to, and received by, Harris, Siscoe and Dorsey, all of whom (along with Stack) promptly returned the excess contributions.

24 The letter from Mr. Crossingham, a senior counsel with considerable expertise in matters of municipal law, included in his letter (correctly, it will be seen) the opinion that if the excess contributions were returned to the contributor "as soon as possible" after learning that they contravene the *Act*, "you are then absolved from any repercussions."

composition of the Committee

25 The Committee is a specialized tribunal created by the Corporation of the City of St. Catharines under the authority of the *Act*, with the sole responsibility of hearing applications "relative to possible contravention of the election campaign finance rules": see *Terms of Reference for Niagara Compliance Audit Committee* (undated) ("*Terms of Reference*").

26 The Committee created its own rules of procedure, as directed by s. 81.1(4) of the *Act*.

27 A compliance audit committee is to have "not fewer than three and not more than seven members."⁷

28 Paragraph 8 of its *Terms of Reference* stipulates that the Committee is to be composed of members "from the following stakeholder groups: accounting and audit ... with experience in preparing or auditing the financial statements of municipal candidates; ... academic ... with expertise in political science or local government administration; ... legal profession with experience in municipal law; ... professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals ...; and ... other individuals with knowledge of the campaign financing rules of the [*Act*]."

29 Section 81.1(2) of the *Act* expressly forbids certain persons from sitting on a compliance audit committee: "employees or officers of the municipality ...; ... members of the council ...; ... or any persons who are candidates in the election for which ... [a compliance audit] committee is established."

30 The Committee consisted of three members: (1) a professional engineer with experience in accounting and audits who was president of a charitable organization and of a consulting company; (2) a Bachelor of Commerce graduate with experience in audit and compliance matters in the insurance industry; and, (3) a Certified General Accountant who worked in the audit division of Canada Revenue Agency.

31 Mr. Richardson, counsel for Harris, Siscoe and Stack, accurately points out in his factum: "The development of the law on compliance audit committees has changed significantly [since 2009]. In particular, the provincial legislature has removed the ability of a politically minded municipal council to [hear and decide applications for compliance audits] and has placed the decision-making in the hands of an impartial tribunal with expertise in auditing of financial statements in the municipal context."

Committee considers the applications

32 The Committee considered the four applications at a public meeting held on July 19, 2011.

33 Section 81(5) of the *Act* says only that a compliance audit committee "shall consider" the applications and decide whether they "should be granted or rejected." The *Act* is silent as to how this is accomplished. However, s. 7.2 of the *Terms of Reference* stipulates that the Committee is "to hear and determine all applications." And, the *Procedures for the Niagara Compliance Audit Committee* (undated) provide that candidates "may respond to the application in writing": see s. 5.7. Furthermore, when considering an application, s. 11.7 states that: "the applicant ... may address the Committee; the Committee may ... ask questions of the applicant; ... the candidate ... may address the Committee [and] may respond to the content of the applicant's address to the Committee; the Committee may ... ask questions of the candidate ..."

34 On July 19, 2011, the Committee entertained representations (oral and written) from Lancaster and from Harris, Siscoe, Stack and Dorsey.

35 The Committee heard and considered the four applications separately:

1. *The Harris application*

36 Lancaster pointed out to the Committee that the Form 4 from Harris (prepared by a Chartered Accountant) listed seven corporate contributions and included this information in respect of two of them:

Schedule 1 — Contributions

Part II — List of Contributions from Each Single Contributor Totalling More than \$100

Table 2: Monetary contributions from unions or corporations

Name	Address	President or Business Manager	Cheque Signatory	Amount
York Bancroft Corp.	125 Carlton Street, St. Catharines	Dan Raseta	Dan Raseta	\$750.00
Copper Cliff Properties	125 Carlton Street, St. Catharines	Dan Raseta	Dan Raseta	\$750.00

37 Lancaster contended that these two contributions obviously came from related or associated corporations (they have a common Address, President or Business Manager and Cheque Signatory).

38 Corporations are subject to the same contribution limits as individuals; and s. 72 of the *Act* states:

72. For the purposes of sections 66 to 82, corporations that are associated with one another under section 256 of the *Income Tax Act (Canada)* shall be deemed to be a single corporation.⁸

Therefore, it is a violation of the *Act* for associated corporations to collectively contribute in excess of \$750 to one candidate.

39 The minutes of the Committee for July 19, 2011 read:

... Harris ... stated that the Form 4 Financial Statement needs more clarity for candidates completing the form. He advised that as soon as he was aware that he received an over-contribution, he repaid the monies ...

2. *The Siscoe application*

40 The Form 4 completed by Siscoe showed three corporate contributions:

Schedule 1 — Contributions

Part II — List of Contributions from Each Single Contributor Totalling More than \$100

Table 2: Monetary contributions from unions or corporations

Name	Address	President or Business Manager	Cheque Signatory	Amount
Copper Cliff Properties Inc.	125 Carlton St., Box 29059, St. Catharines		Dan Raseta	\$500.00
Port Dalhousie Management Corp.	125 Carlton St., Box 29059, St. Catharines		Dan Raseta	\$750.00
York Bancroft Corp.	125 Carlton St., Box 29059, St. Catharines		Janice Raseta	\$500.00

41 It was submitted to the Committee by Lancaster that the above entries list contributions from associated corporations (the Address is the same and the individuals named under Cheque Signatory are husband and wife) and their contributions total more than the allowable limit of \$750. Also, the column for President or Business Manager is blank.

42 The minutes of the Committee record this response from Siscoe:

... Siscoe ... advised the Committee that he did accept cheques but promptly repaid them when he was made aware he should not have accepted them. He stated that he did due diligence and read his provincial candidate's guide, but is a first-time candidate and the guide is vague on this issue.⁹ He ... advised he understood what the limit was and he kept a record of the cheques he received, the majority of which were from friends. He also consulted with staff of the [City] Clerk's Department and other councillors and was told that it was ok to accept the corporate donations ...

3. The Stack application

43 In respect of the Stack application, Table 2 of Form 4 is blank (and, indeed, has a line drawn through it). Table 1 lists a mixture of individual and corporate contributions:

Schedule 1 — Contributions

Part II — List of Contributions from Each Single Contributor Totalling More than \$100

Table 1: Monetary contributions from individuals other than candidate or spouse

Name	Address	Amount
Tom Price	St. Catharines ON	\$500.00
Port Dalhousie Management Corp.	St. Catharines ON	\$750.00
Queenston Quarry Reclamation	R.R. 3 N.O.T.L	\$750.00
Roseann Cormrie	St. Catharines ON	\$500.00
Horizon Joint Venture	St. Catharines ON	\$750.00
David Roberts	St. Catharines ON	\$500.00
York Bancroft Corp.	St. Catharines ON	\$750.00
Baumgart & Associates Ltd.	St. Catharines ON	\$200.00
Lakewood Beach Properties Ltd.	St. Catharines ON	\$750.00

44 Lancaster complained to the Committee that, with six of the above contributors being corporations, the failure to complete Table 2 means that information as to the President or Business Manager and the Cheque Signatory is missing from Form 4. In addition, Port Dalhousie Management Corp., York Bancroft Corp. and Lakewood Beach Properties Ltd. are associated corporations and their contributions collectively exceed the permissible limit.

