Compliance Audit Committee Meeting
Agenda

Date: January 23, 2020
Time: 3:00 pm
Location: Council Chambers Level 2, City Hall

Pages

1. **Declarations of Interest:**

2. **Delegation(s):**

3. **Regular Items:**

3.1	Application for Compliance Audit (Rory Nisan)	1 - 6
	a. Financial Statement - Auditors Report for Rory Nisan.	7 - 17

4. **Additional Information Items:**

4.1	Correspondence from Mr. McEachern regarding application for Compliance Audit (Rory Nisan)	18 - 22
4.2	Correspondence from legal council Mr. Gordon E. Petch on behalf Mr. Nisan regarding application for Compliance Audit (Rory Nisan)	23 - 191
4.3	Correspondence from Mr.Nisan regarding application for Compliance Audit (Rory Nisan)	192 - 192

5. **Other Business:**

6. **Adjournment:**

Application for a Compliance Audit

Municipal Elections Act, 1996, 81(2)

INSTRUCTIONS: Completed applications for a compliance audit for a candidate for Mayor or Council can be:

- hand delivered or sent by regular mail to the City of Burlington, Attention: City Clerk, 426 Brant Street, Burlington, ON, L7R 3Z6
- sent by fax to 905-335-7675 to the attention of the City Clerk, or
- emailed to cityclerks@burlington.ca

Applications are due June 25, 2015

Compliance audit applications for candidates for Regional Chair must be sent to the Clerk of the Region of Halton.

Applicant Information

Last Name	First Name	
McEachern	D. Luke	
Mailing Address	**City/Town**	**Postal Code**
1299 Princeton Cres	Burlington	L7P 2K9

Address or Description of Property that Qualifies the Applicant as an Elector in the City of Burlington.
1299 Princeton Crescent Burlington ON E

Email Address	Business Phone	Home Phone
LukeMcEachern@gmail.com	289 941 2996	905 331 8469

Requesting a Compliance Audit of the Campaign Expenses of:

Candidate's Last Name	Candidate's First Name
NISAN	Rory

Name of the Office for Which the Candidate Sought Election
City + Regional Councillor Ward 3

Filing Date of Candidate's Financial Statement

Day 22 Month MARCH Year 2019

Reasons for Compliance Audit

In the area below, provide the reason(s) why you believe the candidate named above has contravened the *Municipal Elections Act, 1996* relating to campaign finances. (Attach additional pages if necessary).

1 Candidate Solicited Gifts for Raffle
FOR FUNDRAISING PURPOSES.
- RECEIPTS FOR GIFTS NOT ACCOUNTED FOR
- RETURN OF GIFTS NOT RECEIPTED?

Continued from Page 1

- Gift of 4 x ONE MONTH UNLIMITED YOGA CORPORATION '7TH WAVE' 4 x 79.00 = $316.00 Receipt? Return Receipt?

(2) Candidate Website: RoryNisan.Ca Was purchased/created 2018-01-19

- Purchase activation is outside of Allowable Campaign Period.

- Candidate should have acquired CAMPAIGN SITE AFTER INITIAL CAMPAIGN PERIOD.

Distribution and Cost Recovery

This application will be shared with the candidate, the Joint Compliance Audit Committee, the auditor chosen to investigate this application (if applicable), Burlington Council and will be posted on City of Burlington website. If this application is forwarded to an auditor and the auditor's report concludes that there was no apparent contravention of the *Municipal Elections Act, 1996* and the Joint Compliance Audit Committee finds there are no reasonable grounds for this application, Burlington Council is entitled to recover the auditor's costs from you.

Total Pages Submitted, Including Attachments –

Six Pages (6)

I confirm that the information provided in this application is complete and accurate to the best of my knowledge, that I have read the Distribution and Cost Recovery information above, and that I am eligible under the Municipal Elections Act, 1996 to vote in an election for the City of Burlington.

Signature	Date
[signature]	22.6.19

Office Use Only	
Received By	Date

Personal information contained on this form is collected under the authority of the *Municipal Elections Act, 1996*, s. 81.1. The information will be used to respond to your application for a compliance audit. Pursuant to s. 88 of the *Municipal Elections Act, 1996*, this document is a public record, despite anything in the *Municipal Freedom of Information and Protection of Privacy Act*, and until its destruction, may be inspected by any person at the Clerk's Office at any time when the office is open. Questions about this collection can be directed to the City of Burlington, Attention: City Clerk, 426 Brant Street, Burlington, ON, L7R 3Z6 or at citycierks@burlington.ca

Ward 3 candidate regrets the fund raising error - raffle proceeds have been returned.

By Staff

September 12th, 2018

NEWS

BURLINGTON, ON

Rory Nisan, a candidate for the ward 3 seat released a statement Tuesday evening saying he "was made aware by the City of Burlington on Monday afternoon that there could be an issue with the raffle held at a community barbecue" he hosted on Sunday, September 9.

Nisan also said: "It quickly became clear to me that I had made a mistake by holding a raffle without a permit.

"I regret this error.

"I have reached out to the City to find out how best to rectify the situation. I have also voluntarily cancelled the raffle and have already returned almost all contributions and am in the process of contacting the raffle participants to provide refunds.

CANCELLED RAFFLE AFTER THE RAFFLE WAS HELD!

Ward 3 candidate Rory Nisan

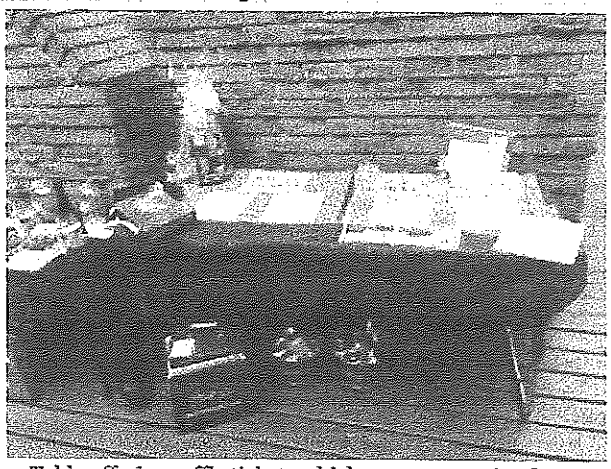


Table offering raffle tickets which are not permitted as a fund raiser

"As far as corporate donations are concerned, the 2018 Candidates Guide for Ontario Municipal Council and School Board Elections states on p. 23 that vendors may make personal contributions of goods and services.

"Also, returning an ineligible contribution is the correct response (p.20-21) should one be received. After discussing with the city and the province, I am convinced that there is no corporate donation being made to my campaign.

Requires receipts For Receiving + Return

"I look forward to resolving the issue of the permit by-law soon."

Nisan sees the error as minor and that the matter is now closed.

Related news story:

Gareth Williams wants Elections Clerk to investigate fund raising efforts by Rory Nisan

Return to the Front page

Rory Nisan

Like Home Find Friends Create

Like Follow Share

Send Message

Rory Nisan
@RoryNisanWard3

Home
About
Videos
Posts
Events
Photos
Community

Create a Page

4 FREE UNLIMITED ONE MONTH PASSES (4) @ 79.00/EACH

5 1 Comment 159 Views

Like Comment Share

Most Relevant

Write a comment...

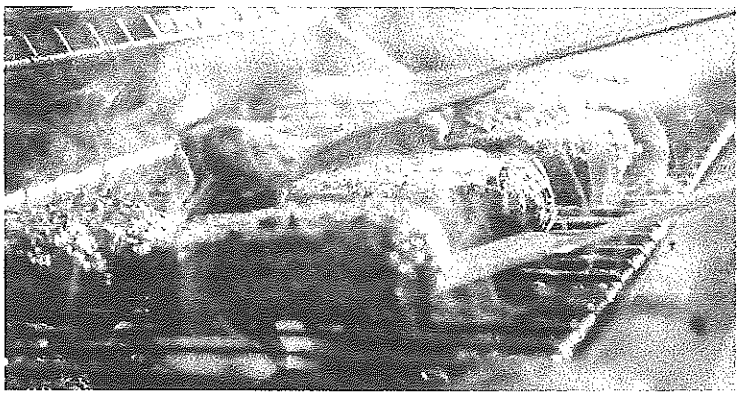
Kim Verrall · 0:21 Looks like fun! Sorry we couldn't be there!
Like · Reply · 40w

Rory Nisan shared an event.
September 6, 2018 ·

Thank you Melinda at 7th Wave Yoga for donating 4 free unlimited one month passes to the BBQ! They will be great additions to the raffle.

And yes, the BBQ will have veggie options.

Here's her studio's facebook page: https://www.facebook.com/7thwaveyoga/



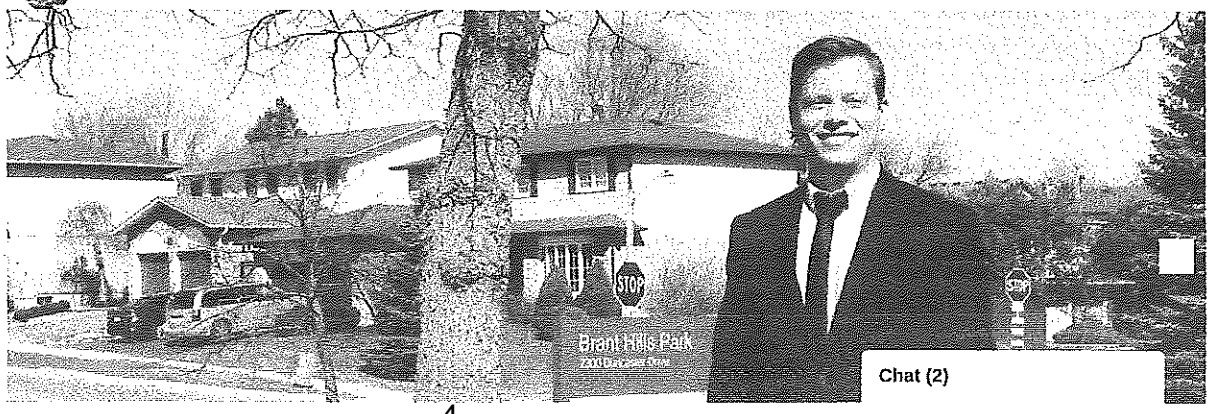
SUN, SEP 9, 2018
Rory's Community BBQ - Mtnside/Brant Hills/North Burlington
Interested

Shared to Brant Hills/Mountainside Community Gro...

4

Like Comment

Write a comment...



Chat (2)

Invite your friends to like this Page
411 people like this
429 people follow this

About See All

Typically replies within a day
Send Message
www.rorynisan.ca
Community
Suggest Edits

Page Transparency See More

Facebook is showing information to help you better understand the purpose of a Page. See actions taken by the people who manage and post content.

Page created - March 25, 2018

Related Pages

Angelo Bentivegna Wa...
Political Organization
Like

Lisa Kearns
Politician
Like

Burlington Gazette
Newspaper
Like

English (US) · Français (Canada) · Español · Português (Brasil) · Deutsch

Privacy · Terms · Advertising · Ad Choices · Cookies · More
Facebook © 2019

Corporate donation

YOGA ON BRANT

HOME YOGA CLASSES OUR INSTRUCTORS CLASS SCHEDULE PRICING SPACE RENTAL WHAT'S NEW! More

PRICING

Intro Special 30 days $49

DROP IN CLASS - $14

5 CLASS PASS - $65

10 CLASS PASS - $120

20 CLASS PASS - $220

*No expiry. Prices in effect March 1, 2019.

All Classes
Yoga, Pilates, Barre, Sculpt & Tone, Stretch

MONTHLY UNLIMITED MEMBERSHIPS - $79/per month

(Minimum 3 months membership, includes 10% off Workshops)

*All prices do not include HST

4 x value $316.00

Book a Class with Us

Back to Top

Home > Whois Lookup > RoRyNisan.ca

Whois Record for RoRyNisan.ca

Domain Profile

Registrant	Redacted for Privacy Purposes
Registrant Org	Redacted for Privacy Purposes
Registrant Country	Redacted for Privacy Purposes
Registrar	Go Daddy Domains Canada, Inc IANA ID: – URL: ca.godaddy.com Whois Server: whois.ca.fury.ca
Registrar Status	clientDeleteProhibited, clientTransferProhibited, clientUpdateProhibited
Dates	513 days old Created on 2018-01-19 Expires on 2020-01-19 Updated on 2019-03-05
Name Servers	NS1.BLUEHOST.COM (has 2,479,936 domains) NS2.BLUEHOST.COM (has 2,479,936 domains)
Tech Contact	Redacted for Privacy Purposes Redacted for Privacy Purposes, Redacted for Privacy Purposes, Redacted for Privacy Purposes, Redacted for Privacy Purposes, Redacted for Privacy Purposes (p) x (f) x
IP Address	173.254.106.249 - 11 other sites hosted on this server
IP Location	- Utah - Provo - Unified Layer
ASN	AS46606 UNIFIEDLAYER-AS-1 - Unified Layer, US (registered Oct 24, 2008)
Hosting History	5 changes on 5 unique name servers over 5 years

Website

Website Title	B 500 SSL negotiation failed:
Response Code	500

Whois Record (last updated on 2019-06-16)

Ontario

Ministry of Municipal Affairs

Financial Statement - Auditor's Report Candidate - Form 4

Municipal Elections Act, 1996 (Section 88.25)

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 paid immediately over to the clerk who is responsible for the conduct of the election.

	YYYY	MM	DD		YYYY	MM	DD
For the campaign period from (day candidate filed nomination)	2018	05	01	**to**	2018	12	31

☐ Initial filing reflecting finances to December 31 (or 45 days after voting day in a by-election)

☐ Supplementary filing including finances after December 31 (or 45 days after voting day in a by-election)

Box A: Name of Candidate and Office

Candidate's name as shown on the ballot

Last Name or Single Name	Given Name(s)
Nisan	Rory
Office for which the candidate sought election	**Ward name or no. (if any)**
Councillor	3
Municipality	
Burlington	
Spending Limit - General	**Spending Limit - Parties and Other Expressions of Appreciation**
$ 20,555.20	$ 2005.52

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

Box B: Declaration

I, Rory Nisan, 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

2019/02/26

Date (yyyy/mm/dd)

Date Filed (yyyy/mm/dd)	Time Filed	Initial of Candidate or Agent (if filed in person)	Signature of Clerk or Designate
2019/03/22	2:10pm	RN	

© Queen's Printer for Ontario, 2018

Disponible en français

Box C: Statement of Campaign Income and Expenses

LOAN

Name of bank or recognized lending institution NA

Amount borrowed $

INCOME

Total amount of all contributions (from line 1A in Schedule 1)	+ $	18,015.15
Revenue from items $25 or less	+ $	
Sign deposit refund	+ $	
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.	+ $	
Total Campaign Income (Do not include loan)	= $	**18,015.15** C1

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

Expenses subject to general spending limit

Inventory from previous campaign used in this campaign (list details in Table 4 of Schedule 1)	+ $	
Advertising	+ $	2,578.35
Brochures/flyers	+ $	7,601.89
Signs (including sign deposit)	+ $	3,160.65
Meetings hosted	+ $	195.50
Office expenses incurred until voting day	+ $	6.22
Phone and/or internet expenses incurred until voting day	+ $	89.36
Salaries, benefits, honoraria, professional fees incurred until voting day	+ $	
Bank charges incurred until voting day	+ $	106.93
Interest charged on loan until voting day	+ $	
Other (provide full details)		
1. BBQ	+ $	1,348.57
2.	+ $	
3.	+ $	
4.	+ $	
5.	+ $	
Total Expenses subject to general spending limit	= $	**15,087.47** C2

EXPENSES

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

1. Volunteer appreciation party	+ $	191.18
2.	+ $	
3.	+ $	
4.	+ $	
5.	+ $	
Total Expenses subject to spending limit for parties and other expressions of appreciation	= $	**191.18** C3

Expenses not subject to spending limits

Accounting and audit	+ $	1,130.00
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	+ $	
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	= $	**1,130.00** C4

Total Campaign Expenses (C2 + C3 + C4) = $ **16,408.65** C5

Box D: Calculation of Surplus or Deficit

Excess (deficiency) of income over expenses (Income minus Total Expenses) (C1 – C5)	+ $	1,606.50	D1
Eligible deficit carried forward by the candidate from the last election (applies to 2018 regular election only)	– $		D2
Total (D1 – D2)	= $	**1,606.50**	
If there is a surplus, deduct any refund of candidate's or spouse's contributions to the campaign	– $	1,606.50	RN
Surplus (or deficit) for the campaign	= $	0	D3

If line D3 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	+ $	8,300.00
Contributions in goods and services from candidate and spouse (include value listed in Table 3 and Table 4)	+ $	30.00
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).	+ $	1,165.15
Total value of contributions exceeding $100 per contributor (from line 1B on page 5; list details in Table 1 and Table 2) • 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).	+ $	8,520.00
Less: Contributions returned 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)	= $	**18,015.15** 1A

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

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

Name	Full Address	Date Received	Amount Received $	Amount $ Returned to Contributor or Paid to Clerk
See attached			7,875.00	
		Total	**7,875.00**	

☑ Additional information is listed on separate supplementary attachment

City of Burlington
2018 Municipal Elections
Candidates Financial Information

Contributions Over $100
(Form 4 - Table 1)

Monetary contributions from individuals (other than candidate or spouse) over $100

Use this spreadsheet to record all contributions received that exceed $100 per contributor. This spreadsheet is required under the Municipal Elections Act, 1996 and must be attached to the Financial Statement (Form 4) when submitted.

Note: This is a public document and will be posted online with the Financial Statement on the Town's Election website after the filing deadline.