45 According to the minutes of the Committee, Stack made the following representations:

... Stack ... advised the Committee that the errors he made on his financial statement were unintentional and the product of naivety and inexperience. When he was advised of the over-contributions, he reimbursed the monies ... after he filed his papers, he realized the error he made in listing the contributors on the form and tried to correct the fact, however, the [City] Clerk's staff told him he could not file a second form.¹⁰ He stated that he believed the [City] Clerk's staff should have caught the error when he was filing the papers ...

46 In an affidavit filed for the hearing of the appeal in the Ontario Court of Justice,¹¹ Stack deposed, at paras. 15 and 25:

15. Before accepting the donations, an individual from my campaign team called the City Clerk's Department. We were advised that there should be no concerns over the donations provided from each corporation so long as each corporation filed a separate tax return ...

25. I submitted my [Form 4] to the City Clerk's Department more than one week prior to the legislated deadline. At the time that I submitted my [Form 4] ... [the Acting Deputy Clerk] reviewed my report and said that everything appeared to be in order.

4. *The Dorsey application*

47 In the Dorsey application, Lancaster advised the Committee that Table 2 of Form 4 was not filled out and that the four contributors in Table 1 are corporations:

Schedule 1 — Contributions

Part II — List of Contributions from Each Single Contributor Totalling More than \$100

Table 1: Monetary contributions from individuals other than candidate or spouse

Name	Address	Amount
(illegible) Development	19 Timber Lane St. Cath.	\$100.00
Horizon J.V.	19 Timber Lane St. Cath.	\$100.00
Lakewood Beach Properties	10 Canal Street St. Cath.	\$750.00
York Bankcroft (sic)	P.O. Box 29059 Carlton Street St. Cath.	\$750.00

With Table 2 not having been completed, there are no particulars as to the President or Business Manager or the Cheque Signatory; and, Lancaster submitted, "Lakewood Beach Properties" and "York Bankcroft (sic)" are associated corporations.

48 The minutes of the Committee state that Dorsey was unaware that he had violated the *Act* until he received notice of the audit application by Lancaster. The minutes go on to mention:

... On June 29, 2011, [Dorsey] received an e-mail from Crossingham, Brady and on June 30, 2011 he received an e-mail from Dan Rosetta requesting the return of funds that had been an over-contribution. He stated that he promptly returned the funds on June 30, 2011. He indicated that when he accepted cheques from contributors he compared the signatures on cheques already received and he did, in fact, reject some cheques. [Dorsey] stated that the error he made completing the financial statement was unintentional.

powers of a compliance audit committee

49 Where a compliance audit committee decides to grant an elector's application, "it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances."¹² Thereafter, the auditor is required to submit a report to that committee.

50 If the report concludes that the candidate appears to have contravened a provision of the *Act* in respect of election campaign finances, the compliance audit committee may "commence a legal proceeding against the candidate for the apparent contravention."¹³ In addition, the compliance audit committee may "make a finding as to whether there were reasonable grounds for the application."¹⁴ The municipal council "is entitled to recover the auditor's costs from the [elector]" where reasonable grounds are missing.¹⁵

disposition by Committee

51 The Committee agreed that the four applications correctly identified excess corporate contributions. However, the minutes of July 19, 2011 show that, because those contributions "have been returned," the chairperson, in each instance, made "a motion to reject the application."

52 On the issue of associated corporations, the chairperson, according to the minutes, stated that "the rule of associated corporations is not a new rule and is not a valid excuse."¹⁶ She continued: "... taxpayers should not have to pay for an audit that would reveal that overpayments were made and the monies have already been returned ..."

53 The Committee was complimentary of Lancaster, saying, at one point, that she "has identified problems that exist with the system and this time is not wasted" and, later, that she "has done a great service to the electors of St. Catharines."

54 In dismissing the four applications, the conclusion in respect of each included the following:

... the Committee is not satisfied that reasonable grounds have been demonstrated that the candidate may have contravened the provisions of the *Municipal Elections Act*.

55 In the end, the Committee commented, "it doesn't take a compliance audit to identify over-contributions."

56 The Committee seems not to have paid much attention to the shortcomings in the completion of the Form 4s.

appeal to Ontario Court of Justice

57 Section 81(6) of the *Act* permits an appeal from the decision of the Committee to the Ontario Court of Justice and that court may make any decision the Committee could have made.

58 Lancaster launched such an appeal. It was heard by way of judicial review on November 24, 2011 and dismissed, in writing, on February 9, 2012.¹⁷

59 The notice of appeal named the Committee as the only respondent, but it also was served on Harris, Siscoe, Stack and Dorsey who, at their request, were granted added-party status by the Ontario Court of Justice such that they are now respondents in the proceedings.¹⁸

60 At paras. 6-15 of its well-written decision, the Ontario Court of Justice determined that the standard of review was reasonableness, not correctness, and that the Committee was "entitled to deference," commenting that the Committee "clearly does possess the necessary expertise to decide the initial application and is free from political influence."¹⁹

61 As to the standard of reasonableness, the Ontario Court of Justice referred to a passage from *New Brunswick (Board of Management) v. Dunsmuir*, [2008] 1 S.C.R. 190 (S.C.C.), at para. 47:

... certain questions that come before administrative tribunals do not lend themselves to one specific, particular result. Instead, they may give rise to a number of possible, reasonable conclusions. Tribunals have a margin of appreciation within the range of acceptable and rational solutions ... In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

62 Although s. 81(1) of the *Act* entitles an elector who "believes on reasonable grounds that a candidate has contravened a provision of this *Act* relating to election campaign finances" to apply for a compliance audit, the Ontario Court of Justice held, at para. 18, that the subjective belief of the elector "applies only to the commencement of this process" and that the test to be used by the Committee "was whether the Committee believed on reasonable grounds that a candidate had contravened" the *Act*. In doing so, the court relied upon this passage from *Lyras v. Heaps*, [2008] O.J. No. 4243 (Ont. C.J.), at para. 23:

... even if the appellant [elector] had what he considered reasonable grounds to ask for an audit, the Committee has considerably more information at their disposal. Having heard all the submissions and reviewed all the material before them, the Committee is in a better position than the appellant to determine whether, in fact, 'reasonable grounds' do exist to proceed with an audit. It is the role of the Committee to weigh the evidence and to make determinations of what weight should be accorded to the representations before it.

63 In defining "reasonable grounds," the Ontario Court of Justice again cited *Lyras v. Heaps*, *supra*, at para. 25:

... the standard to be applied is that of an objective belief based on compelling and credible information which raises the 'reasonable probability' of a breach of the statute. The standard of 'a *prima facie* case' in either its permissive or presumptive sense is too high a standard.

64 On the issue of contributions from associated corporations, the Ontario Court of Justice stated that while it was illegal for a contributor to make contributions to one candidate exceeding a total of \$750²⁰ and also illegal for associated corporations to do likewise,²¹ it was not a breach of the *Act* for a candidate to receive such contributions. The only obligation on the candidate is to return a contravening contribution "to the contributor as soon as possible after the candidate becomes aware of the contravention."²²

65 The court held, at para. 40, that because "each candidate had returned the excess money contributed in contravention of the *Act* as soon as possible after the candidate had become aware of the contravention ... the only reasonable conclusion that the Committee could have reached was that there were not reasonable grounds to believe that [Harris, Siscoe, Stack and Dorsey] had contravened the *Act*."

66 Regarding the issue of corporate contributions erroneously shown as contributions from individuals and the related issue of failing to list the President or Business Manager and Cheque Signatory for corporate contributions, the Ontario Court of Justice rejected a strict liability approach to the completion of Form 4 and seems to have concluded that it was reasonable for the Committee to have viewed unintentional errors as not being contraventions of the *Act*. Reference was made once more to *Braid v. Georgian Bay (Township)*, *supra*, at paras. 28 and 29, which I will repeat, in part:

[28] In my opinion this dichotomy between a strict liability for complete failure to file and a more lenient approach where the document is filed but incorrect in some way, is entirely consistent with the aims of the *Act*. Failure to file leaves the public no ability to examine the expenses of a candidate. Such a failure leaves the interested person ... with no starting point from which to begin an examination. It strikes at the very heart of the *Act's* purpose.

[29] Filing a document that is flawed in some way is quite a different proposition. In contractual language there has been substantial compliance. Even a flawed financial statement provides a starting point for an examination of the candidate's expenses. The direction to the Court in subsection 92(6), that the draconian penalty of forfeiture does not apply where a candidate has made a mistake while acting in good faith, is a recognition that mistakes happen ...

67 The Ontario Court of Justice concluded that the decision of the Committee passed the test of reasonableness and dismissed the appeal.

Discussion

the grounds of appeal to the Superior Court of Justice

68 The notice of appeal to this court contains six grounds, the first two of which deal with the standard of review adopted by the Ontario Court of Justice. I was informed during argument that Mr. De Lisio, counsel for the appellant, now concurs with Mr. Richardson that the standard properly used by the Ontario Court of Justice was that of reasonableness.²³ Therefore, these two grounds of appeal, effectively, are abandoned.

69 The third ground of appeal alleges that the Ontario Court of Justice erred in:

(c) finding that the test to be applied by the Committee was whether the Committee believed on reasonable grounds that a candidate had contravened a provision of the *Act* relating to election campaign finances and when that test was to be applied;

70 Mr. De Lisio submits, on this appeal, that the test for ordering an audit is whether the elector who applies for a compliance audit believes on reasonable grounds that a candidate has contravened the *Act*. I must disagree. In my opinion, the belief of the elector is relevant only to the extent that it justifies making the application in the first instance.²⁴ Thereafter, what is important is whether the Committee, after considering the application in accordance with s. 81(5), shares that belief. The basis for the belief of the elector, as amplified at the hearing before the Committee, determines whether reasonable grounds exist.

71 It was correct in law for the Ontario Court of Justice to have concluded as it did on the third ground.

72 Yet, a finding of reasonableness does not automatically mean that an audit is warranted. In other words, even where the Committee is satisfied that the *Act* has been breached, or probably breached, it is not compelled, after considering all of the circumstances, to appoint an auditor (and it is upon this principle that the appeal ultimately founders).

73 The fourth ground of appeal states that the Ontario Court of Justice erred in:

(d) finding that section 17.1 (sic) of the *Act* in deciding (sic) there was no contravention of the *Act* by receiving campaign contributions in excess of \$750 from associated corporations;

74 Doing the best that I can with the awkward opening words of the fourth ground — "section 17.1" certainly seems to be a typographical error and presumably should read "section 71(1)" — I gather it is intended to allege that the court erred when it determined that receipt of contributions in excess of \$750 from associated corporations did not amount to a contravention of the *Act*.

75 Receiving a contribution that contravenes the *Act* is not illegal. The illegality arises when, in the words of s. 69(1)(m) of the *Act*, a candidate fails to return the contribution "as soon as possible after the candidate becomes aware of the contravention." I would add (although it is not necessary to do so for the purposes of this case) that the duty to return the contribution also crystallizes when the candidate *should have become aware* of the contravention. So, the essence of the illegality is not in receiving contravening contributions, but in keeping them.²⁵

76 The wording of s. 69(1)(m) is clear and unambiguous. One cannot read into the language of that provision anything beyond the ordinary and natural meaning of the words used; and there is nothing elsewhere in the *Act* to contradict or even cloud that meaning.

77 I see no error in the handling of the fourth ground by the Ontario Court of Justice.

78 I would add that I agree with Mr. De Lisio in his argument that candidates must undertake corporate searches "of all non-individual contributors" or "make inquiries" of those contributors where "there exists a compelling reason to do so": see *Chapman v. Hamilton (City)*, [2005] O.J. No. 1943 (Ont. C.J.), at para. 51. Here, compelling reasons were present. The need for inquiry was obvious.²⁶

79 The fifth ground of appeal alleges that the Ontario Court of Justice erred in:

(e) finding that the obligation of a candidate is simply to return a contribution of money made in contravention of the *Act* as soon as possible after the candidate becomes aware of the contravention and that if he does, the candidate is not contravening the *Act*;

80 The fifth ground is largely an extension or restatement of the fourth ground. Receiving illegal campaign contributions cannot sensibly be construed to contravene of any provision of the *Act*. As others have correctly commented, if this were not so,

a contributor could sabotage the election of a candidate merely by making an illegal donation. Consequently, the only obligation upon a candidate is to return the contravening contribution as soon as possible. Had the excess campaign contributions here not been returned, the *Act* would have been breached and an audit appropriate.

81 The final ground of appeal states that the Ontario Court of Justice erred in:

(f) finding that the contravention of the *Act* by councillors Stack and Dorsey and Siscoe did not constitute a contravention of the *Act*.

82 This ground is curiously worded. However, I understand that Lancaster is alleging that the *Act* was contravened and, after some prodding, it came out during argument that the section said to be breached is s. 78(1). There is merit to this ground.

83 The duty imposed by s. 78(1) to file a Form 4 includes the implied requirement that the document be filled out completely, correctly and in accordance with the *Act*; otherwise, s. 78(1) would have little meaning.

84 Both the Committee and the Ontario Court of Justice conflated the issues of contravention and intention. Contraventions of the *Act* should be determined on the basis of strict liability, irrespective of intention.²⁷ Absence of intention will be reflected in the consequences of the contravention. To conflate contravention and intention invites ignorance as a defence to breaching the *Act*. Ignorance of the *Act* is not a defence; neither is relying on the ignorance of others.

85 Importantly, even where there is a breach of the *Act*, the Committee has the authority to decline appointing an auditor. The Committee is doing more than considering if the *Act* has been breached; it is deciding whether an audit is warranted.