Candidates Name: Rory Nisan **Office:** Councillor, Ward 3

Contributors Last Name	Contributor's First Name	Street Address (Street, Unit)	City	Postal Code	Date Received (yyyy/mm/dd)	Amount ($) Received	Amount ($) returned to Contributor or Paid to Clerk (if any)
Nisan	Christine	6 Mint Leaf Boulevard	Brampton	L6R 2K4	6/27/2018	$ 250.00	$ -
Scobie	Gary	1415 Brenner Crescent	Burlington	L7P 2V9	7/13/2018	$ 250.00	$ -
Steiner	Elizabeth	RR2	Vanessa	N0E 1V0	7/19/2018	$ 100.00	$ -
Marinho	Antonio	1505-1405 Prince of Wales	Ottawa	K2C 3J9	8/6/2018	$200	$ -
Steiner	Elizabeth	RR2	Vanessa	N0E 1V0	8/7/2018	$ 500.00	$ -
Kearns	Lisa	1407 Birch Avenue	Burlington	L7S 1J2	8/27/2018	$ 1,200.00	$ -
Cornack	Wayne	238 Patricia Crescent	Selwyn	K9J 0C7	8/31/2018	$ 325.00	$ -
Soni	Shannon-Marie	111 Ivy Crescent	Ottawa	K1M 1Y1	9/10/2018	$ 500.00	$ -
Fendelet	Frances	1090 Westhave Drive	Burlington	L7P 5B5	8/10/2018	$ 150.00	$ -
White	Stephen	274 White Pines Drive	Burlington	L7L 4E7	9/17/2018	$ 250.00	$ -
Nisan	Christine	6 Mint Leaf Boulevard	Brampton	L6R 2K4	9/17/2018	$ 250.00	$ -
Smith	Blair	1434 Brenner Court	Burlington	L7P 2Z2	10/9/2018	$ 200.00	$ -

City of Burlington
2018 Municipal Elections
Candidates Financial Information

Contributions Over $100
(Form 4 - Table 1)

Candidates Name: Rory Nisan | **Office:** Councillor, Ward 3

Contributors Last Name	Contributor's First Name	Street Address (Street, Unit)	City	Postal Code	Date Received (yyyy/mm/dd)	Amount ($) Received	Amount ($) returned to Contributor or Paid to Clerk (if any)
Sekhon	Navtej	2200 15 Side Road	Milton	L0P 1J0	10/20/2018	$ 500.00	$ -
Breton	Tom	6449 Guelph Line	Burlington	L7P 0A6	10/25/2018	$ 1,000.00	$ -
Breton	Jonathan	6449 Guelph Line	Burlington	L7P 0A6	10/25/2018	$ 1,000.00	
Turner	Barbara	5 Homewood Avenue	Hamilton	L8P 2M1	10/25/2018	$ 200.00	$ -
Peaker	Kenneth	2116 Caroline Street	Burlington	L7R 1L8	10/30/2018	$250	$ -
Timmis	John	2609 Britannia Road	Burlington	L7P 0G3	10/16/2018	400	$ -
Gill	Ganga	2503 Cavendish Drive	Burlington	L7P 4J4	10/5/2018	350	$ -
							$ -
							$ -
							$ -
							$ -
							$ -
							$ -

Table 2: 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 $
Tony Wolfaardt	6 Mint Leaf Boulevard, Brampton, ON, L6R 2K4	Airbrush artist service	2018/09/09	495.00
George Volk	1438 Mountain Grove, Burlington, ON, L7P 1S9	Refreshments	2018/09/09	150.00
			Total	**645.00**

☐ Additional information is listed on separate supplementary attachment

Total for Part II - Contributions exceeding $100 per contributor
(Add totals from Table 1 and Table 2 and record the total in Part 1 - Summary of Contributions) $ **8,520.00** 1B

Part III – Contributions from candidate or spouse

Table 3: Contributions in goods or services

Description of Goods or Services	Date Received (yyyy/mm/dd)	Value $
Advertising	2018/10/22	30.00

Description of Goods or Services	Date Received (yyyy/mm/dd)	Value $
☐ Additional information is listed on separate supplementary attachment	Total	30.00

Table 4: 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 $
N/A				
☐ Additional information is listed on separate supplementary attachment			Total	

Schedule 2 – Fundraising Events and Activities

Fundraising Event/Activity
Complete a separate schedule for each event or activity held

☐ Additional schedule(s) attached

Description of fundraising event/activity N/A

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

Part I – Ticket revenue

Admission charge (per person)
(If there are a range of ticket prices, attach complete breakdown of all ticket sales) $ _____ **2A**

Number of tickets sold X _____ **2B**

Total Part I (2A X 2B) (include in Part 1 of Schedule 1) = $ _____

Part II – Other revenue deemed a contribution

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

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

Total Part II (include in Part 1 of Schedule 1) = $ _____

Part III – Other revenue not deemed a contribution

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

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. _____ + $ _____
6. _____ + $ _____
7. _____ + $ _____
8. _____ + $ _____

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: Burlington	Date (yyyy/mm/dd): 2019/01/30

Contact Information

Last Name or Single Name	Given Name(s)	Licence Number
Gray	Colin	1-16549

Address

Suite/Unit No.	Street No.	Street Name
LL105	720	Guelph Line

Municipality	Province	Postal Code
Burlington	ON	L7R 4E2

Telephone No. (including area code)	Email Address
905 333-4818	colingray@colingrayca.com

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.

AUDITOR'S REPORT

MUNICIPAL ELECTIONS ACT, 1996 (SECTION 78)

To: City Clerk, City of Burlington

I have audited the Statement of Campaign Period Income and Expenses, and the Statement of Determination of Surplus or Deficit and Disposition of Surplus of: Rory Nisan, candidate, for the campaign period, from May 1, 2018 to December 31st 2018 relating to the election held on October 22th 2018. These financial statements are the responsibility of Rory Nisan, Candidate. My responsibility is express an opinion on these financial statement based on my audit.

Except as explained in the following paragraph, I conducted my audit in accordance with Canadian auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements.

An audit also includes assessing the accounting principles used and significant estimates made by Rory Nisan, candidate, as well as evaluating the overall financial statement presentation.

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 statement reflect the amount recorded in the accounting records of Rory Nisan, 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, assets or liabilities, and surplus/deficit.

In my opinion, except for item noted in the following paragraph and the effect of adjustments, if any, which I might have determined to be necessary had I been able to satisfy myself as to the completeness of the records as described in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of Rory Nisan, Candidate's election campaign as at and the income and expenses for campaign period from May 1, 2018 to December 31st 2018 and the determination of surplus deficit and the disposition of surplus in accordance with the accounting treatment prescribed by the Municipal Elections Act, 1996.

The Municipal Elections Act, 1996 does not require me to report, nor was it practicable for me to determine, that contributions reported include only those which may be properly retained in accordance with the provisions of the Municipal Elections Act, 1996.

Colin Gray
February 26, 2018
Chartered Professional Accountant
Licensed Public Accountant

SEP

9

Rory's Community BBQ - Mtnside/Brant Hills/North Burlington

Public · Hosted by Rory Nisan

InterestedGoing

Sunday, September 9, 2018 at 2 PM – 7 PM

More than a year ago

2303 Duncaster Dr, Burlington, ON L7P 4C2, Canada

Show Map

Hosted by Rory Nisan

Typically replies within a day

Message Host

About

Discussion

Details

My friends Kevin and Lisa Visser are kindly hosting a free BBQ in their big backyard across from the Brant Hills Community Centre) on Sept 9.

Coach David from KidsPlay Sports is going to have some activities for the kids from 2-4pm.

From 4-6pm Hands On Entertainment will be doing temporary tattoos.

This is a FREE event (BBQ, drinks and kids entertainment) -- we will raffle off some prizes, including:

-4 rounds of golf to Hidden Lake Golf Club ($460 value)

-4 rounds of golf to Crosswinds Golf and Country Club ($450 value)

-Gift Certificates to

Kelly's Bake Shoppe

JP Personal Training

The Brick Oven Bakery

MAX Resto Lounge

Barber's Mark

Salads are being provided by The Deli House (https://www.facebook.com/TheDeliHouse1979/)

Hope to see you there,

Rory

"PILLOW PAL"
Handmade by
Elizabeth
(Gary's Mama)
1
2
3
4
6
7
8
9

ELECT
RORY
NISAN
WARD 3
COUNCILLOR
ELECT
RORY
NISAN
WARD
COUNCILLOR

RAFFLE TICKETS
LAWN SIGN
RAFFLE TICKET
PUTTING COMPETITION
Mill St. BREWERY
GREAT BEER LIVES HERE.

(CITY OF BURLINGTON)

MUNICIPAL ELECTION COMPLIANCE AUDIT COMMITTEE

IN THE MATTER OF THE APPLICATION FOR COMPLIANCE AUDIT – RORY NISAN

BRIEF FILED ON BEHALF OF COUNCILLOR RORY NISAN

January 15, 2020

GORDON E. PETCH
Municipal Law Chambers
211-277 Lakeshore Road E.
Oakville, ON L6J 1H9
Tel:416-720-7103
email: gpetch@mlawc.com

Lawyer for Rory Nisan

INDEX

TAB

1. Legal Brief of Gordon E. Petch, January 15, 2020

SCHEDULE

A. Application for a Compliance Audit dated, June 22, 2019.

B. Decision of Compliance Audit Committee meeting held on July 22, 2019

C. G. Petch Letter to Tim Commisso, City Manager dated, August 14, 2019

D. 2018 Election Results, City and Regional Councillor – Ward 3 Votes

E. Decision in *Lancaster v. CAC St. Catherines* 2012 ONSC 5629

F. Decision in *Lryas v. Heaps*, 2008 ONCJ 254

2. Submissions of Rory Nisan, January 15, 2020

SCHEDULE

A. List of raffle items returned prior to being used.

B. Colin Gray Letter, dated November 1, 2019.

C. City of Burlington Guide for Candidates

D. 2018 Candidates' Guide for Ontario municipal council and school board elections

E. Statement of Rory Nisan released September 11, 2018.

F. Statement of Rory Nisan published in Burlington Gazette on September 12, 2018.

G. Rory Nisan reply to Mr. Gray in response to his email soliciting his auditing services, dated September 11, 2018.

H. Invoice/Receipt of .com domain registration for rorynisan.com, dated January 19, 2019

TAB 1

MUNICIPAL ELECTION COMPLIANCE AUDIT COMMITTEE

CITY OF BURLINGTON

IN THE MATTER OF THE APPLICATION FOR COMPLIANCE AUDIT – RORY NISAN

BRIEF FILED ON BEHALF OF COUNCILLOR RORY NISAN

(Dated January 15, 2020)

BACKGROUND

1. By Application dated June 22, 2019 ("Application") D. Luke McEachern ("McEachern" or "Complainant") filed with the Clerk for the City of Burlington ("City") an Application for a Compliance Audit of the financial statements and auditor's report filed by Rory Nisan ("Nisan") pursuant to Section 88.33 (1) of the Municipal Elections Act, 1996, S.O. 1996,c. 32 Schedule ("MEA"). A copy of the said Application is attached hereto as **Schedule "A"**.

2. Two contraventions of the Act were alleged:

   a. firstly, that a website created by Nisan prior to May 1, 2018 was used for campaign purposes and;
   b. secondly, that with regard to a Raffle held on September 9, 2018, Nisan failed to report:
      i. "solicited gifts for Raffle for fundraising purposes;
      ii. "receipts for gifts not accounted for";
      iii. "return of gifts not receipted?"; and
      iv. "gift of 4 one-month unlimited yoga corporation '7th Wave' 4 X $79.00=$316.00 Receipt? Return Receipt".

3. As noted on Schedule "A" to Nisan's Submission the total dollar value of all Goods and Services items that were returned with regard to the said Raffle was $1,806.00. The allegation is that Nisan failed to properly report the return of these items in Form 4.

4. The Compliance Audit Committee ("CAC") held a meeting on July 22, 2019 at which they rendered a Decision (**Schedule "B"**):

   a. Dismissing the Complaint regarding the website on the grounds that there was "No sufficient evidence that the website was ever used for campaign purposes prior to May 1, 2018."
   b. Allowing the Complaint with regard to the Raffle on the grounds "There was reasonable grounds to proceed with an audit based on the lack of

information provided on the monetary and non-monetary contributions to the Raffle Event".

5. McEachern did not challenge the Decision of the CAC dismissing his complaint regarding the website. Nor of course did Nisan. Therefore, in my submission the only matter before the CAC has jurisdiction to consider is the second complaint regarding the Raffle.

6. By letter dated August 14, 2019 to Mr. Tim Commisso, City Manager, a copy of which is attached hereto as **Schedule "C",** I, as legal counsel for Nisan, challenged the legality of the process of the CAC's Decision relating to the Raffle Event, as the Decision was not made in public session. I also challenged whether or not a quorum for such Decision existed, seeking a re-hearing before the entire CAC. The request for such rehearing was granted which is the subject matter for the rehearing on January 23, 2020.

7. One of the concerns of Nisan was that he was not allowed to defer the meeting to obtain additional information for the CAC to answer some of their questions. In my submission, it was this failure that resulted in the negative finding of the CAC. In this new hearing there is substantial new evidence provided to the CAC which I trust will result in a decision dismissing the second allegation and thereby the Application in toto.

THE FACTS

8. Included with this Brief is a written submission by Nisan detailing all relevant facts with supporting documentation with regard to both the Raffle and the Website (even though I consider the latter irrelevant).

9. The municipal election was held on October 21, 2018. The Applicant McEachern is the husband of Lisa Cooper ("Cooper") and who ran against Nisan and Gareth Williams ("Williams") and 2 other candidates Darcey Hutzel and Peter Rusin (total of 5 candidates) for election for Ward 3. Nisan was successful obtaining 54% of the vote, Williams came in second with 23% and Cooper finished third obtaining 12%. The fact that McEachern is the husband of Cooper is not revealed on the Application. **(Schedule "D")**

10. Following the election McEachern filed Applications under the MEA against Nisan and Williams but none of the other candidates. The Application against Williams was dismissed by the CAC.

11. I am advised by Nisan that the two candidates finishing lower than Cooper, namely Hutzel and Rusin failed to file the financial statements as required by S. 88.25, yet

McEachern did not file a Complaint against these candidates, even though I understand neither of these candidates filed financial statements.

12. It is also relevant to note that at no time prior to filing the Application did Cooper or McEachern consult Nisan with their concerns to try to understand all relevant facts and perhaps resolve matters before commencing these proceedings.

THE RAFFLE

13. The Raffle was part of a BBQ held on September 9, 2018.

14. When Nisan was advised by the City Clerk on September 10, 2018 that he needed a license for the Raffle he contacted the Ministry of Municipal Affairs and Housing to obtain advice on the donations related to the Raffle and was advised that the Ministry could not give definitive advice as to whether the donation would be perceived as corporate donations.

15. Upon realizing that he could not guarantee his donations would be found compliant and upon realizing that he should not have held the Raffle, he immediately advised everyone that the Raffle was cancelled and that he was returning all gift certificates and monies raised. He also issued a press statement on September 11, 2018 to the same effect so the public were fully informed. This statement was widely reported in the local media the following day on September 12, 2018 which would also come to the attention of candidate Cooper and her husband.

16. On September 11, 2018 Nisan responded to an email from Mr. Gray, a Certified Professional Accountant ("CPA") offering his audit experience to provide advice and complete the required statements. This was a timely email because Nisan was obviously concerned about the Raffle issues and wanted to seek his advice on same, and so indicated in his responding email.

17. Nisan met with and retained Mr. Gray on September 20, 2018 and specifically sought his advice of the cancelled Raffle issues. Mr. Gray advised him that having cancelled the Raffle and returned all items as required by the MEA, he had taken all required steps and that there was nothing further he was required to do and no further action was required.

18. Following the election Nisan met with Mr. Gray on December 19, 2018 to submit his draft Form 4. While there he specifically asked Mr. Gray about the reporting requirements relating to the cancelled Raffle. Mr. Gray again advised that since all Goods and Services were returned, they need not be reported because they had never been used and were not considered "contributions" under the MEA.

19. On January 28, 2019 Nisan provided Mr. Gray with all financial documents and advice relating to the cancelled Raffle and was again advised that such need not be reported and that in his experience he had never been required to report returned Goods and Services at any election level. As further proof of same he advised Nisan that there is no location on Form 4 to digitally insert such information. As noted in Mr. Gray's letter dated November 1, 2019, Mr. Gray continues to hold that opinion today.

20. Therefore, Nisan totally relied on the expert advice of Mr. Gray and did everything reasonably possible to have Form 4 properly completed by Mr. Gray. As noted by Mr. Gray in the penultimate paragraph on page 2 of his letter:

> **"In my professional opinion Mr. Nisan has been completely open and forthright with me and provided me with all the financials related to the voided raffle. It was and continues to be my opinion that Mr. Nisan's accounting and reporting treatment of the raffle complied fully with the Municipal Elections Act 1996."**

21. I submit the above facts clearly demonstrate that Councillor Nisan acted honestly and transparently at all times with no intent to deceive and did all that he could do to remedy the situation with the cancelled Raffle. If there were any errors in the reporting of same in the financial statements there were the result of the professional advice of Mr. Gray, with which Nisan was reasonably entitled to rely, and not by Nisan.

THE LAW

22. Pursuant to S. 88.33(7) and (8) of the MEA the CAC's jurisdiction is confined to "consider the application" and "to grant or reject the application". Therefor the issue before the CAC relate to the issues described in the Application regarding the Raffle.

23. As the CAC is aware the MEA was amended in 2016. However, the current provisions of S. 88.33(1) are substantially the same as the previous provisions of S. 81(1). For this reason, court decisions post 2016 continue to rely on previous decisions relating to the meaning of this section.

24. S. 88.33(1) provides as follows and the underlined words were added with the 2016 amendment.

    S. 88.33(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, even if the candidate has not filed a financial statement under section 88.25.

Lancaster v. CAC St. Catherines 2012 ONSC 5629

25. The highlighted words have been judicially considered on numerous occasions to clarify what the role of the CAC is. The decision of the Superior Court in Lancaster (attached hereto as **Schedule "E"**) is an appeal from a decision of the Ontario Court of Justice that is often quoted and is most relevant to the current matter. In Lancaster corporate donations from related companies were made to several candidates in the 2010 municipal election, each being in excess of the $750 limit for corporate donations, contrary to the MEA. Generally, the candidates were unaware of breach of the MEA until the Complaint was filed following which they immediately returned the donations.

26. The Court then considered the relevance of the words requiring the Elector to have "reasonable grounds" to file a Complaint as a condition of doing so. Commencing at para [62] the Court, relying on an earlier Decision, explains that "the subject belief of the elector '**applies only to the commencement of the 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. The Court went further to rely on the earlier Decision in *Lyras v. Heaps,* 2008 ONCJ 254, and 2008 CarswellOnt 6348 at para 23 (attached hereto as **Schedule "F"),** to confirm that:

> "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 maters 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."

27. Before proceeding further it is necessary to consider the advice of the Court in Lyras [para 18] ruling that the CAC is acting as a "Gatekeeper" to assess on its own, considering not whether the Complainant had reasonable grounds to support his/her belief but rather it is up the CAC to consider all of the evidence, after hearing from the candidate and any other witnesses, whether or not a Compliance is Warranted considering all of the circumstances.

28. At para [72] in Lancaster the Court followed the ruling in Lyras and explained that the finding by the Committee of a breach of the MEA 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..."

29. At para [84] and [85] the Court expands on its reasons in para [72] to explain **that contravention of the Act alone is not sufficient to warrant an audit.** The Committee must also consider the "intention" of the candidate. **The absence of "intent" to breach the act is a defense to the breach and the candidate's actions need to be reviewed by the Committee to determine this issue**. At para [85] the Court explained that "**the Committee is doing more than considering if the Act has been breached; it is deciding whether an audit is warranted**."

30. Relying on the above the Court reviewed the evidence and determined that as soon as the candidates learned from the Complaint of the improper contribution, they returned the monies as was required by S. 69(1)(m) of the MEA - which is the same requirement in S. 88.22(1)(o) of the current MEA. Relying on the lower Court's Decision [para 65] this appellate Court found [para 87] that the candidates had fully complied with the Act and that "the only reasonable conclusion that the Committee could have reached was that there were not reasonable grounds to believe that the candidates had contravened the *Act*".

31. At para [94] the Court further advises that "unintentional" omissions on Form 4 do not warrant a compliance audit.

32. One of the other long understood and followed principles established in Lyras [para 37] is that of "*de mimimis*" or "negligible" meaning that where the breach of the Act is so minor such does not warrant a Compliance Audit.

33. S. 88.15(1) of the MEA, under the heading "What constitutes a contribution for an election campaign" provides that:

> "For the purposes of this Act, money goods and services given to **and accepted** by a person for his or her election campaign, or given to **and accepted** by another person who is acting under the person's direction, are contributions."

34. It therefore follows that those Goods and Services which are returned in accordance with S. 88.15(1) are **not** "**accepted**" and therefore are not "contributions for purposes of the MEA.

ANALYSIS

35. For the CAC to order a Compliance Audit against an elected Councillor is a serious challenge to his/her integrity and their political future and should not be undertaken lightly. Similarly, if the Compliance Audit is ordered, it is not just with regard to the allegations contained in the Application, but the auditor must review all of the candidate's election finances. If the audit reveals there has been no breach of the MEA, or that it was innocent, inadvertent or unintentional or minor then the CAC will have no justification but to dismiss the Application. However, in those circumstances the cost of the Compliance Audit must be borne by the municipality and the public at large, and not by the Complainant. It is for the same reason that S. 92(2) of the MEA provides that even where there is a breach of the MEA the presiding Judge when deliberating on a prosecution following the Compliance Audit cannot be ordered to forfeit his office if the candidate "committed the offence inadvertently or because of an error in judgement."

36. As the Courts have consistently ruled, whether or not the Complainant had "reasonable" grounds to file the Complaint, is not the issue. It is whether the CAC, after considering all of the relevant circumstances, facts and law, can conclude that a Compliance Audit is warranted.

37. Clearly the Complainant did not have the benefit at the time of filing his Complaint of the explanation of Nisan and his accountant Gray of the efforts of Nisan to return and properly report all the returned contributions resulting from the cancelled Raffle and made no effort to discuss same with Nisan prior to filing the Complaint.

38. Nor would Complainant be qualified to understand the significance of S. 88.15(1) with regard to "returned" items, nor the case law stipulating that the "return" of such contributions, as required by S. 88.22(1)(o), is considered by the Courts as an act of compliance with the MEA and not a breach.

39. Nor would the Complainant know that the Court's position that "de minimis" or "negligible" breaches of the Act do not warrant a compliance audit and that the honest failure to report $316.00 for 4 yoga lessons would be considered so minor as to not warrant a compliance audit.

40. Nor would the Complainant know that Nisan immediately sought advice from MMAH as to how to treat the Raffle and also sought professional advice from Mr. Gray who advised that it was not necessary to report cancelled and returned Goods and Services raffle items on Form 4.

41. Only the CAC would now be aware of all of these factors, thus the requirement for the CAC to take all such evidence into account to determine whether or not a Compliance Audit is warranted.

Complainant's Bona Fides

42. As noted above, the Courts require the CAC to consider all relevant facts. In doing the motives and bona fides of the Complainant, just like any plaintiff in a civil action, must be taken into account.

43. Therefore, the CAC must take into account the fact that Nisan issued a press release on September 11, 2018 after cancelling the BBQ and Raffle hosted on September 9, 2018 with reasons including that he had made an error. This was widely reported by the local media on September 12, 2018 advising the public and thereby Complainant that he had cancelled the Raffle because of his failure to obtain a permit for same and that he "had already returned almost all contributions and am in the process of contacting the raffle participants to provide refunds". Nisan never received any request for clarification from the wither candidate Cooper nor her husband Complainant prior to filing his Complaint.

44. The Courts and other CAC's have always been cautious when it is the defeated candidate that files the Application because it may be for ulterior motives and the issue needs to be reviewed. This is different from Applicants who are not candidates but are legitimate "public interest" litigators, legitimately attempting to protect the election process and the public interest.

45. The fact that McEachern and not Cooper filed the Application and that the Application did not reveal their relationship should raise the first caution or "red flag".

46. The fact that neither McEachern nor Cooper attempted to reach out to Nisan to fully inform themselves and resolve their concerns privately before filing the Application is significant. I understand from the news media that Cooper ran unsuccessfully for municipal office on three previous occasions and would therefore, as an experienced candidate, know that filing this Application has the clear potential to produce politically and personally punishing results for Nisan.

47. The fact that McEachern filed Applications only against the two candidates in Ward 3 that finished higher than his wife is also relevant for two reasons. Firstly, if Nisan's Application was successful, such could lead to both Cooper and Williams being considered for appointment to Council to replace Nisan. If both the Nisan and Williams Applications were successful such would likely lead to Cooper being appointed by Council to replace Nisan. Secondly, if the purpose of the filing of the

Application is to protect the integrity of the election process and further the public interest, then why did McEachern not file Applications against Darcy Hutzel and Peter Rusin when both of them failed to file financial statements as required by S. 88.25 of the MEA. Accordingly, the public remains unaware of how their campaigns were funded. Applications against those two candidates would have brought far more transparency to the Ward 3 election and served a public purpose.

48. All of the foregoing is highly relevant to whether or not the Complainant really did "believe on reasonable grounds" that a serious breach of the MEA had occurred which warranted a Compliance Audit.

In Conclusion

49. Based on the evidence filed, it is clearly obvious that Councillor Nisan is an extremely honest and careful person. As soon as he was advised that his Raffle was not permitted without a permit, he immediately began returning all contributions and issued a press release advising the electorate that he had made a mistake and was doing everything possible to correct same. He sought advice from MMAH and retained Mr. Gray to get professional advice as to whether or not he had done all that he could do to correct the situation.

50. When it came time to prepare Form 4, he met with Mr. Gray, questioned him consistently about the proper reporting of the returned Goods and Service items on Form 4 and followed Mr. Gray's advice

51. When the CAC made its first decision on July 22, 2019, he immediately sought legal advice and retained me to assist him. I asked for a meeting with he and Mr. Gray to obtain Mr. Gray's advice as to whether or not Councillor Nisan had provided him with all the required information and documentation to allow him to properly complete his audit and Form 4. Mr. Gray's letter of November 1, 2019 confirms Councillor Nisan did so with complete transparency and accuracy.

52. Whatever the errors were in the completion of the financial statements and audit and the completion of Form 4, it is clear the errors were made by Mr. Gray and not Councillor Nisan. The failure by Mr. Gray to report the returned Goods and Services items in Form 4 are a legal issue and legitimately held by Mr. Gray. Any errors relating to the reporting of the finances relating to the Raffle were honestly made, "inadvertent" and "de minimis" both by Nisan and Mr. Gray.

53. Councillor Nisan's expenses were well below the statutory limit so there was no advantage for him to fail to report the returned Raffle items.

54. Premised on all of the above I respectfully submit there is no justification for the CAC to order a Compliance Audit and to do so would be contrary to law.

Website

55. As noted above, my position regarding the dismissal of the Complaint regarding the website has not been appealed and the CAC has no jurisdiction to consider same. However, if the CAC feels differently, Councillor Nisan has dealt with such in his submission, which I believe supports the CAC's Decision on July 22, 2019 to dismiss same.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 15th DAY OF JANUARY 2020

GORDON E. PETCH
Municipal Law Chambers
211-277 Lakeshore Road E.
Oakville, ON L6J 1H9
LSUC # 013089C
T: 416-720-7103
E: gpetch@mlawc.com
Lawyer for Rory Nisan

TAB A

Application for a Compliance Audit

Municipal Elections Act, 1996, 81(2)

INSTRUCTIONS: Completed applications for a compliance audit for a candidate for Mayor or Council can be:

- hand delivered or sent by regular mail to the City of Burlington, Attention: City Clerk, 426 Brant Street, Burlington, ON, L7R 3Z6
- sent by fax to 905-335-7675 to the attention of the City Clerk, or
- emailed to citycleks@burlington.ca

Applications are due June 25, 2015

Compliance audit applications for candidates for Regional Chair must be sent to the Clerk of the Region of Halton.

Applicant Information		
Last Name: McEachern	First Name: D. Luke	
Mailing Address: 1299 Princeton Cres.	City/Town: Burlington	Postal Code: L7P 2K9
Address or Description of Property that Qualifies the Applicant as an Elector in the City of Burlington: 1299 Princeton Crescent Burlington ON		
Email Address: LukeMcEachern@gmail.com	Business Phone: 289 941 2996	Home Phone: 905 331 8469

Requesting a Compliance Audit of the Campaign Expenses of:		
Candidate's Last Name: NISAN	Candidate's First Name: Rory	
Name of the Office for Which the Candidate Sought Election: City + Regional Councillor Ward 3		
Filing Date of Candidate's Financial Statement: Day 22	Month MARCH	Year 2019

Reasons for Compliance Audit

In the area below, provide the reason(s) why you believe the candidate named above has contravened the *Municipal Elections Act, 1996* relating to campaign finances. (Attach additional pages if necessary).

1. Candidate Solicited Gifts for Raffle FOR FUNDRAISING PURPOSES.
- RECEIPTS FOR GIFTS NOT ACCOUNTED FOR
- RETURN OF GIFTS NOT RECEIPTED?

Continued from Page 1

- Gift of 4 x ONE MONTH UNLIMITED YOGA CORPORATION '7TH WAVE' 4 x 79.00 = $316.00
Receipt? Return Receipt?

(2) Candidate Website: RoryNisan.Ca
Was purchased/created 2018-01-19
- Purchase activation is outside of Allowable Campaign Period.
- Candidate should have acquired CAMPAIGN SITE AFTER INITIAL CAMPAIGN PERIOD.

Distribution and Cost Recovery

This application will be shared with the candidate, the Joint Compliance Audit Committee, the auditor chosen to investigate this application (if applicable), Burlington Council and will be posted on City of Burlington website. If this application is forwarded to an auditor and the auditor's report concludes that there was no apparent contravention of the *Municipal Elections Act, 1996* and the Joint Compliance Audit Committee finds there are no reasonable grounds for this application, Burlington Council is entitled to recover the auditor's costs from you.

Total Pages Submitted, Including Attachments –

Six Pages (6)

I confirm that the information provided in this application is complete and accurate to the best of my knowledge, that I have read the Distribution and Cost Recovery information above, and that I am eligible under the Municipal Elections Act, 1996 to vote in an election for the City of Burlington.

Signature	Date
[signature]	22.6.19

Office Use Only	
Received By	Date

Personal information contained on this form is collected under the authority of the *Municipal Elections Act, 1996*, s. 81.1. The information will be used to respond to your application for a compliance audit. Pursuant to s. 88 of the *Municipal Elections Act, 1996*, this document is a public record, despite anything in the *Municipal Freedom of Information and Protection of Privacy Act*, and until its destruction, may be inspected by any person at the Clerk's Office at any time when the office is open. Questions about this collection can be directed to the City of Burlington, Attention: City Clerk, 426 Brant Street, Burlington, ON, L7R 3Z6 or at citycleks@burlington.ca

TAB B

CITY OF Burlington

DECISION July 22, 2019

Municipal Election Compliance Audit Committee

IN THE MATTER OF the application for Compliance Audit – Rory Nisan

WHEREAS, in accordance with subsection 88.33 of the Act, within 30 days after receiving the Application, the Committee shall consider the Application and decide whether to grant or reject the Application; and

WHEREAS, a meeting of the Compliance Audit Committee was held on July 22, 2019 at 3:00 p.m. a the City of Burlington City Hall to review the Application.

THEREFORE the decision of the Compliance Audit Committee is as follows:

THE Compliance Audit Committee has decided to ~~to~~ grant / reject the application for a compliance audit – Rory Nisan.

The reasons of the Compliance Audit Committee are as follows:

- No sufficient evidence that the website was used for campaign purposes prior to May 1/2018.
- There was reasonable grounds to proceed with an audit, based on the lack of information provided on the ~~monte~~ monetary and non-monetary contributions to the Raffle Event.

CITY OF
Burlington

Tazriah Alam
Compliance Audit Committee Member

Keith Doxsee
Compliance Audit Committee Member

Scott Tipping
Compliance Audit Committee Member

Melissa Coulson
Compliance Audit Committee Member

TAB C

GORDON E. PETCH
- Barrister -
REAL ESTATE DEVELOPMENT | MUNICIPAL LAW | ENVIRONMENTAL LAW

August 14, 2019

VIA EMAIL: tim.commisso@burlington.ca

Mr. Tim Commisso
City Manager, City of Burlington
426 Brant Street,
Burlington, ON,
L7R 3Z6

Dear Mr. Commisso:

Re: Councillor Rory Nisan/ Compliance Audit Committee Decision July 22, 2019

I have been retained by Mr. Rory Nisan, City and Regional Councillor of Ward 3 in Burlington, Ontario with regard to the Decision of the Compliance Audit Committee dated July 22, 2019 ("Decision"). In reviewing the July 22, 2019 meeting of the Compliance Audit Committee ("Committee") as it pertains to the application requesting a compliance audit of my client, I have serious concerns regarding the process and Decision made. I acknowledge that my client could have appealed the Decision to the Superior Court, but, as I am sure you are aware, the costs of such are prohibitive, particularly when considering the complaint relates to $316 worth of coupons for Yoga sessions that were returned. Similarly, the costs to the public for the Municipality to defend need to be taken into account. Nevertheless, the negative finding of the Committee has significant political consequences for any elected official thereby requiring strict compliance by the Committee with the legislative requirements when conducting its meeting to ensure procedural fairness and the rules of natural justice. For the following reasons I am of the opinion such requirements were not followed by the Committee when reaching its Decision:

1. The Decision was signed and therefore made by only three members of the Committee which has a quorum of four members. Although four members attended the public portion of the meeting the Decision was made in the private portion of the hearing which did not allow for public oversight. The decision letter is the only relevant formal outcome of the Committee.

Royal Building
277 Lakeshore Road East, Suite 211
Oakville ON L6J 1H9

MLC
Municipal Law Chambers

Toronto Meeting Rooms
Brookfield Place, 161 Bay Street, Suite 2700
Toronto ON M5J 2S1

TELEPHONE: 416-955-9530 | CELLULAR: 416-720-7103 | EMAIL: gpetch@mlawc.com | FACSIMILE: 416-955-9532
www.MunicipalLawChambers.com

2. The Municipal Elections Act ("the *MEA*") states under the heading "Open meetings" at section 88.33(5.1) that "The meetings of the Committee under this section shall be **open to the public**, but the Committee may **deliberate in private**." This does not allow for the Decision to be made in private. However, there was no vote in public and the parties were only informed the following day of the Decision when it was posted online. My client waited for an opportunity to see the vote via webcast but it never took place. I consider this a violation of the *MEA* and contrary to the rules of natural justice.

3. The Decision of the Committee states that the Decision was partially based on "the lack of information provided on the monetary…contributions to the raffle." However, the complainant did not raise this as an issue in the application for a compliance audit. Section 88.33(7) of the *MEA* states that "…the committee shall consider the application and decide whether it should be granted or rejected." The *MEA* does not grant the Committee the power to consider factors outside of the application, but the Committee made this decision partially based on "monetary contributions" which were not a subject of the application.

4. The question of monetary contributions was raised by a member of the Committee to my client, who responded unequivocally that all monetary contributions had been returned. My client had available his handwritten notes indicating the return of all raffle sales, but the Committee did not ask for evidence in this regard.

5. The Committee requested a total value of all items involved in the cancelled raffle. My client did not have the total on his person but offered to retrieve it quickly for the Committee. The Committee did not recess or otherwise provide the opportunity for my client to provide this information, yet the Committee then cited "the lack of information provided on the…non-monetary contributions to the raffle" in its Decision to grant a compliance audit.

6. A Committee member questioned why a column in the financial return did not list non-monetary contributions returned. Unknown to the member at that time was that this column was formatted to be a total of monetary contributions returned and is automatically filled as a sum of all monetary contributions returned in the schedule on the same page. My client could have confirmed this information if given the opportunity to review the .pdf form.

A compliance audit would carry a substantial cost to the City – a recent audit of a candidate in Toronto cost that city $181,469. Before embarking on this expensive process, it is incumbent on the City of Burlington, under your leadership, to ensure that Decisions are arrived at fairly and transparently, and by a majority of any Committee's membership. The lack of a majority on the Committee means that no Decision was made. I therefore request that you require the Committee to reconvene to reconsider this matter with <u>all members</u> of the Committee in attendance to ensure fairness in the rehearing. At that hearing, my client will be able to provide further information responding to potential concerns of Committee members regarding lack of information, which could have been supplied and should have been requested by the Committee. The Committee can also be reminded to only consider the issues raised by the applicant.