86 It was unreasonable for the Committee to have concluded that Siscoe, Stack and Dorsey did not contravene the *Act* and it was an error in law for the Ontario Court of Justice to have held likewise. To find that the *Act* was not breached is to understate the importance of Form 4 and the scrupulous care that should be exercised in its completion. The omissions in the Form 4s of Siscoe, Stack and Dorsey were contraventions of the *Act*.

Summary

receiving contributions from associated corporations does not contravene Act

87 It is undisputed that Harris, Siscoe, Stack and Dorsey accepted illegal campaign contributions from associated corporations. Similarly, it is undisputed that they returned those contributions as soon as possible after learning of the illegality. Thus, they fully complied with the *Act*. In law, nothing more was required of them. There was no contravention of the *Act* and, obviously, it follows that it was reasonable for the Committee to have made that finding and to have declined to appoint an auditor and it was correct for the Ontario Court of Justice to have agreed with that result.

88 I offer the thought that it would be helpful if Form 4 were amended to contain some guidance as to the definition of "associated corporations" rather than forcing candidates into the offices of tax lawyers and chartered accountants for guidance. The definition would not be (and likely could not be) exhaustive. But here, even the most rudimentary definition would have alerted Harris, Siscoe, Stack and Dorsey to the likelihood that they were confronted with associated corporations.

improper completion of Form 4

89 A significant error or omission in the completion of Form 4 will amount to a contravention of the *Act*.

90 The only notable aspect of the Harris Form 4 is that two associated corporations are listed in Table 2. As this information is factually accurate, it cannot be said that his Form 4 is incorrect. Therefore, Harris did not contravene the *Act* when his Form 4 was completed.

91 Siscoe, Stack and Dorsey did not properly fill out or complete the Form 4 that each filed. Their omissions were glaring:²⁸
(1) Siscoe left entirely blank the column for President or Business Manager in Table 2. This is a significant omission and

amounts to a breach of the *Act* (his listing of associated corporations, by itself, is not a breach because it is factually accurate); (2) Although Stack received corporate contributions, he did not record them in Table 2. This means that crucial particulars regarding the President or Business Manager and Cheque Signatory are missing so as to constitute a contravention of the *Act* (the fact that corporate contributions are wrongly set out in Table 1 is not a contravention because, again, the information in the entries is not *per se* inaccurate); (3) Dorsey also did not fill out Table 2 and, instead, included his corporate contributions in Table 1. My comments in respect of Stack apply to Dorsey.

92 It was unreasonable of the Committee not to have concluded that the *Act* had been breached by Siscoe, Stack and Dorsey and it was an error in law for the Ontario Court of Justice to have upheld that conclusion.

breach of Act does not necessarily lead to an audit

93 The Committee is not bound to appoint an auditor in the face of a breach or contravention of the *Act*. The Committee is entitled to look at all of the circumstances to determine whether an audit is necessary. The uncontradicted information received by the Committee was that the omissions in the Form 4s were unintentional.²⁹

94 There is not a flicker of further information to be obtained from an audit. To have directed an audit, would have amounted to a speculative expedition and ended up revealing what already was known.

95 Therefore, it was reasonable for the Committee to have declined to appoint an auditor and correct for the Ontario Court of Justice to have concurred.

Conclusion

96 Although it was unreasonable and an error for the Committee and the Ontario Court of Justice, respectively, to have found that the *Act* had not been breached, it was correspondingly reasonable and correct not to proceed with an audit. The appeal, therefore, is dismissed.

97 I thank everyone for their helpful arguments.

98 I hope that costs will not be an issue but, if they are, counsel should contact the trial co-ordinator to obtain a date for submissions.

Appeal dismissed.

Footnotes

1 It is a cold commentary on the perceived quality of politicians that our legislature thinks one can actually "buy" a candidate for the sum of \$751 (the mid-range cost of two decent seats at an NHL game).

2 Section 77(a) and s. 78(1)(a) of the *Act*.

3 The Form 4 filed on behalf of Harris is the only one where a date was inserted.

4 This is becoming tedious, but I am committed to completing the process.

5 Section 80(2)(a) of the *Act*.

6 Section 80(1)(a) and s. 80(2)(a) of the *Act*.

7 Section 81.1(2) of the *Act*.

8 [Section 256 of the Income Tax Act \(Canada\)](#) contains five definitions of associated corporations, but (and I am grossly oversimplifying here) the gist of them is that one corporation is associated with another where one controls, directly or indirectly, the other or where

they are controlled, directly or indirectly, by the same person or group of persons who are related or hold a certain shareholder percentage.

- 9 If Siscoe was referring to the *Ontario Municipal Elections 2010 Guide*, it is more than vague: it is unhelpful.
- 10 As long as the time limit under s. 77(a) has not expired, a candidate should be permitted to file an amended Form 4 and if the *Act* does not permit such a filing it should.
- 11 The minutes of the Committee are not (and are not meant to be) a comprehensive transcription of everything that was said on July 19, 2011. I am told that this affidavit (and the others filed with the Ontario Court of Justice) only contains information that was before the Committee.
- 12 Section 81(7) of the *Act*.
- 13 Section 81(14)(a) of the *Act*.
- 14 Section 81(14)(b) of the *Act*.
- 15 Section 81(15) of the *Act*.
- 16 Although the wording here is a touch awkward, I assume it was meant that there is no excuse for a candidate being unaware of the concept of associated corporations and of the prohibition against collective contributions exceeding \$750.
- 17 The *Act* does not provide for a hearing *de novo*. The Ontario Court of Justice is not authorized to examine this matter anew. All of the information before the Ontario Court of Justice was available to the Committee and so the task of that court was to decide if such information reasonably supported the decision of the Committee; and the material before me is the same as in the Ontario Court of Justice.
- 18 No one raised a concern about the role of the Committee as a party in an appeal of a decision of the Committee. The role adopted, without opposition and with my acquiescence, was one where counsel for the Committee supported the position argued by Mr. Richardson and abstained from delivering a factum or other materials and from making submissions. The Committee is not a "party" in the usual meaning of that term and, therefore, must suffer a reduced level of participation in the appeal. That level was not fully articulated here. Despite my concern that the Committee should not be dealing with the merits of the appeal in any manner, in the circumstances, I will leave this issue alone, except to say that the fact counsel for the Committee supports the position of Mr. Richardson does not, in law, add weight to that position.
- 19 A view which seems to be unchallenged.
- 20 Section 71(1) of the *Act*.
- 21 Section 72 of the *Act*.
- 22 Section 69(1)(m) of the *Act*.
- 23 Counsel are in agreement that my function is to determine whether the Ontario Court of Justice was correct in law in concluding that the disposition by the Committee was reasonable. Therefore, I must keep my eye on both standards of review.
- 24 Which becomes crucial when costs are being contemplated under s. 81(15) of the *Act*.
- 25 One might rightly query whether a donation by cheque — only contributions of \$25 or less may be in cash: see s. 70(8) — is "received" when physically received or only when deposited in a bank account. To avoid that problem, candidates should scrutinize all cheques and perform their due diligence before depositing the cheques. Other questions arise as to the implications where the cheques are received and deposited by a campaign worker and not by the candidate personally. But I digress.