In the interim, the proposed audit should be deferred pending the Decision resulting from the rehearing.

I would be grateful for your response at your earliest convenience so that this process can be concluded expeditiously.

Sincerely,

Gordon Petch
GEP/dh

cc: Rory Nisan via rnisan@gmail.com

TAB D

CITY OF Burlington

Select Language ▼

2018 Election Results - Official

Certificate of Election Results - Election 2018

City Clerk Angela Morgan has released the official results of the 2018 Election.

- Polls Reported: 28 of 28 [100.00%]
- Ballots Cast: 51,021
- Turnout: 39.79%
- View the Certificate of Election Results–2018 [PDF]
- View the Per Poll Results [PDF]

City and Regional Councillor - Ward 3

City and Regional Councillor - Ward 3: Total Votes - 6,415

Candidate	Votes	%
Rory NISAN	3,467	54.05%
Gareth WILLIAMS	1,451	22.62%
Lisa COOPER	764	11.91%
Darcy HUTZEL	542	8.45%
Peter RUSIN	191	2.98%

City and Regional Councillor - Ward 3: Per Polls Reported

City and Regional Councillor - Ward 3

City and Regional Councillor - Ward 3: Total Votes - 6,415
City and Regional Councillor - Ward 3: Per Polls Reported

Polls	Lisa COOPER	Darcy HUTZEL	Rory NISAN	Peter RUSIN	Gareth WILLIAMS
Internet Voting	180	131	785	34	370
W3 - Brant Hills Community Centre	187	213	1,395	65	433
W3 - Conservation Halton	57	44	162	28	219
W3 - M.M. Robinson High School	109	73	429	23	150
W3 - Mountainside Community Centre	171	59	572	30	222
Mapleview Shopping Centre CW Adv	26	9	61	2	28
Tansley Woods Community Centre CW Adv	13	10	52	1	22
Special Locations	21	3	11	8	7
Total	**764**	**542**	**3,467**	**191**	**1,451**

TAB E

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

Subject: Public; Property

Related Abridgment Classifications

Public law
II Elections
  II.6 Candidates
    II.6.c Expenses

Headnote

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

Public law --- Elections — Candidates — Expenses
Appellant applied to Compliance Audit Committee ("committee") of city for compliance audit of campaign finances of three candidates — Audit committee dismissed applicant's application — Appellant appealed decision of audit committee — Appeal was dismissed — Appellant appealed — Appeal dismissed — Although it was unreasonable and error for committee and Ontario Court of Justice, respectively, to have found that Act had not been breached, it was correspondingly reasonable and correct not to proceed with audit.

Table of Authorities

Cases considered by *J.W. Quinn J.*:

Braid v. Georgian Bay (Township) (2011), 2011 ONSC 3618, 2011 CarswellOnt 4677, 83 M.P.L.R. (4th) 335 (Ont. S.C.J.) — considered

Chapman v. Hamilton (City) (2005), 2005 ONCJ 158, 2005 CarswellOnt 1914, 10 M.P.L.R. (4th) 120 (Ont. C.J.) — considered

Lyras v. Heaps (2008), 2008 ONCJ 524, 2008 CarswellOnt 6348, 51 M.P.L.R. (4th) 277 (Ont. C.J.) — considered

New Brunswick (Board of Management) v. Dunsmuir (2008), 372 N.R. 1, 69 Admin. L.R. (4th) 1, 69 Imm. L.R. (3d) 1, (sub nom. *Dunsmuir v. New Brunswick)* [2008] 1 S.C.R. 190, 844 A.P.R. 1, (sub nom. *Dunsmuir v. New Brunswick)* 2008 C.L.L.C. 220-020, D.T.E. 2008T-223, 329 N.B.R. (2d) 1, (sub nom. *Dunsmuir v. New Brunswick)* 170 L.A.C. (4th) 1, (sub nom. *Dunsmuir v. New Brunswick)* 291 D.L.R. (4th) 577, 2008 CarswellNB 124, 2008 CarswellNB 125, 2008 SCC 9, 64 C.C.E.L. (3d) 1, (sub nom. *Dunsmuir v. New Brunswick)* 95 L.C.R. 65 (S.C.C.) — followed

Statutes considered:

Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.)
s. 256 — considered

Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched.
Generally — referred to

s. 69(1)(m) — considered

s. 70(8) — considered

s. 71(1) — considered

s. 72 — considered

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

s. 77(a) — considered

s. 78(1) — considered

s. 78(1)(a) — referred to

s. 80(1)(a) — referred to

s. 80(2)(a) — referred to

s. 81(1) — considered

s. 81(5) — considered

s. 81(6) — considered

s. 81(7) — referred to

s. 81(14)(a) — referred to

s. 81(14)(b) — referred to

s. 81(15) — referred to

s. 81.1(2) [en. 2009, c. 33, Sched. 21, s. 8(44)] — considered

s. 81.1(4) [en. 2009, c. 33, Sched. 21, s. 8(44)] — considered

s. 92(5) — considered

APPEAL by appellant from decision reported at *Lancaster v. St. Catharines (City)* (2012), 2012 ONCJ 70, 2012 CarswellOnt 1595, 95 M.P.L.R. (4th) 113 (Ont. C.J.), which dismissed appeal of decision of audit committee.

***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.

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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.

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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."

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

- 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.

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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:

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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
Baumgarti & 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 ...

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

> 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.

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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.

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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:

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

> ... 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 $750[20] 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.

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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 —

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

"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

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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.

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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.

WestlawNext CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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.

WestlawNext. CANADA Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

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?

End of Document Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

 Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

TAB F

Lyras v. Heaps, [2008] O.J. No. 4243

Ontario Judgments

Ontario Court of Justice

Toronto, Ontario

M.E. Lane J.

October 17, 2008.

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

Between John Lyras Applicant (Appellant in Appeal), and Adrian Heaps and Compliance Audit Committee of the City of Toronto Respondents (Respondents in Appeal)

(44 paras.)

Case Summary

Government law — Elections — Candidates — Expenses — Regulation — Election financing — Maximum election expenses — Appeals and judicial review — Jurisdiction — Ontario — Appeal by applicant for compliance audit of councillor's election campaign finances from rejection of application dismissed — Panel of Compliance Audit Committee reasonably concluded audit not necessary — Evidence showing councillor claimed lower than market costs for web design and flyer supported by evidence from councillor showing services provided for free or low cost — Cost of councillor's personal telephone lines did not have to be claimed — Subsequent higher rent charged for former campaign office not relevant — Municipal Elections Act, ss. 66, 81.

Municipal law — Government — Council members — Campaign financing — Expenses — Disclosure — Committees — Appeal by applicant for compliance audit of councillor's election campaign finances from rejection of application dismissed — Panel of Compliance Audit Committee reasonably concluded audit not necessary — Evidence showing councillor claimed lower than market costs for web design and flyer supported by evidence from councillor showing services provided for free or low cost — Cost of councillor's personal telephone lines did not have to be claimed — Subsequent higher rent charged for former campaign office not relevant.

Appeal by Lyras from a decision by Toronto's Compliance Audit Committee, rejecting his application for a compliance audit of the election campaign finances of Heaps. Heaps was a municipal councillor elected on November 16, 2006. He filed his financial statement on March 29, 2007. His expenses of $24,354 fell within the spending limit for the campaign, which was $25,957. Lyras had worked on the campaign of Heaps' competitor. He applied for the compliance audit on June 29, 2007, alleging Heaps incurred expenses in excess of his reported limit, and failed to account for goods and services purchased for less than their full market value. He pointed to the fact Heaps did not disclose the cost of his campaign website, professionally created and containing 30 pages of information, other than claiming $120 for three months of web hosting. Lyras obtained two quotes for the design, both of which would have placed Heaps' expenses outside the campaign spending limit. Heaps responded the design was voluntary unpaid labour, an exemption from the definition of contribution under the Municipal Elections Act. Lyras also noted Heaps did not account for the use of two telephone numbers which were advertised on his website. Heaps responded these were personal numbers used only for a few campaign related calls. Lyras claimed Heaps failed to fully account for the cost of 15,000 flyers distributed during

the campaign, claimed at $300 but valued at $2,494. Finally, Lyras obtained a quote to rent the officer Heaps had used during the campaign for $1200 monthly, while Heaps had claimed he paid $800 per month for the space. The three-member Committee panel reviewed the evidence submitted by Heaps and Lyras and voted two-to-one against ordering the audit. No reasons were provided for the decision.

HELD: Appeal dismissed.

The Committee had sufficient information before it to conclude there were no reasonable grounds to order an audit. The statutory exemption for voluntary unpaid labour was reasonably applied by the Committee in coming to its decision. The quality of the website or the fact other candidates may have paid for similar web design service were not relevant. Heaps was not required to account for the costs of his personal telephone lines. He provided an invoice to support the amount he claimed for having the flyers produced. The subsequent rent charged for the former campaign office was not relevant.

Statutes, Regulations and Rules Cited:

Municipal Elections Act, 1996, *S.O. 1996, c. 32, Schedule, s. 66*(2), Rule 2(iv), s. 66(2), Rule 2(i), s. 66(3), s. 81, s. 81(1), s. 81(2), s. 81(3.1), s. 81(3.2), s. 81(3.3), s. 81(4)

Counsel

Ronald J. Walker, Charles A. Toth: counsel for the appellant John Lyras.

Paula Boutis: counsel for the respondent Adrian Heaps.

Kalli Y. Chapman: counsel for the respondent Compliance Audit Committee of the City of Toronto.

REASONS FOR JUDGMENT

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 *Dunsmuir v. New Brunswick, [2008] 1 S.C.R. 190, 2008 SCC 9 (CanLII)* 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* and *Savage v. Niagara Falls (City), [2005] O.J. No. 5694* 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 *Sean Harrison v. the Toronto District School Board and Michael Coteau, 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, l996." 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 and Sanchez* 93 C.C.C. (3d) 357 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,* 27 M.P.L.R.(2nd) 18 *(MacDonnell Prov. J.) and Harris v. Ottawa (City),* 27 M.P.L.R. (2d) 36 *(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. Lee* (2006) 210 C.C.C. (3d) 181 *(BCCA) leaved to appeal to SCC refused,* [2006] S.C.C.A. No. 280; *Mugesera v. Canada (Minister of Citizenship and Immigration)* (2005) 197 C.C.C. (3d) 233 *(SCC) 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* 27 C.C.C. (3d) 97 *(SCC).* 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 *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 <u>purchased</u> 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 <u>not</u> contributions." Section 66(3) describing how to value goods and services only applies to "goods and services provided <u>as a contribution</u>." (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.

Gordon Petch

M.E. LANE J.

End of Document

TAB 2

15 January 2020

Written Submissions– Rory Nisan

Cancelled Raffle

The compliance audit request in question relates to a claim that I should have receipted in the Auditor's Report Form 4, the return of unused, in-kind contributions of goods and services, including a gift of one month passes for yoga from a corporation.

The maximum spending limit is $20,555.20 and my expenses subject to the spending limit as per my submitted Form 4 were $15,087,47.

The total amount of returned or cancelled, unused in-kind contributions of gifts and services (i.e. raffle items) is $1806. To note, my financial statement indicates $5467.73 in spending "room" before reaching my limit. In any event, all items were returned/cancelled, and the complaint does not make a claim to the contrary.

The list of raffle items that were returned prior to being used are included in **Schedule "A"**.

What is under consideration through the Compliance Audit Committee ("the Committee") is whether I should have receipted the returned and unused raffle-related goods and service items on Form 4 and, should the determination be made that I should have done so, whether that error was made in good faith, honestly or inadvertently and/or is sufficiently minor to avoid a requirement for the expense and reputational effects on me of proceeding with a compliance audit.

Fundamental to my defense to the allegation is that, as a new municipal City Councillor with no previous experience in municipal election finance requirements in Ontario, I retained Colin Gray as my auditor, after he approached me during the campaign in early September 2018 immediately after the publication of my problems with the Raffle and informed me that he had many years of experience in preparing audits and completing the required forms for elected members at the municipal, provincial and federal levels. I retained him on September 20, 2018, primarily because I needed expert advice on the cancelled raffle issues and his previous experience was appealing.

I am providing below a timetable of relevant meetings and documentation. Simply put, I provided Mr. Gray with all relevant documents, including a draft of Form 4 which I myself completed under his advisement. It was his advice that such returned items did not have to be inserted on Form 4 for the reasons he explains in his letter dated November 1, 2019 and attached hereto as **Schedule "B"**. Mr. Gray was of the belief then, and as his letter states, he continues to hold the opinion that there is no requirement to report returned goods and service items. In support thereof he also relies on the fact that it is not possible to report such items when digitally completing Form 4.

Additionally, the City of Burlington Guide for Candidates (attached hereto as **Schedule "C"**) does not indicate any requirement to list on Form 4 any unused, voided or otherwise returned goods or services. Similarly, the Province of Ontario Guide for Candidates (attached hereto as **Schedule "D"**) does not indicate any requirement to receipt unused, voided or otherwise returned goods or services. I also reviewed the Municipal Elections Act and I could not find any requirement to receipt a voided or returned goods or services.

Regarding the question of whether I was acting honestly and in good faith, as you can see from Mr. Gray's said letter dated November 1, 2019, I provided him with all the financial information relating to my campaign and in particular the Raffle. I raised the issue of the returned goods and services items relating to the Raffle on several occasions but he consistently advised me that because these items were returned and not used, they were not considered "contributions" and were not required to be reported. I believe I was entitled to rely on Mr. Gray's expertise. You can see in Mr. Gray's letter he still maintains the position that there is no legal obligation to report unused and returned goods and service items.

At all times I was happy to report these items as it was made very public. The matter of the cancelled raffle was already public knowledge, as was the fact that I was returning all Raffle items. Prior to the election held on 22 October 2018, I released a statement to local press on September 11, 2018 explaining what happened (attached hereto as **Schedule "E")** such was published by the Burlington Gazette on 12 September 2018 (attached hereto as **Schedule "F").** Therefore, the error was immediately reported by me and the electorate was immediately informed, including my opponent Lisa Cooper and her husband D. Luke McEachern, the Applicant herein. In completing my Form 4, I had no interest in doing anything other than being transparent, which has been my practice as a candidate and Councillor.

I would also note that at no time did Lisa Cooper or her husband contact me either before or after filing the Application herein attempting to privately resolve their concerns.

However, even if the Committee disagrees, and also believes that an error may have been made, a second test must be applied – whether such an error is sufficiently grievous to merit the granting of a compliance audit.

In making this determination I suggest that Committee member ask themselves whether they would have, in the same position, potentially made the same 'error' on the advice of a professional accountant and experienced auditor of candidate financial returns. I acted in good faith and with openness. I respectfully submit that any possible errors associated with the Application are not errors at all, and even if found to be potential errors, would be both minor and made in good faith, and thus do not warrant the granting of a compliance audit.

Below is a timeline of events to provide a record of what occurred.

Timeline

August-September 2018

- Raffle items are collected from local businesses.

September 9, 2018

- Raffle held at BBQ.

September 10, 2018

- City of Burlington Clerk emails me to remind me not to receive corporate donations.
- I contact the Ministry of Municipal Affairs and Housing to discuss the raffle items, which I believed were allowed as in-kind from individuals responsible for the businesses. Ministry indicates that it is not clear whether this would be allowable, and they cannot make a definitive determination.
- I decide to cancel the raffle, and over the next few days I return all ticket earnings and cancel or return the raffle items, most of which had not yet been disbursed.

September 11, 2018

- I release a press statement explaining the circumstances around the raffle.
- I reply by email to Mr. Gray, in response to his email soliciting his auditing services (copy of email attached as **Schedule "G").**

September 20, 2018

- I meet with Mr. Gray, retain his services based on his experience auditing candidate financial returns, and discuss the raffle and the measures I had taken to cancel it. I retained his services before the end of the campaign to get his advice on the raffle and ensure no more issues. Gray indicates that no further action is required.

December 19, 2018

- I submit my completed form to Gray. Gray subsequently decides to discard my draft form and recomplete the work from scratch using the documents I had provided him.

January 28, 2019

- Mr. Gray asks numerous clarifying questions about my return so that he can finish the work.

January 29, 2019

- I meet with Mr. Gray again. I mention the raffle items and whether/how they should be reported. He indicates that they do not need to be reported as the Form 4 does not allow for it, and all the items were returned. We work through remaining questions. Mr. Gray completes Form 4 shortly thereafter (included in the Committee's Agenda Package).

Website

This matter claims that I cannot have any website under the domain rorynisan.ca outside of a campaign period. However, the domain (and associated software rental) was purchased outside of campaign period and housed a personal website with no mention of any candidacy. A new website was launched after I submitted my candidate forms on 1 May 2018, inside the campaign period. Associated fees in the amount of $89.36 were charged to the campaign (included on page 2 of Form 4). The domain was purchased for one year for $178.72 (see Exhibit H) and the campaign paid for 6 months or 50% of cost, being $89.36 for the May-October campaign period. My auditor was satisfied that I was compliant, as was the clerks department, which was monitoring websites of possible/rumored/potential candidates, including mine, and informed me that they had found no violations with my personal website.

I took all appropriate steps to separate my personal website from my eventual candidate website.

All of which is respectfully submitted.

Rory Nisan

January 15, 2020

TAB A

BUY YOUR RAFLLE TICKETS HERE!

1 ticket $2
3 tickets $5
10 tickets $10
25 tickets $20

Draw 1 (1 winner)
JP Personal Training - value $240

Draw 2 (1 winner)
Kelly's Bake Shoppe gift receipt $25
Hola! Café gift receipt $25

Draw 3 (1 winner)
The Brick Oven Bakery - $50 gift basket

Draw 4 (1 winner)
MAX Resto Lounge gift receipt $50

Draw 5 (1 winner)
Barber's Mark gift receipt $30 value -- "Gentlemen's Haircut"

Draw 6 (1 winner)
Gator Ted's Restaurant and Bar - $30 gift card

Draw 7 (4 winners)
7th Wave Yoga - Monthly unlimited pass - $99 value each (Total $396)

Draw 8 (2 winners)
Carrigan Arms $25 gift card (two separate prizes) (Total $50)

SIGN UP FOR A LAWN SIGN TO ENTER TO WIN ONE OF THE BELOW AMAZING RAFFLES!

Lawn Sign Raffles:
Draw 1 (sign up for a lawn sign to enter this raffle – 1 winner)
4 rounds of golf to Hidden Lake Golf Club ($460 value)

Draw 2 (sign up for a lawn sign to enter this raffle – 1 winner)
4 rounds of golf to Crosswinds Golf and Country Club ($450 value)

Draw 3 (sign up for a lawn sign to enter this raffle – 3 winners)
7th Wave Yoga - Monthly unlimited pass - $99 value each (Total $297)
GRAND TOTAL: $1806

TAB B

Colin Gray
CPA Professional Corporation

720 Guelph Line
LL 105
Burlington, Ontario
L7R 4E2
Tel: (905) 333-4818
Fax: (905) 333-4732
Email: colingray@colingrayca.com

November 1, 2019

Joint Compliance Audit Committee
C/O City Clerk
Burlington City Hall
426 Brant Street
P.O. Box 5013
Burlington, ON L7R 3Z6

Dear Chair:

Further to my letter of 18 July 2019 addressed to Rory Nisan, I would like to provide more clarity regarding the matters addressed in the complaint against Mr. Rory Nisan. I have been auditing candidate returns at the municipal, provincial and federal level for twenty years as well as being treasurer/CFO for a number of candidates and associations.

Candidate Website

As mentioned in my previous letter, the Municipal Elections Act addresses campaign spending and the period of spending. My understanding is that Mr. Nisan had a website prior to the campaign period but it was a personal website with no references to the election or his potential candidacy. It was simply a website addressing areas of concern in his community. I do not believe there is a prohibition on community members having a website. All financial costs presented to me for the new site launched once the campaign period began were included in the Form 4A. Therefore, there was no violation of the Election Act.

Raffle Items

From my review of the Ontario Candidates Guide for Municipal Elections, ineligible contributions should be returned to the contributor as soon as you learn the contribution is ineligible. Mr. Nisan informed me on September 13, 2018 that he had cancelled the raffle, returned all cash donations and sent back all items that had been contributed to the raffle by various businesses. I advised Mr. Nisan that since he had returned all

contributions, both monetary and for goods and services, that there was nothing further he was required to do.

On December 14, 2018 Mr. Nisan emailed me seeking a meeting to discuss the preparation of the audit. Prior to commencing my preparation of the audit, Mr. Nisan provided me with a draft of Form 4 completed by him together with all his required financial information. In particular, he provided me with all the financial information related to the said BBQ and raffle that I considered to be relevant to completing the form.

I met with Mr. Nisan on January 29, 2019 to discuss my completed audit, Form 4 and any outstanding questions. During that meeting Mr. Nisan raised with me how to handle reporting the returned "goods or services" items related to the said raffle. I advised him that since these "goods or services" items were returned before they were used there was no need to report same. I also advised that because there is no column on Form 4, Part II, Table 2 to report returned "goods and services" unlike the column provided for returned "monetary" contributions on Form 4, Part II, Table 1, this confirmed my opinion that there was no need to report returned goods and services.

In any of the municipal Form 4's I have been involved with, I have never seen candidates report returned goods and services.

Subsequent review of the fillable Form 4 downloaded from Service Ontario confirms this advice as, Schedule 1, Part I the row for "Contributions returned or payable to the contributor" cannot be manually inserted on the digital pdf. Unlike other rows, it must be a total of the column "Amount $ Returned to Contributor or Paid to the Clerk" under Schedule 1, Part II, Table 1, "Monetary contributions from individuals other than candidate or spouse". As noted above, there is no such column under Schedule 1, Part II, Table 2, "Contributions in goods or services from individuals other than candidate or spouse", meaning the form did not allow for the inclusion of returns of goods and services.

To sum up, unlike Schedule 1, Part II, Table 1, Table 2 does not require reporting of returned contributions, and the totals row is a mandatory function of a total of Table 1. In my professional opinion Mr. Nisan has been completely open and forthright with me and provided me with all the financials related to the voided raffle. It was and continues to be my opinion that Mr. Nisan's accounting and reporting treatment of the raffle complied fully with the Municipal Elections Act, 1996.

If you have any questions concerning the above, please contact me at (905) 333-4818.

Sincerely

Colin Gray, C.P.A. C.A. L.P.A.

Ontario

Ministry of Municipal Affairs

Financial Statement - Auditor's Report Candidate - Form 4

Municipal Elections Act, 1996 (Section 88.25)

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 paid immediately over to the clerk who is responsible for the conduct of the election.

	YYYY	MM	DD		YYYY	MM	DD
For the campaign period from (day candidate filed nomination)	2018	05	01	to	2018	12	31

☐ Initial filing reflecting finances to December 31 (or 45 days after voting day in a by-election)

☐ Supplementary filing including finances after December 31 (or 45 days after voting day in a by-election)

Box A: Name of Candidate and Office

Candidate's name as shown on the ballot

Last Name or Single Name	Given Name(s)
Nisan	Rory
Office for which the candidate sought election	**Ward name or no. (if any)**
Councillor	3

Municipality
Burlington

Spending Limit - General	Spending Limit - Parties and Other Expressions of Appreciation
$ 20,555.20	$ 2005.52

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

Box B: Declaration

I, Rory Nisan, 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

2019/02/26
Date (yyyy/mm/dd)

Date Filed (yyyy/mm/dd)	Time Filed	Initial of Candidate or Agent (if filed in person)	Signature of Clerk or Designate

Box C: Statement of Campaign Income and Expenses

LOAN

Name of bank or recognized lending institution NA

Amount borrowed $

INCOME

Total amount of all contributions (from line 1A in Schedule 1)	+ $	18,015.15
Revenue from items $25 or less	+ $	
Sign deposit refund	+ $	
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.	+ $	
Total Campaign Income (Do not include loan)	= $	18,015.15 C1

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

Expenses subject to general spending limit

Inventory from previous campaign used in this campaign (list details in Table 4 of Schedule 1)	+ $	
Advertising	+ $	2,578.35
Brochures/flyers	+ $	7,601.89
Signs (including sign deposit)	+ $	3,160.65
Meetings hosted	+ $	195.50
Office expenses incurred until voting day	+ $	6.22
Phone and/or internet expenses incurred until voting day	+ $	89.36
Salaries, benefits, honoraria, professional fees incurred until voting day	+ $	
Bank charges incurred until voting day	+ $	106.93
Interest charged on loan until voting day	+ $	
Other (provide full details)		
1. BBQ	+ $	1,348.57
2.	+ $	
3.	+ $	
4.	+ $	
5.	+ $	
Total Expenses subject to general spending limit	= $	15,087.47 C2

EXPENSES

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

1. Volunteer appreciation party	+ $	191.18
2.	+ $	
3.	+ $	
4.	+ $	
5.	+ $	
Total Expenses subject to spending limit for parties and other expressions of appreciation	= $	191.18 C3

Expenses not subject to spending limits

Accounting and audit	+ $ 1,130.00	
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	+ $	
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	= $ 1,130.00	C4

Total Campaign Expenses (C2 + C3 + C4) = $ 16,408.65 C5

Box D: Calculation of Surplus or Deficit

Excess (deficiency) of income over expenses (income minus Total Expenses) (C1 – C5)	+ $ 1,606.50	D1
Eligible deficit carried forward by the candidate from the last election (applies to 2018 regular election only)	– $	D2
Total (D1 – D2)	= $ 1,606.50	
If there is a surplus, deduct any refund of candidate's or spouse's contributions to the campaign	– $ 1,606.50	
Surplus (or deficit) for the campaign	= $	D3

If line D3 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	+ $	8,300.00
Contributions in goods and services from candidate and spouse (include value listed in Table 3 and Table 4)	+ $	30.00
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).	+ $	1,165.15
Total value of contributions exceeding $100 per contributor (from line 1B on page 5; list details in Table 1 and Table 2) • 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).	+ $	8,520.00
Less: Contributions returned 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)	= $	18,015.15 1A

not a fillable field
total of Part II
Table 1 below

Part II – Contributions exceeding $100 per contributor – Individuals other than candidate or spouse

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

Name	Full Address	Date Received	Amount Received $	Amount $ Returned to Contributor or Paid to Clerk
See attached			7,875.00	
☑ Additional information is listed on separate supplementary attachment		Total	7,875.00	

Table 2: 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 $
Tony Wolfaardt	6 Mint Leaf Boulevard, Brampton, ON, L6R 2K4	Airbrush artist service	2018/09/09	495.00
George Volk	1438 Mountain Grove, Burlington, ON, L7P 1S9	Refreshments	2018/09/09	150.00
☐ Additional information is listed on separate supplementary attachment			Total	645.00

Total for Part II - Contributions exceeding $100 per contributor
(Add totals from Table 1 and Table 2 and record the total in Part 1 - Summary of Contributions) $ 8,520.00 1B

Part III – Contributions from candidate or spouse

Table 3: Contributions in goods or services

Description of Goods or Services	Date Received (yyyy/mm/dd)	Value $
Advertising	2018/10/22	30.00

Description of Goods or Services	Date Received (yyyy/mm/dd)	Value $
☐ Additional information is listed on separate supplementary attachment	Total	30.00

Table 4: 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 $
N/A				
☐ Additional information is listed on separate supplementary attachment			Total	

Schedule 2 – Fundraising Events and Activities

Fundraising Event/Activity
Complete a separate schedule for each event or activity held

☐ Additional schedule(s) attached

Description of fundraising event/activity N/A

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

Part I – Ticket revenue

Admission charge (per person)
(If there are a range of ticket prices, attach complete breakdown of all ticket sales) $ _____ 2A

Number of tickets sold x _____ 2B

Total Part I (2A X 2B) (include in Part 1 of Schedule 1) = $ _____

Part II – Other revenue deemed a contribution
(e.g. revenue from goods sold in excess of fair market value)
Provide details

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

Total Part II (include in Part 1 of Schedule 1) = $ _____

Part III – Other revenue not deemed a contribution
(e.g. contribution of $25 or less; goods or services sold for $25 or less)
Provide details

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. _____ + $ _____
6. _____ + $ _____
7. _____ + $ _____
8. _____ + $ _____

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: Burlington			Date (yyyy/mm/dd): 2019/01/30
Contact Information			
Last Name or Single Name: Gray		Given Name(s): Colin	Licence Number: 1-16549
Address			
Suite/Unit No.: LL105	Street No.: 720	Street Name: Guelph Line	
Municipality: Burlington		Province: ON	Postal Code: L7R 4E2
Telephone No. (including area code): 905 333-4818		Email Address: colingray@colingrayca.com	

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.

AUDITOR'S REPORT

MUNICIPAL ELECTIONS ACT, 1996 (SECTION 78)

To: City Clerk, City of Burlington

I have audited the Statement of Campaign Period Income and Expenses, and the Statement of Determination of Surplus or Deficit and Disposition of Surplus of: Rory Nisan, candidate, for the campaign period, from May 1, 2018 to December 31st 2018 relating to the election held on October 22th 2018. These financial statements are the responsibility of Rory Nisan, Candidate. My responsibility is express an opinion on these financial statement based on my audit.

Except as explained in the following paragraph, I conducted my audit in accordance with Canadian auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements.

An audit also includes assessing the accounting principles used and significant estimates made by Rory Nisan, candidate, as well as evaluating the overall financial statement presentation.

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 statement reflect the amount recorded in the accounting records of Rory Nisan, 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, assets or liabilities, and surplus/deficit.

In my opinion, except for item noted in the following paragraph and the effect of adjustments, if any, which I might have determined to be necessary had I been able to satisfy myself as to the completeness of the records as described in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of Rory Nisan, Candidate's election campaign as at and the income and expenses for campaign period from May 1, 2018 to December 31st 2018 and the determination of surplus deficit and the disposition of surplus in accordance with the accounting treatment prescribed by the Municipal Elections Act, 1996.

The Municipal Elections Act, 1996 does not require me to report, nor was it practicable for me to determine, that contributions reported include only those which may be properly retained in accordance with the provisions of the Municipal Elections Act, 1996.

Colin Gray
February 26, 2018
Chartered Professional Accountant
Licensed Public Accountant

City of Burlington
2018 Municipal Elections
Candidates Financial Information

Contributions Over $100
(Form 4 - Table 1)

Monetary contributions from individuals (other than candidate or spouse) over $100

Use this spreadsheet to record all contributions received that exceed $100 per contributor. This spreadsheet is required under the Municipal Elections Act, 1996 and must be attached to the Financial Statement (Form 4) when submitted.

Note: This is a public document and will be posted online with the Financial Statement on the Town's Election website after the filing deadline.

Candidates Name: Rory Nisan | **Office:** Councillor, Ward 3

Contributors Last Name	Contributor's First Name	Street Address (Street, Unit)	City	Postal Code	Date Received (yyyy/mm/dd)	Amount ($) Received	Amount ($) returned to Contributor or Paid to Clerk (if any)
Nisan	Christine	6 Mint Leaf Boulevard	Brampton	L6R 2K4	6/27/2018	$ 250.00	$ -
Scobie	Gary	1415 Brenner Crescent	Burlington	L7P 2V9	7/13/2018	$ 250.00	$ -
Steiner	Elizabeth	RR2	Vanessa	N0E 1V0	7/19/2018	$ 100.00	$ -
Marinho	Antonio	1505-1405 Prince of Wales	Ottawa	K2C 3J9	8/6/2018	$200	$ -
Steiner	Elizabeth	RR2	Vanessa	N0E 1V0	8/7/2018	$ 500.00	$ -
Kearns	Lisa	1407 Birch Avenue	Burlington	L7S 1J2	8/27/2018	$ 1,200.00	$ -
Cornack	Wayne	238 Patricia Crescent	Selwyn	K9J 0C7	8/31/2018	$ 325.00	$ -
Soni	Shannon-Marie	111 Ivy Crescent	Ottawa	K1M 1Y1	9/10/2018	$ 500.00	$ -
Fendelet	Frances	1090 Westhave Drive	Burlington	L7P 5B5	8/10/2018	$ 150.00	$ -
White	Stephen	274 White Pines Drive	Burlington	L7L 4E7	9/17/2018	$ 250.00	$ -
Nisan	Christine	6 Mint Leaf Boulevard	Brampton	L6R 2K4	9/17/2018	$ 250.00	$ -
Smith	Blair	1434 Brenner Court	Burlington	L7P 2Z2	10/9/2018	$ 200.00	$ -

City of Burlington
2018 Municipal Elections
Candidates Financial Information

Contributions Over $100
(Form 4 - Table 1)

Candidates Name:	Rory Nisan			Office:	Councillor, Ward 3		
Contributors Last Name	**Contributor's First Name**	**Street Address (Street, Unit)**	**City**	**Postal Code**	**Date Received (yyyy/mm/dd)**	**Amount ($) Received**	**Amount ($) returned to Contributor or Paid to Clerk (if any)**
Sekhon	Navtej	2200 15 Side Road	Milton	L0P 1J0	10/20/2018	$ 500.00	$ -
Breton	Tom	6449 Guelph Line	Burlington	L7P 0A6	10/25/2018	$ 1,000.00	$ -
Breton	Jonathan	6449 Guelph Line	Burlington	L7P 0A6	10/25/2018	$ 1,000.00	
Turner	Barbara	5 Homewood Avenue	Hamilton	L8P 2M1	10/25/2018	$ 200.00	$ -
Peaker	Kenneth	2116 Caroline Street	Burlington	L7R 1L8	10/30/2018	$250	$ -
Timmis	John	2609 Britannia Road	Burlington	L7P 0G3	10/16/2018	400	$ -
Gill	Ganga	2503 Cavendish Drive	Burlington	L7P 4J4	10/5/2018	350	$ -
							$ -
							$ -
							$ -
							$ -
							$ -
							$ -

TAB C

ELECTION 2018

City of Burlington

Candidates' Guide

Contents

About this Handbook **4**
Overview 4
Disclaimer 4

Contacts and Resources **5**
City of Burlington Election website 5
City of Burlington Clerks Department 5
Ministry of Municipal Affairs and Housing 5
Publications Ontario 5

Important Dates **6**

Offices to be Elected **10**
Municipal 10
District School Boards 10

Council Roles **11**

Council and Standing Committee Meetings **12**

Nomination Information for Candidates **12**
Qualification 12
Disqualification 13
Filing of Nomination 13
Form 14
Declaration of Qualification 14
Filing Fee 15
Identification 15
Endorsement 15
Certification of Nomination Form 15
Withdrawal of Nomination 17
Refund of Filing Fee 17

Voters' List **17**

Canvassing and Election Signs **18**

Election Sign By-law **19**

Access to Residential Premises **21**
Rented Premises 21
Condominiums 21
Co-operatives 22

Voting Information **22**
Voter Qualifications 22
Prohibition from Voting 23

Definition of Residence 23
Voting Places 23
Voting Notice 24
Proxy Voting 24
Election Day Voting 24
Electors and Candidates with Disabilities 24

Campaign Period 25
Campaign Expenses / Contributions 25
Helpful Hints 25
Contribution Limits – from candidate and candidate spouse 26
Contribution Limits – from other people 26
Spending Limits 26
General spending limit 26
Spending limit for parties and expressions of appreciation 27

Third Party Advertisers 27

Use of Corporate Resources during an Election Period 27

Scrutineers 28
Rights 28

Financial Reporting 28
Filing Timing 29
Campaign Deficits 29
Campaign Surpluses 30
Penalties for Non Compliance 30

Meetings 30
Public meetings May 1, 2018 – Oct. 22, 2018 30
Candidate Meetings 31

Ward Boundaries Map 32

Notes 33

About this Handbook

Overview

The City of Burlington clerks department has prepared this guide to assist persons seeking election or re-election for Municipal Council or School Board Trustee in the upcoming municipal election on October 22, 2018. It includes information on procedures regarding nominations for office, legislative requirements and qualification requirements for electors.