- 26 I think that any one of the corporate circumstances in this case was sufficient, on its own, to call for inquiry or investigation: (1) common President or Business Manager; (2) common Cheque Signatory; (3) common Address; (4) family relationship evident from (1) and/or (2).
- 27 I respectfully disagree with the contrary viewpoint expressed in *Braid v. Georgian Bay (Township)*, *supra.*, at paras. 28 and 29.
- 28 Siscoe, Stack and Dorsey were careless in completing Schedule 1 of Form 4 and did not approach this responsibility with the necessary seriousness and attention. Notwithstanding the eye-glazing nature of Form 4, one would expect a politician to have a tolerance, if not an affinity, for paperwork.
- 29 Mr. Richardson submits that, in the Ontario Court of Justice, the appellant, through her counsel, had the opportunity to cross-examine the individual respondents, but did not do so and, consequently, there being no contradictory evidence, the truth of the statements and explanations of Harris, Siscoe, Stack and Dorsey are unchallenged. However, if the hearing in the Ontario Court of Justice is not meant to be *de novo*, should that court entertain any evidence that was not part of the hearing before the Committee?

APPENDIX G

2008 ONCJ 524
Ontario Court of Justice

Lyras v. Heaps

2008 CarswellOnt 6348, 2008 ONCJ 524, [2008] O.J. No. 4243, 170 A.C.W.S. (3d) 771, 51 M.P.L.R. (4th) 277

**JOHN LYRAS (Applicant / Appellant in Appeal) AND ADRIAN HEAPS and COMPLIANCE
AUDIT COMMITTEE OF THE CITY OF TORONTO (Respondents / Respondents in Appeal)**

M.E. Lane J.

Judgment: October 17, 2008

Docket: None given

Counsel: Ronald J. Walker, Charles A. Toth for Appellant, John Lyras
Paula Boutis for Respondent, Adrian Heaps
Kalli Y. Chapman for Respondent, Compliance Audit Committee of the City of Toronto

M.E. Lane J.:

1 This is an appeal pursuant to [section 81 \(3.3\) of the *Municipal Elections Act, 1996*](#), S.O. 1996, c. 32, Sched. (the "MEA") from the decision of the Compliance Audit Committee of the City of Toronto (the "Committee") dated July 16, 2007. The Committee rejected Mr. Lyras' application for a compliance audit of the election campaign finances of Adrian Heaps, now Municipal Councillor for Ward 35, incurred during the 2006 Toronto municipal elections. The appellant seeks an order setting aside the decision of the Committee and requiring a compliance audit of Mr. Heaps' election campaign finances.

The Legislative Framework

2 This appeal is based on the statutory provisions set out in [Section 81\(1\) to \(4\) of the MEA](#). An elector who believes on reasonable grounds that a candidate has contravened a provision of the MEA relating to election campaign finances may apply in writing for a compliance audit of those finances. Within thirty days of receiving the application, the council or local board must consider the application and decide whether it should be granted or rejected. Under [s. \(3.1\)](#), the council may establish a committee and delegate its powers and functions with respect to applications received in relation to an election for which it was established. The committee to which these powers are delegated shall not include employees or officers of the municipality, or members of the council. Under [s. 3.3](#), the decision of the council or of the committee may be appealed to the Ontario Court of Justice within 15 days after the decision is made, and "the court may make any decision the council...committee could have made." If it is decided to grant the application, the council shall, by resolution, appoint an auditor to conduct a compliance audit of the candidate's election campaign finances.

Issues

3 In this appeal, the following issues are to be addressed:

1) What is the appropriate standard for review on this appeal? Is the decision of the Compliance Audit Committee entitled to deference such that a standard of reasonableness should apply? Or should this court undertake its own analysis of the issues and apply a correctness standard?

2) What is the test of "reasonable grounds" under the MEA?

3) On the material before the Committee, were there reasonable grounds to believe that Mr. Heaps has contravened any provision of the [MEA](#)? Mr. Lyras alleges that Mr. Heaps filed a Financial Statement and Auditor's Report which was defective in that he failed to:

- i. account for the value of a professional webmaster and website design services;
- ii. disclose all of the telephone expenses incurred during the campaign;
- iii. accurately disclose the cost of a flyer which was produced and distributed during the campaign, and
- iv. account for the market value of his campaign office rental expense.

The Facts

4 On or about November 16, 2006, Mr. Heaps was elected as Municipal Councillor for Ward 35 (Scarborough Southwest) in the City of Toronto. On or about March 29, 2007, Mr. Heaps filed a Financial Statement with Elections and Registry Services of the City Clerk's Office. According to his Financial Statement, Mr. Heaps spending limit for the campaign period March 20, 2006 to January 2, 2007 was \$25,957.30. He reported total campaign expenses which were subject to the spending limits of \$24,354.04. He reported additional campaign expenses of \$4,193.49 which were not subject to any spending limits and which are not in issue on this appeal.

5 Mr. Lyras assisted Michelle Berardinetti in her campaign for election as Municipal Councillor in the same ward. He also works in the office of Ms. Berardinetti's husband who is the M.P.P. for Scarborough Southwest. On June 29, 2007, he applied to the Clerk of the City of Toronto for a compliance audit of Mr. Heaps' election campaign finances pursuant to [s. 81 of the MEA](#). He alleged that Mr. Heaps incurred total campaign expenses in excess of his reported limit, that his Financial Statement failed to disclose the full extent of his campaign finances and that his expenses exceeding his spending limit, and that he failed to account for goods and services which were purchased for less than fair market value.

6 On July 16, 2007, the Committee which was comprised of a three member panel, heard representations on behalf of Mr. Lyras and Mr. Heaps, and reviewed the materials which were filed in support of their positions. On motion by Mr. Love, the Committee rejected Mr. Lyras' application by a vote of 2 to 1, Ms. MacLean voting in the negative. There were no reasons given for why the committee members voted as they did.

1) The Standard of Review?

7 The Supreme Court of Canada in its recent decision of *New Brunswick (Board of Management) v. Dunsmuir*, [2008 SCC 9](#) (S.C.C.) determined that there ought to be only two standards of judicial review: correctness and reasonableness. When applying the correctness standard, a reviewing court will not show deference to the decision makers' reasoning process but will undertake its own analysis of the question, decide whether it agrees with the decision under appeal and, if not, will substitute its own view and provide the correct answer. A court conducting a review for reasonableness will inquire into the qualities that make a decision reasonable, including the existence of justification, transparency and intelligibility in the decision-making process, and whether the decision falls within a range of possible, acceptable outcomes which are defensible on the facts and the law. This deferential standard involves respect for the need for particular expertise and experiences in decision making, and the legislative choice to leave some matters in the hands of administrative decision makers.