Candidates should also obtain a copy of the Candidates' Guide from the Ministry of Municipal Affairs and Housing which is available online at www.mah.gov.on.ca.

Disclaimer

The information in this package is general in nature and candidates should refer to the *Municipal Elections Act*, 1996 (MEA) for specific provisions and additional information.

A copy of the Act is available from Publications Ontario or online at www.e-laws.gov.on.ca.

Contacts and Resources

City of Burlington Election website

Candidates are encouraged to subscribe to our election page web minder at www.burlington.ca/elections to receive emails each time new election information is posted or a page updated on our website. The website will continue to develop as new information becomes available.

City of Burlington Clerks Department

City Hall business hours are Monday to Friday 8:30 a.m. to 4:30 p.m., except statutory holidays.

Lisa Palermo, Elections Officer

Phone: 905-335-7600 ext. 7381
E-mail: lisa.palermo@burlington.ca

Danielle Manton, Manager of Committee and Election Services

Phone: 905-335-7600 ext. 7490
E-mail: danielle.manton@burlington.ca

Angela Morgan, City Clerk

Phone: 905-335-7600 ext 7702
E-mail: angela.morgan@burlington.ca

Ministry of Municipal Affairs and Housing

Municipal Services Office serving Halton Region Central
777 Bay Street, 2nd Floor, Toronto, ON M5G 2E5
(416) 585-6226
1-800-668-0230
email: mea.info@ontario.ca
www.mah.gov.on.ca

Publications Ontario

880 Bay Street, Main Floor, Toronto, ON M7A 1N8
(416) 326-5300
1-800-668-9938
www.e-laws.gov.on.ca

Important Dates

Note: Burlington City Hall will be closed Dec. 24-31, 2018 inclusive. Subsequently, when Dec. 31 is indicated as a deadline in this Guide, the deadline is considered Dec. 21, 2018.

Dec. 2017	**Procedures – Vote Counting Equipment** Procedures for voting and vote counting equipment are available on the city's election website.
May 1 to July 27, 2018	**Nomination Period** Nominations may be filed from 8:30 a.m. to 4:30 p.m. Monday to Friday in the City Clerks Office, City Hall, at 426 Brant Street, Burlington. Nominations must be filed no later than 2 p.m. on July 27.
May 1 – Oct. 19, 2018	**Third Party Registration** Registrations may be filed from 8:30 a.m. to 4:30 p.m. Monday to Friday in the City Clerks Office, City Hall, at 426 Brant Street, Burlington. Individuals, corporations or trade unions must register as third party advertisers with the City Clerk of the municipality where they want to advertise.
July 27, 2018	**Nomination Day** Last day for a candidate to file a nomination. Nominations may be filed from 9 a.m. to 2 p.m. in the City Clerks Office, City Hall, 426 Brant Street, Burlington
July 27, 2018	**Withdrawal of Nomination Papers** Last day for a candidate to withdraw a nomination. Withdrawals will not be accepted after 2 p.m.
July 30, 2018	**Certification of Nomination Papers** Certification of nomination papers to be completed by 4 p.m.

July 30, 2018	**Acclamation** Declaration of candidates elected by acclamation provided after 4 p.m.
Sept. 4, 2018	**Voters' List** The voters' list will be available for election purposes only. In order to protect personal information, public viewing of the voters' list must be supervised. The City Clerk will provide candidates access to the part of the voters' list that contains the names of the electors who are entitled to vote for that office.
Mar. 12 to Sept.1, 21018	**Voterlookup** Electors are able to confirm their voter eligibility, or add/update their information and add other names of eligible electors in their household, through voterlookup.ca. The information obtained through voterlookup will be used to update the voters' list.
Sept. 4 to Oct. 22, 2018	**Revision – Application to Add, Remove or Amend an Elector's Name** An individual may make an application in writing to the City Clerk to remove, add or amend their elector information on the voters' list by filing an application to the Clerks department during the revision period or at the voting place on voting day.
Sept. 4 to Oct. 22, 2018	**Revision – Application to Remove another Elector's Name** An individual may make an application in writing to the City Clerk to remove another elector's name from the voters' list.
Sept. 25, 2018	**Certificate of Maximum Campaign Spending Limits** The City Clerk shall issue a certificate of maximum campaign spending limits to all certified candidates.

Oct. 1-17, 2018	**Internet Voting Period** Internet voting begins at 12 a.m. Oct. 1 and ends at 11:59 p.m. Oct. 17
Oct. 13 and 17, 2018	**City-wide Advance Polls** There are two advance voting places: Mapleview Mall (Oct. 13) and Tansley Woods Community Centre (Oct. 17). Both advance voting places will be open from 11 a.m. to 5
Oct. 22, 2018	**Voting Day** Voting places are open from 10 a.m. to 8 p.m. except for specific locations such as nursing homes and retirement homes which have reduced voting hours.
Week of Oct. 22, 2018	**Official Results** City Clerk will declare official results as soon as possible after voting day.
Nov. 2018	**Orientation** Orientation will be provided for elected Members of Council on dates to be determined. Notification will be provided after the election.
Dec. 3, 2018	**Inaugural Meeting of Council** Elected members shall take the declaration of office during the Inaugural Meeting of Council. The term of office is Dec. 3, 2018 to Nov. 14, 2022 and commences once the declaration of office has been taken.
Dec. 31, 2018	**End of Campaign Period** Campaign period ends for candidates and registered third parties. Candidates may not raise funds or incur expenditures beyond this date.

Dec. 31, 2018	**Extension of Campaign Period** Last day for candidates or registered third parties to file an extension of campaign period by submitting a Form 6 to the clerks department no later than 4:30 p.m.
March 29, 2019	**Deadline for Filing of Financial Statements** Candidates must file a financial statement by 2 p.m. on this day even if the nomination was withdrawn or the campaign period was extended.

Offices to be Elected

Municipal

Office	To be elected
Mayor	1 to be elected city-wide
City and Regional Councillor	1 to be elected in each of the city's 6 wards
Regional Chair	1 to be elected by all electors of the Regional Municipality of Halton. Nominations coordinated by and filed with the Regional Clerk, Regional Municipality of Halton

Regional Chair candidates should contact the Office of the Clerk of the Regional Municipality of Halton for further information on the duties and responsibilities of the Chair (see below). Regional Council meets as scheduled at the Regional Building on Bronte Road in Oakville.

District School Boards

Office	To be elected
Trustee – Halton District School Board	4 Trustees to be elected in Burlington in the following combination of wards: • Wards 1 & 2 • Wards 3 & 6 • Ward 4 • Ward 5
Trustee – Halton Catholic District School Board	3 Trustees to be elected city-wide in Burlington.

Trustee – Conseil scolaire Viamonde (French Language Public District School Board))	1 to be elected by all voters within the geographic area of the City of Hamilton, Region of Halton, County of Brant and that part of the Region of Niagara consisting of Grimsby, Lincoln, Niagara-on-the Lake, St., Catharines and West Lincoln. (Nomination papers to be filed with the City of Hamilton)
Trustee – Conseil scolaire catholique MonAvenir (Catholic French Language District School Board)	1 to be elected by all voters in the Region of Halton. (Nomination papers to be filed with the Town of Oakville)

School Board candidates should contact the office of the Director of Education of the appropriate school board to obtain information on the duties and responsibilities of a trustee.

Council Roles

The *Municipal Act, 2001*, s. 224 and 225 outlines the legislated role of Council and Head of Council (Mayor).

"It is the role of council,

(a) to represent the public and to consider the well-being and interests of the municipality

(b) to develop and evaluate the policies and programs of the municipality

(c) to determine which services the municipality provides

(d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council; (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality

(e) to maintain the financial integrity of the municipality

It is the role of the head of council,

(a) to act as chief executive officer of the municipality

(b) to preside over council meetings so that its business can be carried out efficiently and effectively

(c) to provide leadership to the council

(c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1)

(d) to represent the municipality at official functions"

In addition, Burlington Council adopted the following description of the role recommended by the 2017 citizen committee to review council compensation, expense limits and resources:

"In the broadest sense, the Mayor and all Councillors are responsible for establishing a vision, a set of objectives, develop and adopt various by-laws, set annual taxation- based budgets, and provide overall stewardship for the strategic, operational and financial health of the entire Corporation (not solely responsible for individual wards). To deliver on this prime responsibility, the Mayor and Councillors need to allocate the necessary time and effort to acquire relevant information and data so as to become informed participants in the decision making process."

Council and Standing Committee Meetings

The City of Burlington holds council and standing committee meetings during the day and evening. The 2018 meeting schedule can be found on the City of Burlington website at www.burlington.ca/publicmeetings.

All members of Burlington Council sit on the Council for the Region of Halton. Information can be found at www.halton.ca.

Nomination Information for Candidates

The responsibility rests with the candidate to determine whether they are qualified to be elected to and hold the office. Qualifications for election as a member of council or School Board are governed by provisions of the *Municipal Act, 2001*, the *Municipal Elections Act, 1996* and the *Education Act, 1990*.

Qualification

In order to be eligible to run for a member of Burlington Council, a person must be, at

the time of filing the nomination paper:

- a Canadian citizen
- at least 18 years of age
- a resident of Burlington or a non-resident owner or tenant of land (separately assessed under the *Assessment Act*) in Burlington or the spouse of such non-resident owner or tenant
- not legally prohibited from voting
- not disqualified by any legislation from holding municipal office

Disqualification

The following are disqualified from being elected as a member of Burlington Council:

- an employee of the City of Burlington except during an authorized leave of absence (employees must be on a leave of absence prior to filing their nomination form)
- a judge of any court
- a member of the Provincial Legislature, Senate or House of Commons of Canada who has not resigned from their seat by the close of nominations on Nomination Day. Proof of resignation must be provided or the Clerk will not certify the nomination form
- a candidate who failed to file the necessary financial statements in the last municipal election

Note: A member of Council must maintain their qualifications throughout the entire term of office or their seat will become vacant.

Filing of Nomination

Nomination forms may be filed at the City of Burlington Clerks Office, beginning Tuesday, May 1, 2018 from Monday to Friday, 8:30 a.m. to 4:30 p.m., with the exception of statutory holidays.

The final day to register to run for office is Friday, July 27, 2018 (Nomination Day). Nomination forms may only be filed from 9 a.m. to 2 p.m. on nomination day at the City of Burlington Clerk's Office, City Hall, 426 Brant Street.

Note: In accordance with the *Municipal Elections Act*, a candidate must be nominated before raising any campaign funds or spending any money on a campaign.

Form

Candidates must complete and sign the prescribed Nomination Paper – Form 1.

When completing Form 1, the candidate's name should be typed or printed as it is to appear on the ballot, given names followed by surname. No identification such as a title, honour, decoration or degree should be included. If the name to appear on the ballot is different than the identification presented during the filing of the nomination form, the candidate must discuss the reason for the change with the Clerk and get approval.

Prior to filing the nomination form, the declaration of qualification section must be completed and signed by the candidate.

The nomination form must be filed in person by either the candidate or agent of the candidate as original signatures are required.

Declaration of Qualification

Prior to filing a nomination, the Declaration of Qualification – Form EL18 must also be signed by the candidate. This declaration ensures that only qualified candidates run in the municipal election.

If an agent is filing the nomination form on behalf of a candidate, the candidate's declaration of qualification must be commissioned by a Commissioner of Oaths prior to the agent filing the form with the City. The agent must also provide a copy of the candidate's identification as well as a copy of their own identification. If the declaration of qualification portion of the nomination form is not commissioned prior to filing, the Clerk **will not** accept the form.

Note: A Commissioner of Oaths is available in the City Clerk's Office.

Facsimile transmissions (faxes), e-mails, or mailed-in nomination forms will not be accepted.

Note: Original signatures are required on all election documents filed with the City Clerk.

Filing Fee

At the time of filing, candidates must pay the nomination filing fee:

- Head of Council $200.00
- All other candidates $100.00

Identification

At the time of filing, candidates must show proof of identity including:

- photo identification; and
- proof of citizenship; and
- proof of qualifying address within Burlington, at the time the nomination form is filed (see below).

The following may be presented as verification for qualifying address:

- Driver's License
- City of Burlington property tax bill
- Utility bill (hydro, gas, telephone, cable TV)
- Mortgage, rental or lease agreement
- Insurance policy
- Current employer record (paystub)

Endorsement

The nomination of a person for a member of Burlington Council must be endorsed by at least 25 persons, and they may endorse more than one nomination. Persons endorsing a nomination must be eligible to vote in the City of Burlington on the day they endorse the nomination.

Note: All election documents filed with the City Clerk are public documents.

Certification of Nomination Form

The Clerk will certify nominations by Monday, July 30, 2018. Once a candidate is certified, their name will be placed on the ballot unless the candidate withdraws by 2 p.m. on Friday, July 27, 2018 or the candidate's name is removed by Court Order. A nomination form is a public document and is available for inspection in the clerks department.

Withdrawal of Nomination

A candidate who wishes to withdraw their nomination must notify the City Clerk in writing by 2 p.m. on Friday, July 27, 2018 by completing the Withdrawal of Nomination - Form EL19.

Either the candidate or an agent of the candidate must file the withdrawal form in person. Original signatures are required on all election documents filed with the City Clerk.

Upon receiving the withdrawal form the nomination filing fee refund will be processed. The candidate will still have to submit a Form 4 Financial statement (due no later than 2 p.m. on March 29, 2019) covering all financial transactions up to the time of the withdrawal. If the withdrawal is filed by an agent, it must be accompanied by written authorization provided by the candidate.

Refund of Filing Fee

A candidate is entitled to receive a refund of the nomination filing fee if the candidate has filed a financial statement and auditor's report, each in the prescribed form, on or before 2 p.m. on the filing date. *Municipal Elections Act, 1996* s. 34

Voters' List

The Municipal Property Assessment Corporation (MPAC) is legislatively responsible for collecting occupant information (name, date of birth, citizenship and school support) for municipal and school board elections, and keeping up-to-date population figures for every municipality in Ontario.

MPAC uses this information to create a voters' list for the City of Burlington and all Ontario municipalities. The voters' list contains the names, addresses and school support of each person who is qualified to vote in Burlington.

MPAC will provide municipalities with the preliminary voters' list on Sept. 4, 2018. The voters' list is to be used for election purposes only. In order to protect personal information, public viewing of the voters' list must be supervised. Posting the voters' list in public places or on electronic media, such as a website is prohibited by Ontario Regulation 101/97, issued pursuant to the *Municipal Elections Act, 1996*.

The City Clerk will provide candidates access to the part of the voters' list that contains the names of the electors who are entitled to vote for that office

Note: Candidates are encouraged to advise eligible electors that are not on the voters' list to get their name added to the list prior to voting day to avoid line-ups and delays in the voting process.

Starting on Sept. 4, 2018 and ending on the close of voting on voting day (Oct. 22, 2018):

- a person may add, delete or correct their own information on the voters' list by completing the Application to Amend Voters' List - Form EL15.

- A person may request that a deceased person's name be removed from the voters' list by completing the Application for Removal of Another's Name from Voters' List – Form EL16.

All applications are filed in the City Clerk's office, in writing on the prescribed form. Updates to the voters' list will be reflected on the voters' list for voting day.

Note: An interim list of changes made to the voters' list from Sept. 4 to Sept.15 will be compiled and a copy of the interim voters' list will be provided to candidates by Sept. 25, 2018.

Canvassing and Election Signs

The City Clerk is the lessee of the premises used as voting places. As the lessee of such premises, the Clerk will not permit electioneering of any nature in or on the premises used as a voting place on Election day. The premises are deemed to include the entire building and the property on which it is located. Election staff are instructed to remove immediately any material or literature of any nature which may be at the voting place.

The *Municipal Elections Act, 1996* provides that while an eligible voter is in a designated voting place, no one shall attempt, directly or indirectly, to influence how the eligible voter votes and that no one shall display a candidate's campaign material or literature in a designated voting place.

In view of a number of school buildings being used for voting purposes, the attention of candidates is also drawn to the policies of the school boards and provisions of the *Education Act, 1990* which provide as follows:

i. No agent or representative may canvass in the schools, nor exhibit advertising material in the schools or on the school property, without the approval in writing of the Director of Education.

ii. All visitors to schools must report to the office.

iii. It is the duty of a principal of a school, in addition to duties as a teacher, to maintain a visitors' book in the school when so determined by the Board.

Based on the above, in connection with a municipal election, only persons attending a school building for the purpose of casting their ballot, duly qualified election officials, candidates or their authorized agents in, or going to or from the voting place, may be present on school premises.

Election Sign By-law

The *Municipal Elections Act, 1996* does not address where campaign signs may be located or when they may be erected. Sign regulation falls under the jurisdiction of the City of Burlington for local roads and the Region of Halton for regional roads, and the Ministry of Transportation when placed near a provincial highway.

City of Burlington council passed By-law 18-2018, a by-law to regulate election signs in the City of Burlington on April 26, 2018. The by-law provides clarity related to signage for candidates and third party advertisers in municipal, provincial and federal elections.

It is the responsibility of each candidate and third party advertiser to review and understand the contents of by-law 18-2018. Some details included in the by-law are:

- Election signs may be erected no more than 45 days prior to election day (vehicle signs excepted)
- Election signs may only be erected on private property with the permission of the owner
- Election signs include vehicle signs
- Election signs must be removed within 3 days following election day
- Election signs must not be displayed at a voting place

All campaign signs and other advertising should 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. For example add the

statement ‘paid for by {candidate name}’ on each sign, advertisement, poster, etc.

Candidates for regional chair and selected school boards may experience different rules in the different municipalities within Halton Region.

Note: Election signs that are not in compliance with by-law 18-2018 will be removed by the City of Burlington enforcement staff without notice. Stolen or damaged/ vandalized sign inquiries should be directed to the Halton Regional Police.

Access to Residential Premises

In accordance with the *Municipal Elections Act, 1996, s. 88.1*, "No person who is in control of an apartment building, condominium building, non-profit housing cooperative or gated community may prevent a candidate or his or her representative from campaigning between 9 a.m. and 9 p.m. at the doors to the apartments, units or houses, as the case may be."

Rented Premises

In accordance with the *Residential Tenancies Act, 2006, s. 28,* "No landlord shall restrict reasonable access to a residential complex by candidates for election to any office of the federal, provincial or municipal level, or their authorized representatives, if they are seeking access for the purpose of canvassing or distributing election material".

Candidates experiencing difficulty in gaining access to these premises should contact the landlord of the building.

In accordance with the *Municipal Elections Act, 1996, s. 88.2 (1)* "No landlord or person acting on a landlord's behalf may prohibit a tenant from displaying signs in relation to an election on the premises to which the lease relates."

Condominiums

In accordance with the *Condominium Act, 1988, s. 118,* "No corporation or employee or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, or an office of a Municipal Government or school board if access is necessary for the purpose of canvassing or distributing election material."

Candidates experiencing difficulty in gaining access to these premises should contact the property manager of the building or the board of directors of the condominium.

In accordance with the *Municipal Elections Act, 1996, s. 88.2 (2)*, "No condominium corporation or any of its agents may prohibit the owner or tenant of a condominium unit from displaying signs in relation to an election on the premises of his or her unit."

Co-operatives

In accordance with the *Co-operative Corporations Act, 1990, s. 171.24*, "No non-profit housing co-operative or servant or agent of such co-operative shall restrict access to the housing units of the co-operative by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly, any office in a municipal government or a school board for the purpose of canvassing or distributing election material"

Candidates experiencing difficulty in gaining access to these premises should contact the co-operative representative.

Note: A landlord, person or condominium corporation may set conditions relating to the size or type of sign displayed and may prohibit the display of signs in common areas.

Voting Information

Starting March 12, 2018, Ontarian's can confirm their voter eligibility, or add/update their information and add other names of eligible electors in their household, through voterlookup.ca. The information obtained through voterlookup will be used to update the voters' list to be used by municipalities in the 2018 election.

Voterlookup.ca makes it easier and more efficient when electors head to the polls. It is the responsibility of every elector to make sure they are eligible to vote.

Voterlookup.ca

Voter Qualifications

A person is qualified to be a voter in Burlington if, on voting day they:

- reside in Burlington or are the owner or tenant of land in Burlington or the spouse of such owner or tenant; and

- are a Canadian citizen; and
- are at least 18 years old; and
- are not prohibited from voting as outlined in the Act or any other legislation.

Prohibition from Voting

A person is prohibited from voting in Burlington on voting day if they are:

- a person serving a sentence of imprisonment in a penal or correction institution;
- a corporation
- a person acting as executor or trustee or in any other representative capacity, except as a voting proxy; or
- a person is convicted of the corrupt practices described in subsection 90(3) of the *Municipal Elections Act, 1996*, if voting day in the current election is less than four years after voting day in the election in respect of which they were convicted.

Definition of Residence

In accordance with section 2(1) of the *MEA*, "residence" refers to the permanent lodging place to which, whenever absent, a person intends to return. The following rules apply in determining a person's residence:

- a person may only have one residence at a time
- the place where a person's family resides is also their residence, unless they move elsewhere with the intention of changing their permanent lodging place
- if a person has no other permanent lodging place, the place where they occupy a room or part of a room as a regular lodger or to which they habitually return is their residence

Voting Places

Each voting place will be accessible to electors with disabilities. The City Clerk will provide each candidate with an up-to-date copy of the voting places for the area in which the candidate is standing for elected office, once all voting places have been confirmed. In the event that any voting place is subsequently changed due to circumstances beyond our control, a notice of such change will be conveyed to all candidates and posted on the city's website, www.burlington.ca/elections.

Voting Notice

The Clerk will advise each resident elector of the date and time of voting, including advance voting, and of the location of the voting place at which that elector is to vote by mailing a notice. Additional notice will be provided through newspaper advertisements in the Burlington Post Update feature and postings on the city's website, www.burlington.ca.

Proxy Voting

A person who is not able to attend the voting place to vote may appoint another person to vote on their behalf (section 44 (1) of the *Municipal Elections Act, 1996*). The person acting as a proxy must also be an eligible elector. No person shall appoint more than one voting proxy and no person can act as a proxy for more than one person, unless the persons they are voting for are spouses or siblings of each other, parent and child, or grandparent and grandchild.

Proxies can only be appointed after the time for withdrawal of nominations has expired for all offices for which the election is being conducted. Applicants who wish to act as proxies must attend the office of the City Clerk after nomination day, present a completed Appointment for Proxy Voting - Form 3, and make a statutory declaration. The Clerk will issue a certificate which must be presented at the voting place.

Election Day Voting

Election day (voting day) is Monday, Oct. 22, 2018 and voting places will be open from 10 a.m. to 8 p.m. The *Municipal Elections Act*, 1996, requires that voters whose names appear on the voters' list must show identification at the voting place.

Electors and Candidates with Disabilities

The City Clerk is responsible for conducting the election will have regard to the needs of electors and candidates with disabilities. Clerk's department staff consult with the Burlington Accessibility Advisory Committee when selecting voting locations and will be consulting the Accessibility Coordinator in preparation for the election. Within 90 days after voting day, the City Clerk will submit a report about the identification, removal and prevention of barriers that affect electors and candidates with disabilities.

Campaign Period

The candidate's campaign period commences at the time the nomination paper is filed with the City Clerk and in most cases ends on Dec. 31, 2018.

Note: Candidates must not spend or receive funds for their election campaign until their nomination paper is filed with the City Clerk.

Campaign Expenses / Contributions

The *Municipal Elections Act* contains a number of requirements regarding campaign expenses (*Municipal Elections Act, 1996* s. 88.19 - 88.20) and campaign contributions (*Municipal Elections Act, 1996* s. 88.8 - 88.11). Each candidate should become completely familiar with these provisions.

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.

Campaign expenses are the costs that you incur during your campaign.

Helpful Hints

- open a separate bank account specifically for the campaign. Do not use your personal bank account for campaign purposes. Open the account prior to accepting any contributions or spending any money other than the payment of the nomination filing fee
- obtain a line of credit or bank loan (deposited directly into the campaign account) to fund your account, if required, prior to obtaining contributions
- issue receipts for all contributions upon receipt of the contribution
- contributions of money by a candidate and their spouse are contributions and a receipt must be issued
- deposit all contributions intact into the campaign account. Contributions that have not been deposited may not be used to pay off debts or to pay for purchases, without being properly documented through your account
- a contribution of money that exceeds $25 cannot be given in cash
- ensure each contribution is associated with the contributor's name and account or by a money order signed by the contributor.
- the limit for campaign contributions to one candidate is $1200
- the maximum total amount that a contributor can give to candidates in the same jurisdiction is $5000

- pay all expenses by cheque or money order from the campaign account other than the nomination filing fee
- keep receipts and/or records of all expenses including gifts in kind
- consider establishing a petty cash fund for small purchases. Set up petty cash with funds from your campaign account
- keep proper records of contributions and expenses. Records must be kept until after the next regular election
- when closing your campaign account make sure:
    - all bills have been paid
    - all cheques have cleared the bank
    - all bank charges have been paid
    - that you have a certified cheque, bank draft or money order payable to the City of Burlington if you have a surplus

Contribution Limits – from candidate and candidate spouse

If you are running for municipal council (this limit does not apply to school board trustees), the total amount that you and your spouse may collectively contribute to your own campaign is calculated using the following formulas:

- for head of council - $7,500 plus $0.20 per eligible elector (max $25,000)
- for council member - $5,000 plus $0.20 per eligible elector (max $25,000)

The Clerk will provide candidates with their self-funding limits.

Contribution Limits – from other people

The limit for campaign contributions to one candidate is $1200 and the maximum total amount that a contributor can give to candidates in the same jurisdiction (same council or same school board) is $5000.

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.

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 ten percent of the amount of your general spending limit.

Third Party Advertisers

A third party advertisement is an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing a candidate in the election, or a "yes" or "no" answer to a question on the ballot.

A third party advertiser is any individual, corporation or trade union that causes an election campaign advertisement to appear. A third party advertiser is required to register with the City Clerk of the municipality where they want to advertise.

To become a third party advertiser you must register with the City Clerk.

Until the City Clerk certifies your registration, you may not spend money on your campaign, accept contributions or begin advertising.

Candidates cannot register as a third party advertiser and cannot direct a third party advertiser.

For more information on third party advertisers, refer to the 2018 Guide for third party advertisers Ontario municipal and school board elections.

Use of Corporate Resources during an Election Period

The use of corporate resources during an election period shall be in accordance with the City of Burlington "Use of Corporate Resources during a Municipal Election" policy which contains specific restrictions regarding candidate use of corporate resources. No candidate shall use the corporate logo or any form of corporate resource in any

campaign literature, advertising etc. A copy of the policy is included in the candidate package.

Scrutineers

Candidates may appoint scrutineers in writing to represent them at voting places. Scrutineers shall be a minimum of 16 years of age. Scrutineers must show their Appointment of Scrutineer by Candidate – Form EL12 to election officials upon entering a voting place. Scrutineer appointment forms will be made available to candidates after nomination day.

Only one scrutineer per candidate will be allowed for each voting location. Candidates who enter the voting place as observers are considered to be scrutineers, and their scrutineer must leave the voting place during the period of time the candidate is in attendance. A candidate who has been declared to be elected by acclamation may only enter a voting place to vote and may not be there for any other purpose unless appointed as a scrutineer for another candidate.

Rights

Candidates and scrutineers have a number of rights, including the following:

- to be present when materials and documents related to the election are delivered to the City Clerk at the end of each voting day;
- to enter the voting place 15 minutes before it opens and to inspect the vote tabulator, the ballots and all other forms and documents related to the vote (but not so as to delay the timely opening of the voting place);
- to place their seal (which may not in any way identify the candidate) on the ballot box immediately before the opening of the voting place, so that ballots can be deposited in the box and cannot be withdrawn without breaking the seal;
- to place their own seal (which may not in any way identify the candidate) on the ballot box immediately after the close of voting on each day of an advance vote and on voting day, so that ballots cannot be deposited or withdrawn without breaking the seal;
- to object to an elector receiving a ballot on the grounds that the issuance of the ballot does not comply with the prescribed rules (objection to be decided by the deputy returning officer at the poll); and
- to sign the statement of the results of an election, printed at the close of voting.

Financial Reporting

It is the responsibility of each candidate to file a complete and accurate financial statement on time. If you filed a nomination form, you must file a financial statement.

This includes candidates:

- who were elected to office
- who were not elected
- who withdrew their nominations
- who were not certified and did not appear on the ballot
- whose nominations were rejected by the Clerk
- who were acclaimed

Filing Timing

The filing deadline is 2 p.m. on March 29, 2019 in the clerks department at Burlington City Hall.

If a candidate wishes to extend their campaign period in order to eliminate a deficit, they must file a Notice of Extension of Campaign Period - Form 6 with the City Clerk by 4:30 p.m. on Dec. 31, 2018. In addition to the first financial statement (March 29, 2019), the candidate must also file a supplementary financial statement by the supplementary filing date (2 p.m. September 27, 2019). The supplementary reporting period covers the six month period following the year of the election. There is only one supplementary campaign period.

Reporting Period	Filing Deadline
First reporting period – date nomination paper filed to Dec.31, 2018	March 29, 2019
Final reporting period – date nomination paper filed to June 30, 2019	Sept.27, 2019

Candidate's financial statements are filed with the Clerk and are public documents. All statements will be posted on the election website. This means that the personal information of all donors who make a contribution of more than $100 will be posted on the City of Burlington website.

A candidate must file a separate financial statement for each office they were nominated for during the election period.

Campaign Deficits

If the candidate has a deficit at the time the election campaign period would generally end and wishes to extend their campaign period, they must notify the Clerk using Form 6 before Dec. 31, 2018.

A supplementary financial statement or auditors report shall include all the information in the initial statement or report and in any previous supplementary statement or report, updated to reflect the changes to the candidate's election campaign finances during the supplementary reporting period.

Note: Burlington City Hall will be closed Dec. 24-31, 2018 inclusive.

Campaign Surpluses

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 recount, an application for a controverted election, or compliance audit. If the surplus is not needed for these expenses it becomes the property of the municipality.

Penalties for Non Compliance

There are three contraventions of the *Act* where penalties apply automatically:

1. If you fail to file a financial statement or apply to the court 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 2022 election.

For more details on campaign contributions, campaign expenses and financial reporting, see the 2018 Candidates guide for Ontario and municipal council and school board elections.

Meetings

Public meetings May 1, 2018 – Oct. 22, 2018

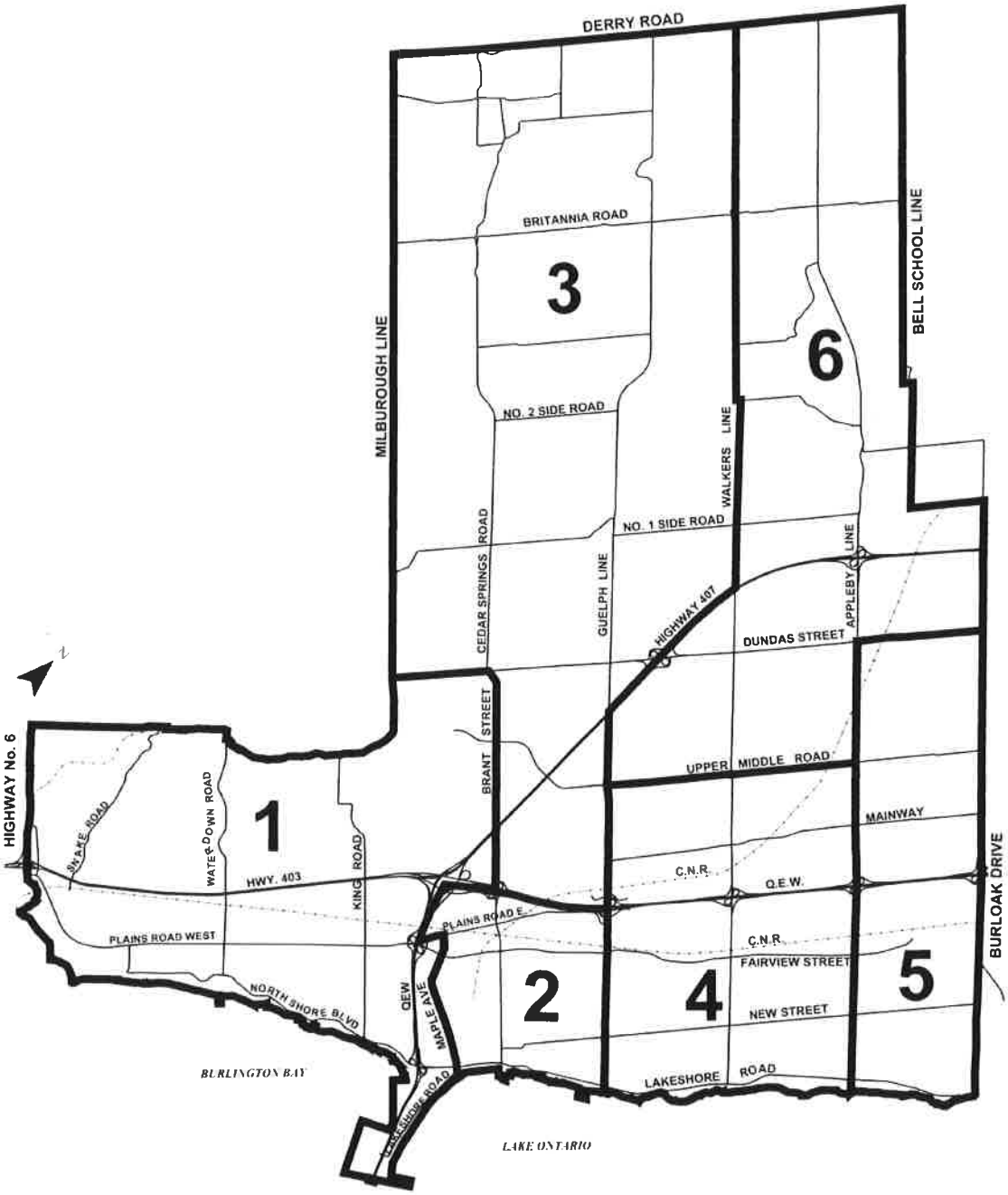
If a nominated candidate is attending a City of Burlington public meeting from May 1, 2018 through to election day, please call the meeting organizer in advance and introduce yourself to them at the beginning of the meeting. This will allow the chair, clerk or meeting organizer to introduce you at the meeting where appropriate.

Note: Election candidates will not be introduced at City of Burlington standing committee and council meetings.

Candidate Meetings

If you become aware of any 'all-candidates' meetings during 2018, please e-mail the Election Officer at lisa.palermo@burlington.ca so that we can add this information to our website.

Ward Boundaries Map



TAB D

2018

Candidates' guide

for Ontario municipal council and school board elections

Ontario

2018 Candidates' guide for Ontario municipal council and school board elections

This guide provides information to candidates for the 2018 municipal council and school board elections. The information also applies to any by-elections that may be held during the 2018-2022 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

Table of Contents

Changes to election rules in 2018 1
Quick links 2
General information 2
Eligibility to run for election 3
Nominations 5
Campaigning 10
Third party advertising 11
On voting day 12
After voting day 14
Campaign finance 16
Compliance and enforcement 28
Completing the financial statement 30
A-Z tips for completing form 4 30
Forms for municipal candidates 37
Contact us 38

Changes to election rules in 2018

Changes to the Municipal Elections Act, 1996 were made in 2016 and 2017. Those who were familiar with the rules for the 2014 municipal council and school board elections should be aware of the following changes:

- Candidates for municipal council in municipalities with more than 4000 electors must collect 25 signatures endorsing their nominations.
- Nominations may be filed beginning May 1, 2018. Nominations may be filed until 2 p.m. on nomination day (Friday, July 27, 2018).
- Candidates must open a bank account before incurring any expenses or accepting any contributions of money (including a contribution from themselves or their spouse). A candidate who does not spend any money or accept any contributions does not have to open a campaign bank account. The campaign bank account must be used exclusively for campaign purposes, but the previous requirement that the account be opened "in the name of the campaign" has been removed.
- There is now a limit for contributions that a candidate for municipal council and their spouse can make to the candidate's own campaign. This limit does not apply to school board trustee candidates.
- The limit for campaign contributions to one candidate is now $1,200, increased from $750. Corporations and trade unions are not permitted to make contributions to candidates.
- There is a separate spending limit for expenses related to parties and expressions of appreciation after the close of voting.
- Expenses related to an auditor's report accompanying the financial statement can be incurred after the campaign period has ended on December 31. These expenses should be included in the financial statement.
- There are now rules for third party advertising. Campaigning for a "yes" or "no" answer to a question on the ballot is now considered to be third party advertising. For detailed information about third party advertising, see the 2018 Guide for Third Party Advertisers.
- Municipal clerks are now required to review contributions that are reported by candidates and third party advertisers to see if any contributors have given more than is permitted.
- The council and school board term of office will run from December 1, 2018 to November 14, 2022. Starting in 2022, the term of office will begin on November 15.