8 The majority of the Supreme Court directed that an appellate court must first ascertain whether the jurisprudence has already determined in a satisfactory manner the degree of deference to be accorded to a decision maker in a particular category of question. Only if this inquiry proves unfruitful, should a court analyze the factors making it possible to identify the proper standard of review. Those factors tending to deference include: the existence of a privative clause; whether the question is one of fact, discretion or policy, or whether the legal issue is intimately intertwined with and cannot be separated from the factual issue; where a decision maker is interpreting the statute closely connected with its function with which it will have particular familiarity; or where the decision maker has developed particular expertise in the application of the common law to its own

statute. Questions of central importance to the legal system as a whole, outside the specialized area of administrative expertise, questions regarding jurisdiction or the constitution, will always attract a correctness standard.

9 Binnie J. indicated that "contextualizing" the reasonableness standard will require a reviewing court to consider the precise nature and function of the decision maker including its expertise, the terms and objectives of the governing statute, and the extent of the discretion conferred. He stressed the need for careful consideration of the reasons given for the decision.

10 Justices Deschamps, Charron and Rothstein re-emphasized the significance of the nature of the questions at issue: whether questions of law, questions of fact or questions of mixed law and fact. Questions of fact always attract deference, particularly if there is a privative clause. If the body oversteps its delegated powers, is asked to interpret laws outside its area of expertise, or the legislature has provided for a statutory right of review, deference is not owed to the decision maker. When considering a question of mixed fact and law, a reviewing court should show the same deference as an appeal court would show a lower court.

11 The jurisprudence dealing with the standard of review applicable to appeals from decisions about compliance audits under the [MEA](#) is mixed. The appellant relies on decisions of my brothers Culver and Duncan in *Chapman v. Hamilton (City)*, [2005] O.J. No. 1943 (Ont. C.J.) and *Savage v. Niagara Falls (City)*, [2005] O.J. No. 5694 (Ont. C.J.) respectively. In *Chapman*, Culver J. found that there was no privative clause, nor any specialized skill and knowledge exercised by the Council in making its decision. He concluded that political considerations that are the particular responsibility of the local Council have no place in the analysis of whether an elector has reasonable grounds to believe that a candidate has contravened the provisions of the [MEA](#). He also found that the Council debate on the issue indicated that the councillors were unwilling to judge their peers and wanted the court to make the ultimate decision which, in his view, amounted "to a failure or refusal to meaningfully exercise jurisdiction." (para. 37) In *Savage*, Duncan J. agreed with Culver J. that the [MEA](#) grants the appellate court the widest possible power of review on appeal. He also noted that the decision before him was made in camera, with no record and no reasons given. In his view, "it is implicit...in a deferential or more limited approach, that the reviewing court must have some record of the reasons or the process that brought about the decision. Where that is completely lacking, there is nothing to show deference to." (para 8)

12 Sheppard J. in *Harrison v. Toronto District School Board* [(June 19, 2008), Sheppard J. (Ont. C.J.)], unreported decision of the O.C.J. released June 19, 2008, had occasion to consider a decision not to grant a compliance audit made by the Compliance Audit Committee delegated to perform that function by the Toronto District School Board. He found that the Committee consisted of two chartered accountants and a lawyer in the municipal field, all of whom "have extensive knowledge of the election campaign finance provisions of the [Municipal Elections Act, 1996](#)." As "the Committee was appointed by a non expert School Board and the City because of their expertise," he found that far greater deference was owed to their decision than to that of the political bodies in *Chapman* and *Savage*. He also found, however, that on either the correctness standard or the less demanding deferential standard, the hard copy documents making up the applicant's initial complaint in that case "simply do not support the complaint."

13 The Committee which made the decision under appeal before this court is exactly the same Committee whose decision came before Justice Sheppard. In this case, however, they were acting under [s. 81\(3.1\) of the MEA](#) as the committee delegated to make the decision by the Council itself.

14 The Compliance Audit Committee for the 2006 Municipal Election was established by the Toronto City Council pursuant to recommendations considered June 27-29th, 2006 and September 25-27th, 2006. The express intention was to establish an independent, quasi-judicial committee which would have "demonstrated knowledge and understanding of municipal election campaign financing rules, proven analytical and decision-making skills, and experience working on a committee, task force or similar setting." After a selection process, three members were chosen for the committee: two chartered accountants who had been members of the Toronto Election Finance Review Task Force, and a lawyer with municipal law experience who had been on various committees of the Canadian Bar Association.

15 On April 17, 2007, the Committee adopted [Rules of Procedure](#) which, among other things, provide that meetings shall be based on an agenda, open to the public, with an opportunity for the applicant and the candidate to address the Committee,

answer questions and view any documents submitted to the Committee, and setting out rules for debate. Decisions are to be made by vote in the form of a motion, and recorded in the minutes of the Committee.

16 The Minutes indicate that, at their meeting of July 16, 2007, the Committee considered three applications for a compliance audit relating to the expenses of three different politicians. The Committee granted the first application, denied Mr. Lyras' application on a vote of two to one, and unanimously denied the third application. The Minutes also indicate the materials that were before the Committee for review, and that the Committee unanimously agreed to extend the usual speaking time for both the applicant and Mr. Heaps to address the Committee.

17 I agree with Justice Sheppard that the professional expertise of the specialized Compliance Audit Committee appointed by the Toronto City Council distinguishes this case from those of *Chapman* and *Savage*. The members of the Committee have "demonstrated knowledge of municipal election campaign finance rules" and were appointed with the precise purpose of deciding when applications for compliance audits were appropriate. Their function is to screen applications for such audits, so that only those which show "reasonable grounds" that a contravention occurred will proceed. This function is a narrow one, the span of their authority is limited to the MEA, and the issues they have to decide are questions of mixed law and fact. Applicants and candidate respondents have full opportunity to present their positions and relevant materials to the Committee in both oral and written submissions, and to answer any questions put by Committee members. Although the Committee does not issue reasons for its vote, the process of considering the application is an open and transparent one. The Committee does not deliberate in private and, like other municipal committees, their decision is made by motion on the record. In these circumstances, I have concluded that considerable deference must be shown to the decision of the Committee.

18 In my view, the fact that the Committee does not give reasons for its decision is not a factor which should weigh heavily given the context and their function. When judicial or quasi-judicial officers are acting in a "gatekeeper" function, not giving reasons is not an unusual practice. I note that a justice of peace or judge does not normally give written reasons for issuing or denying a search warrant, nor does the Supreme Court of Canada give reasons for refusing leave to appeal.

19 The MEA, however, does not include a privative clause and expressly allows this Court on an appeal relating to election financing to "make any decision the council...or committee could have made." In my view, this statutory authority permits this court to review the decision of the Committee for its reasonableness, particularly as it may relate to questions of mixed fact and law which arise from the allegations before the Committee. Should this court identify any questions of law alone which could potentially arise from these allegations, this Court can also make determinations of general application on a correctness standard. As the Committee was not structured as a "tribunal" with a duty to provide reasons for its decisions, it becomes the residual role of this appeal court to articulate the law where those with greater expertise on the MEA itself are not in a position to do so.

2) The meaning of "reasonable grounds"?

20 The meaning of "reasonable grounds" under the MEA is one such question of law. The appellant submits that "reasonable grounds" should be defined as "credibly based probability... not to be equated with proof before a reasonable doubt or a prima facie case." This is the standard of persuasion articulated by Justice Hill in *R. v. Sanchez* (1994), 93 C.C.C. (3d) 357 (Ont. Gen. Div.) with respect to the issuance of a search warrant and adopted by Culver J. in *Chapman, supra at para. 41-42*. The respondent submits that a more appropriate standard is the standard of "reasonable grounds" as determined by the jurisprudence relating to applications for judicial recount under s. 47(1) of the MEA: *Devine v. Scarborough (City) Clerk* (1995), 27 M.P.L.R. (2d) 18 (Ont. Prov. Div.) (*MacDonnell Prov. J.*) and *Harris v. Ottawa (City)* (1994), 27 M.P.L.R. (2d) 36 (Ont. Prov. Div.) (*Blishen Prov. J.*). In *Harris*, the court held at paras 17 and 18 that the test for "sufficiency and reasonableness of the grounds" is "certainly a lower test than the usual civil burden of proof on a balance of probabilities...but must simply provide a prima facie case."

21 There is no dispute that "mere suspicion, conjecture, hypotheses or 'fishing expeditions,'" and that which is "speculative and remote" fall short of the minimally acceptable standard. The question is whether the test for "reasonable grounds" is "credibly based probability" or "a prima facie case."

22 In *Savage supra*, Duncan J. at para 10 thought that the "reasonable grounds" requirement had been met where the applicant raised issues which "an auditor might very well choose to investigate." In *Sanchez (adopted in Chapman, supra)*, Hill J. defined "reasonable grounds" as "a practical, non-technical and common sense probability as to the existence of the facts and the inferences asserted."

23 I note that, in this case, the two chartered accountants on the Committee made up the majority who did not think the grounds for a compliance audit had been made out. If the test were as set out in *Savage*, their decision warrants considerable deference. It also strikes me that even if the appellant had what he considered reasonable grounds to ask for an audit, the Committee has considerably more information at their disposal. Having heard all the submissions and reviewed all the material before them, the Committee is in a better position than the appellant to determine whether, in fact, "reasonable grounds" do exist to proceed with an audit. It is the role of the Committee to weigh the evidence and to make determinations of what weight should be accorded to the representations before it.

24 There is a distinction in law between "credibly based probability" and "a prima facie case." A belief is founded on "reasonable grounds" where there is an objective basis for the belief that is based on "compelling and credible information." The standard is "reasonable probability," not proof beyond a reasonable doubt or a prima facie case: *R. v. Le (2006), 210 C.C.C. (3d) 181 (B.C. C.A.)* *leaved to appeal to S.C.C. refused (2006), 212 C.C.C. (3d) vi (note) (S.C.C.)*; *Mugesera c. Canada (Ministre de la Citoyenneté & de l'Immigration) (2005), 197 C.C.C. (3d) 233 (S.C.C.) at para. 114*. A "prima facie case" connotes a case containing evidence on all essential points of a charge which, if believed by the trier of fact and unanswered, would warrant a conviction: *R. v. Mezzo (1986), 27 C.C.C. (3d) 97 (S.C.C.)*. Black's Law Dictionary 6th ed at p. 1190 also indicates that "Prima facie evidence refers not only to evidence which would reasonably allow the conclusion which the plaintiff seeks, but also to evidence which would compel such a conclusion if the defendant produced no rebuttal evidence." As MacDonnell, Prov. Div. J. noted in *R. v. Skorput (1992), 72 C.C.C. (3d) 294 (Ont. Prov. Div.)*, at pp. 296-297, the former use is permissive; the latter carries "a degree of cogency (that)...might conveniently be described as "presumptive": *Cross on Evidence 6th ed at pp. 60-61*.

25 In my view, where the statute requires "a belief on reasonable grounds," the jurisprudence applicable in other contexts indicates that the standard to be applied is that of an objective belief based on compelling and credible information which raises the "reasonable probability" of a breach of the statute. The standard of "a prima facie case" in either its permissive or presumptive sense is too high a standard.

3) Application of this standard to the decision of the Compliance Audit Committee?

26 Having determined the test for "reasonable grounds" in law and having decided that this court ought to show considerable deference to the expertise of the Compliance Audit Committee in its determinations of fact and law, I now consider whether their majority conclusion rejecting the request for a compliance audit was reasonable. This requires that I examine the record of the proceedings and particularly the materials and representations which were before the Committee when their decision was made. I will address each of the contested issues in turn.

a) The value of a "professional webmaster" and website design services?

27 The novel issue in this appeal is the claim that Mr. Heaps failed to accurately disclose the cost of his campaign website. The only expense information filed by Mr. Heaps in respect to this website was an invoice in the amount of \$120 for "3 months web hosting" issued by Peter Diplaros who is the Executive Editor of Corporate Knights, a company run by Mr. Heaps' son Toby Heaps. According to an excerpt from the Corporate Knights website, Peter Diplaros is "the webmaster and chief analyst for the fundlibrary.com" and "his favourite hobby is large-scale web site architecture and design." Given the quality and comprehensiveness of the thirty-page website, Mr. Lyras asserted that "it was implausible that it was designed and created, as well as hosted for a three-month period, by a professional webmaster" with such experience for a cost of only \$120. Mr. Lyras obtained two quotes for the design, creation and hosting of websites similar to that operated by Mr. Heaps during the campaign, one was for more than \$5,965.00, the other for \$2,800.00. In his view, even the lower of these costs would have caused Mr. Heaps to exceed his campaign spending limits.

28 Mr. Heaps replied that the cost of developing the website was not reported as it was not "paid for", but rather obtained through "voluntary unpaid labour," a specific exemption from the definition of "contribution" under section 66(2)2.i of the MEA . He indicated to the Committee that the work was done "on volunteer time," took approximately 10-14 hours, and was done by Peter Diplaros, himself, his wife, his son and others who contributed volunteer time to the content and upkeep of the site.

29 In his written submissions to the Committee in support of his application, counsel for Mr Lyras asserted that the "voluntary unpaid labour" provision of the MEA does not apply to the contribution of services by those who are in the business of providing such services, i.e. that the MEA distinguishes between voluntary unpaid labour and the contribution of professional services. He also submitted that "allowing candidates to evade the application of the election spending limits to professional services obtained on a no-charge basis would result in inequality and unfairness among candidates."

30 There is no dispute that the cost of producing a website is not distinguishable from the cost of producing other campaign literature or advertising. Mr. Heaps submits, however, that to the extent that a brochure, website or other advertising is produced by "voluntary unpaid labour," these are not "contributions" under the MEA and need not be declared as such. Unless something is a "contribution," then the rules for the valuation of the goods and services dealt with in s. 66(3) of the MEA do not apply.

31 I agree with counsel for the Committee that Mr Lyras has misinterpreted and misapplied the provisions of the MEA. Section 66(2)1.iii specifies that "if goods and services used in a ... campaign are purchased for less than their market value, the difference between the amount paid and the market value" are considered a "contribution." Section 66(2)2.i provides that "the value of services provided by voluntary unpaid labour"..." are not contributions." Section 66(3) describing how to value goods and services only applies to "goods and services provided as a contribution." (my underlining)

32 Under the MEA, the level of expertise that a volunteer has in the area in which they elect to provide volunteer services is an irrelevant consideration in the definition of what is a "contribution." It is also clear that the rules about valuing "contributions of goods and services" add nothing to the specific statutory definitions of what is or is not a "contribution." The MEA is very clear that "the value of services provided by voluntary unpaid labour" need not be considered a contribution, and makes no distinction between free professional services and free services for other campaign assistance.

33 Mr Lyras also submitted that the contribution of services to design and create a website is a contribution of "political advertising" within the meaning of section 66(2)2iv of the MEA, and that the existence of the specific exemption for "the value of political advertising provided without charge on a broadcasting...under the Broadcasting Act (Canada)" implies that other forms of "political advertising" such as a website are not exempt from the reporting requirements. In my view, this is a further misreading of the MEA. This specific exemption relates to the value of the time provided for using the broadcast medium to distribute the message. The cost of developing the message is akin to all other advertising used in the campaign and is reportable, except in so far as any of the services used to produce it were provided by "voluntary unpaid labour."

34 The clear statutory exemption for "voluntary unpaid labour" is a policy decision of the Legislature which reflects the realities of political life, including the range of competencies volunteers bring to political campaigns and the difficulties of tracking and putting a value on volunteer services. Any inequality in the application of the rules to particular candidates is balanced by an exemption to the definition of "contribution" which encourages public participation in the electoral process. The Legislature has chosen to encourage "services provided by voluntary unpaid labour" in election campaigns and it is not the role of the Committee or the Court to question that policy decision.

35 The only remaining issue is whether there was any "compelling and credible information" before the Committee that objectively raised a "reasonable possibility" that Mr. Heaps failed to report the cost of developing and maintaining his website. Mr. Heaps' evidence was that the services used to create and maintain the website were provided by voluntary unpaid labour, including that provided by Peter Diplaros. There is no "compelling and credible information" from Mr. Lyras to the contrary. What he put before the Committee is nothing more than speculation and conjecture. That Mr. Diplaros works for Corporate Knights, does some "webmaster" services as part of one of his jobs, and likes to construct complex websites as a hobby is not evidence that he did not donate his time to create the original website. The quality of the website is irrelevant, as is the fact that

other candidates may have paid for similar services, or that the services may have had substantial market value if purchased on the market.

36 In my view, it is the role of the Committee to make findings of credibility on the information and representations before them. In this case, the majority finding that Mr. Lyras had no reasonable grounds for his complaint about the costs of the website is a reasonable determination. I also find that their understanding of the applicable law was correct.

b) All telephone expenses?

37 Mr. Lyras submitted that Mr. Heaps failed to account for the cost of two telephone numbers which were listed on his campaign website and his campaign literature and which he asserts were utilized during the course of the campaign. Mr. Heaps responded that he was not required to account for the expenses of his home telephone number and his son's cellular telephone number which was "on a plan" and "was utilized for a total of 14 incoming calls from media." On the evidence before the Compliance Audit Committee, Mr. Heaps did account for the cost of the main telephone line used in his campaign and indicated that the use of these private telephone lines for the campaign was negligible.

38 The decision that an audit of the costs of these lines was unnecessary is reasonable, given the privacy interests at stake and the unrealistically onerous (if not impossible) burden of determining different types of usage of what are essentially private lines. In my view, the legislative intent is not to extend the ambit of the MEA to the privacy of the home telephone lines of candidates for public office and their families. To hold otherwise would only lead to fishing expeditions which could well deter persons from seeking public office. If correctness were the standard of review this court was to apply, I would also say that this decision is correct

c) The cost of a flyer?

39 Mr Lyras submitted that Mr. Heaps did not accurately disclose the cost of an 11 inch by 17 inch flyer that was produced and distributed during the campaign. More specifically, he asserted that the receipt filed for obtaining 15,000 copies of this flyer from Meade Graphics Inc. for a cost of \$2,494.32 was some \$351 below the quote Mr. Lyras later obtained from Arco Graphics (operating at the same location) for printing a similar product, which quote did not include a graphic charge estimated at an additional \$300-\$500.

40 Mr. Heaps replied that he contracted only with Meade Graphics and the invoice he submitted was the total amount he was charged for the brochure. There was also evidence before the committee that Meade Graphics and Arco are not related companies, and that Meade used Arco "as a supplier for smaller projects." As against this concrete evidence of the invoice and a letter from the owner of Meade Graphics, a higher quote obtained by the appellant from an unrelated company after the fact is no more than speculation and conjecture, hardly compelling and credible information which raises the reasonable possibility that Mr. Heaps underreported the actual cost of the brochure. Again, I find the decision of the Committee reasonable and correct.

d) The true market value of his campaign office rental expenses?

41 Mr. Lyras asserted that the campaign office rental expenses claimed by Mr. Heaps did not reflect the market value of this expense, and suggested that a non-arms length corporation may have paid a portion of his rental expenses or entered into a space sharing arrangement to reduce his rental expenses without this benefit having been declared. In support of these submissions, he asserted that Mr. Heaps rented a property at 3280 Danforth Avenue in Scarborough which the owner after the election indicated would be rented for \$1200 per month. Mr. Heaps claimed a total rental cost of \$1600, or \$800 per month. Mr Lyras also pointed to a handwritten notation on the rental receipt submitted by Mr. Heaps which indicated that "\$1000 paid by Corporate Knights Inc. for use of office space." He indicated that Mr. Heaps' eldest son Toby Heaps was the president, and sole director of Corporate Knights.

42 There was ample evidence before the Committee to rebut all these allegations. There was evidence that Toby Heaps acted as an agent for the campaign to find the rental property and that he paid a deposit which Mr. Heaps subsequently reimbursed. There was evidence that he negotiated the rental of the premises from one of the co-owners and that Corporate Knights neither

shared the space, nor subsidized the rental cost. The fact that Mr. Lyras obtained a higher quote for rental of the premises after the election is irrelevant to the rental actually paid by Mr. Heaps. There is evidence that this higher quote was based on a potential long-term lease with upgrades to the basement, washroom and the exterior paid for by the owners, whereas Mr. Heaps' campaign rented the premises on an "as is" condition. In actual fact, the premises were never leased to anyone other than Mr. Heaps' campaign and, as of July 2007, were listed for sale. In the circumstances, the only rental value of the premises was that paid and declared by Mr. Heaps for the two months of the campaign.

43 Against this evidence put before the Committee by Mr. Heaps, the allegations of Mr. Lyras were nothing more than speculation and conjecture. On either a reasonableness or correctness standard, there were no "reasonable grounds" to order a compliance audit on this issue.

Decision

44 For the reasons indicated above, the appeal is dismissed. Counsel can make further submissions as to costs upon application to the trial coordinator at the Old City Hall for a hearing date.

Appeal dismissed.