Quick links

The following links are provided in the electronic version of this guide:

Ontario Central Forms Repository – links to election forms:

www.forms.ssb.gov.on.ca (type "municipal election" in Quick Search box)

Ministry of Municipal Affairs – resources for municipal elections:

www.ontario.ca/municipalelections

Ministry of Municipal Affairs – election email address:

mea.info@ontario.ca

General information

Every four years, voters across Ontario decide who will represent their interests and lead their communities by electing the members of their municipal councils and school boards.

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.

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. The clerk's office is where forms, such as the nomination form and campaign financial statements, must be filed. 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 town hall for more information.

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 page 3 of the 2018 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 wish to run for office on that municipality's council, you must take a leave of absence before you file your nomination form. If you are elected, you must resign from your job.

If you are an employee of a municipality and you wish to run for office in a different municipality, you do not have to take a leave of absence or resign. However, you may wish to 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 page 4 of the 2018 Voters' Guide.

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 wish to run for a trustee position on any school board in the province, you must take an unpaid leave of absence before you file your nomination form. 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 July 27, 2018). 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 signature forms (Form 2).**

**If you are running for municipal council and your municipality has more than 4000 electors, you must submit 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 4000 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.

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.

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 hand in 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 signatures endorsing your nomination.

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 choose 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.

If you submit 25 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.

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

Deadline to file your nomination

You can file your nomination beginning on May 1, 2018. The last day to file a nomination is Friday, July 27, 2018.

Note: The deadline to file or withdraw a nomination is now in July rather than September.

The clerk has until 4 p.m. on Monday, July 30, 2018 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 Peel Region would file their nomination with the clerk of Peel Region rather than the clerk of Mississauga, Brampton or Caledon.

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. July 27, 2018).

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 (i.e. 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 7, 2018. During the summer you decide to run for mayor instead, and file your second nomination form on June 29, 2018.

- Your first nomination for deputy mayor is deemed to be withdrawn.
- The nomination fee you paid on May 7 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).
- Your campaign for mayor is deemed to have started on May 7.
- 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 7 until December 31, 2018.
- 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 7, 2018. During the summer you decide to run for councillor in ward 1 instead and file your second nomination form on June 29, 2018.

- 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 must file a campaign financial statement covering your campaign for mayor (May 7 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 finance statement covering your campaign for ward councillor (June 29 to December 31) – 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.

Example:
You file your nomination to run for councillor on May 7. During the summer you decide to run for school trustee instead, and file your second nomination form on June 29, 2018.

- Your first nomination for ward councillor is deemed to be withdrawn.
- You are required to pay a nomination fee when you file your nomination for school trustee.
- Your campaign for ward councillor ends. You may not transfer any contributions or expenses from your ward councillor campaign to your trustee campaign.
- You must file a campaign financial statement covering your campaign for ward councillor (May 7 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 finance statement covering your campaign for school trustee (June 29 to December 31) – your second nomination fee will be refunded if you file this financial statement by the filing deadline.

Endorsement signatures

If you were required to submit 25 endorsement signatures when you filed your first nomination for municipal council, you do not have to submit new endorsement signatures if you withdraw and file a nomination for a different office on the same municipal council.

School board trustee candidates are not required to submit endorsement signatures. If your first nomination was to run for school board trustee and you decide to run for a

municipal council office instead, contact the municipal clerk to find out if council candidates are required to submit 25 endorsement signatures.

Acclamations

If there is only one certified candidate running for an office at 4 p.m. on Monday, July 30, 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 1, 2018. The clerk must either certify or reject each nomination by 4 p.m. on Thursday, August 2, 2018.

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.

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 an additional 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 could 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 pages 16-27.

Third party advertising

Beginning in 2018, 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.

Third party in this context means a person or entity who is not a candidate. Third party advertising is separate from any candidate's campaign and must be done independently from a candidate.

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

Eligible third party advertisers

The following are eligible to register as a third party advertiser:

- any person who is a resident of Ontario
- a corporation carrying on business in Ontario
- a trade union that holds bargaining rights for employees in Ontario.

Groups or businesses that are not corporations cannot register as third party advertisers. Candidates cannot register as third party advertisers.

Only registered third party advertisers may spend money on advertisements supporting, promoting or opposing candidates or answers to a question on the ballot during the municipal election.

What is not considered to be third party advertising?

Activities that do not involve spending money, such as speaking with friends or strangers, or posting an opinion on social media are not considered to be third party advertising.

Advertising about an issue rather than a candidate or a "yes" or "no" answer to a question on the ballot is not considered to be third party advertising.

For more information about third party advertising rules, including spending limits and enforcement, please see the 2018 Guide for Third Party Advertisers.

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.

Who can stay 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, one 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 December 31, 2017. 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 22, 2018 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.

Please 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

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.

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 persuade a judge to 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.

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.

Your campaign must end on December 31, 2018 unless you have a deficit and inform the clerk in writing that you are going to extend your campaign (see Extended campaigns on page 26). 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 29, 2019.

Start of term of office

The term of office for the new council or school board begins on December 1, 2018. The council and school board term of office will run from December 1, 2018 to November 14, 2022. Starting in 2022, the term of office will begin on November 15.

Campaign finance

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. Please see page 37 for links to forms.

You are required to keep all of your campaign financial records until November 15, 2022 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.

What is my campaign period?

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

Your campaign begins on the day you file your nomination.

In most cases, your campaign will end on December 31, 2018. 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 (July 27, 2018)

- know you will not have any more financial activity, you can end your campaign at any time after voting day and before December 31.

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, 2019.

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. If you do not spend any money and do not receive any contributions of money, you do not have to open a campaign bank account. 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.

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 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 sell tickets to a fundraising event, the cost of the ticket 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 (i.e. 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 normally resident in Ontario. Corporations and trade unions are no longer permitted to make contributions to candidates.

If your spouse is not normally a resident in 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 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 you have filed 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 now 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 (e.g. 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 (i.e. running for the same council or 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 cheque from a joint personal account, the receipt must be issued only to the person who signed the cheque. The contribution can only come from one 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 act 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 (e.g. 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.

Refunding 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

Contributions to municipal council and school board campaigns are not tax deductible. Your municipality may have a contribution rebate program. Contact your clerk for more information.

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.

If your ticket price is more than $100, you must include these contributions in Table 1 on your campaign financial statement (Form 4). If your ticket price is less than $100 and a person who buys a ticket makes other contributions totalling more than $100 (including the cost of the ticket), you must record these contributions – including the cost of the ticket – in Table 1.

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, and not a contribution.

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 campaign income on your financial statement.

If you sell goods (such as food and drink) at market value, the revenue is not considered to be a contribution, but must still be recorded on your campaign financial statement as campaign income.

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. The nomination fee is a personal expense. It is not considered to be a campaign expense and 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. See page 27 for information about when an auditor's report is required.

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.

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.

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, 2018 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.

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 ten percent of the amount of your general spending limit.

Example:
Your general spending limit is $25,000. Your spending limit for throwing a party on voting night and making expressions of appreciation such as giving gifts to the members of your campaign team would be $2,500. These expenses do not count toward your $25,000 general spending limit.

The clerk will provide you with your spending limit for expenses related to parties and other expressions of appreciation after the close of voting on or before September 25, 2018.

Types of expenses

Most of your expenses will be subject to the spending limit.

The following expenses are not subject to the spending limit:

- 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 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.

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.

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 wish 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.

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 29, 2019**).

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 by a method such as fax or email 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 29, 2019. 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 at the same time.

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 29, 2019** 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, April 29, 2019. 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, you will forfeit your elected office (if you won the election) and you will be ineligible to run for office or be appointed to fill a vacancy until after the 2022 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. Please see "Changing your mind – running for a different office" on page 7.

Extended campaigns

Your campaign period ends on Monday, December 31, 2018. 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 Monday, December 31, 2018 using the Notice of Extension of Campaign form (Form 6). Please see page 37 for links to forms.

Your campaign may be extended until June 30, 2019.

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

- a financial statement reflecting your campaign until December 31 (due March 29, 2019)
- 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 27, 2019.

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. Starting with the 2018 election, candidates may no longer carry forward a deficit to their next campaign.

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.

Auditor's report

You must have an auditor review your financial statement and provide a report if:

- your campaign expenses exceed $10,000, or
- the contributions you received (including contributions from yourself) exceed a total of $10,000, or
- 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 December 31. These expenses do not count toward your spending limit. Include these expenses on the financial statement that you are filing.

Compliance and enforcement

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 29, 2019 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 2022 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 2018 election must be commenced before November 15, 2022.

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

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 any 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 29, 2019).**

Supplementary financial statements must be submitted to the clerk **by 2 p.m. on the last Friday in September (September 27, 2019).**

A-Z tips for completing form 4

Anonymous contributions

You may keep anonymous contributions that do not exceed $25 each that are received at a fundraiser (e.g. 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.

If the anonymous contribution is $100 or less, include it in the total value of contributions not exceeding $100 per contributor. If the anonymous contribution is more than $100, include it in the total value of contributions exceeding $100 per contributor, and include it in Table 1 (listing "anonymous" as the name of the contributor). You will then subtract the contribution as paid or payable to the clerk to arrive at the Total for Part II Contributions.

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.

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 ran for office on the same council or school board in the previous election, and that campaign also had a deficit, you may include this amount to arrive at the total deficit for your campaign.

If you have extended your campaign in order to fundraise, you must still file a financial statement reflecting your campaign finances to December 31, 2018.

Campaign period

Your campaign period begins on the date you file your nomination paper with the clerk.

In most cases, the end date will be December 31, 2018. Exceptions are:

- if you withdrew your nomination, the date you withdrew is the end date
- if you were not certified as a candidate, nomination day (July 27, 2018) is the end date.

Note: if you have extended your campaign in order to fundraise to eliminate a deficit, you must file an initial statement reflecting your campaign finances as of December 31, and a supplementary statement which includes any contributions or expenses incurred after December 31.

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; or
- June 30, 2019.

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.

If you ran for office on the same council or school board in the previous election, and that campaign had a deficit, you may subtract this amount from your surplus.

You are entitled to recoup 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.

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 recouped by you and your spouse if the campaign ends with a surplus.

Contributions totalling more than $100

If a contributor makes one 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.

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.

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 2 because the total exceeds $100.

Corporations

Corporations are not permitted to make contributions to candidates. If you have accepted a contribution from a corporation, you must return it.

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.

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.

Fundraising events/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 (e.g. 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.

The fundraising event may also generate income 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 (e.g. if a $100 item is sold for $175, $100 is income)
- if goods or services are offered for sale for $25 or less, the money paid is campaign income.

Goods and services

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.

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 fund-raising events or activities that is not deemed a contribution (for example, if you sold refreshments at market value).

Ineligible contributions

Only individuals normally resident in Ontario may contribute to your campaign.

Trade unions, corporations, other businesses and groups are not permitted to make contributions to candidates.

Spouses are not permitted to make a joint contribution. If a contribution comes from a joint account, you must determine which individual is actually making the contribution.

A contributor is only permitted to contribute up to $1,200 to your campaign in total ($2,500 if you are running for mayor in Toronto). This includes the value of goods and services. If a contributor has made a number of separate contributions to your campaign, ensure that the total does not exceed the limit.

Only contributions of $25 or less may be made in cash.

You must return an ineligible contribution as soon as you become aware that it is not permitted under the Municipal Elections Act, 1996. If you are not able to return it to the contributor, you must turn it over to the clerk.

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 2014 and use them again, you must calculate how much it would cost to purchase those same signs in 2018) and record it in Table 1. This inventory must also be recorded as a campaign expense.

Loan

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.

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 in Box C.

Spending limit

The clerk is required to issue you two spending limit estimates – one when you file your nomination, and one in September. The higher of the two is your final spending limit.

Trade unions

Trade unions are not allowed to make contributions to candidates. If you have accepted a contribution from a trade union, you must return it.

Volunteers

The value of services provided by volunteers is generally not considered to be a contribution. If a professional (e.g. accountant, lawyer, etc.) volunteers to provide services for which they would normally be paid, the market value of the service must be recorded as a contribution by the volunteer, and as a campaign expense.

Forms for municipal candidates

You can get copies of forms from your municipal clerk, or you can download them from the Government of Ontario's Central Form Repository at www.forms.ssb.gov.on.ca.

Direct link to all forms

Nomination Paper (Form 1)

Endorsement of Nomination (Form 2)

Appointment for Voting Proxy (Form 3)

Financial Statement – Auditor's Report – Candidate (Form 4)

Financial Statement – Subsequent Expenses (Form 5)

Notice of Extension of Campaign Period (Form 6)

Notice of Registration – Third Party (Form 7)

Financial Statement – Auditor's Report – Third Party (Form 8)

Declaration of Identity (Form 9)

Contact us

If you have 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:

Central Municipal Services Office
13th Floor, 777 Bay St.
Toronto ON M5G 2E5
Telephone: 416-585-6226 or 1-800-668-0230

Lower Tier, Upper Tier and Single Tier Municipalities (Barrie, Dufferin, Durham, Halton, Hamilton, Muskoka, Niagara, Orillia, Peel, Simcoe, Toronto, York)

Eastern Municipal Services Office
Rockwood House
8 Estate Lane
Kingston ON K7M 9A8
Telephone: 613-545-2100 or 1-800-267-9438

Lower Tier, Upper Tier and Single Tier Municipalities (Belleville, Brockville, Cornwall, Dundas/ Glengarry, Frontenac, Gananoque, Haliburton, Hastings, Kawartha Lakes, Kingston, Lanark, Leeds and Grenville, Lennox & Addington, Northumberland, Ottawa, Pembroke, Peterborough, Prescott, Prescott-Russell, Prince Edward, Quinte West, Renfrew, Smith Falls and Stormont)

Northern Municipal Services Office (Sudbury)
Suite 40, 159 Cedar St.
Sudbury ON P3E 6A5
Telephone: 705-564-0120 or 1-800-461-1193

Districts (Algoma, Cochrane, Manitoulin, Nipissing, Parry Sound, Sudbury and Timiskaming)

Northern Municipal Services Office (Thunder Bay)
Suite 223, 435 James St. S
Thunder Bay ON P7E 6S7
Telephone: 807-475-1651 or 1-800-465-5027

Districts (Kenora, Rainy River and Thunder Bay)

Western Municipal Services Office
2nd Floor, 659 Exeter Rd
London ON N6E 1L3
Telephone: 519-873-4020 or 1-800-265-4736

Lower Tier, Upper Tier and Single Tier Municipalities (Brant, Brantford, Bruce, Chatham-Kent, Elgin, Essex, Grey, Guelph, Haldimand, Huron, Lambton, London, Middlesex, Norfolk, Oxford , Perth, St. Thomas, Stratford, Waterloo, Wellington and Windsor)

Ministry of Municipal Affairs

© Queen's Printer for Ontario, 2018

ISBN 978-1-4868-1939-3 (HTML)
ISBN 978-1-4868-1940-9 (PDF)

04/18

Disponible en français

TAB E

Gmail

Rory Nisan <rnisan@gmail.com>

Statement regarding a raffle at my community BBQ

Rory Nisan <rnisan@gmail.com>
To: Pepper <pepper@hwkp.com>

Tue, Sep 11, 2018 at 10:02 PM

I was made aware by the City of Burlington on Monday afternoon that there could be an issue with the raffle held at a community barbecue I hosted on Sunday, Sept 9.

It quickly became clear to me that I had made a mistake by holding a raffle without a permit.

I regret this error.

I have reached out to the City to find out how best to rectify the situation. I have also voluntarily cancelled the raffle and have already returned almost all contributions and am in the process of contacting the raffle participants to provide refunds.

As far as corporate donations are concerned, the 2018 Candidates Guide for Ontario Municipal Council and School Board Elections states on p. 23 that vendors may make personal contributions of goods and services. Also, returning an ineligible contribution is the correct response (p.20-21). After discussing with the city and the province, I am convinced that there is no corporate donation being made to my campaign.

I look forward to resolving the issue of the permit by-law soon.

Rory Nisan
905-464-7195
info@rorynisan.ca

TAB F

Ward 3 candidate regrets the fund raising error - raffle proceeds have been returned.

NEWS

By Staff

September 12th, 2018

BURLINGTON, ON

Rory Nisan, a candidate for the ward 3 seat released a statement Tuesday evening saying he "was made aware by the City of Burlington on Monday afternoon that there could be an issue with the raffle held at a community barbecue" he hosted on Sunday, September 9.

Nisan also said: "It quickly became clear to me that I had made a mistake by holding a raffle without a permit.

"I regret this error.

"I have reached out to the City to find out how best to rectify the situation. I have also voluntarily cancelled the raffle and have already returned almost all contributions and am in the process of contacting the raffle participants to provide refunds.

Ward 3 candidate Rory Nisan

Table offering raffle tickets which are not permitted as a fund raiser

"As far as corporate donations are concerned, the 2018 Candidates Guide for Ontario Municipal Council and School Board Elections states on p. 23 that vendors may make personal contributions of goods and services.

"Also, returning an ineligible contribution is the correct response (p.20-21) should one be received. After discussing with the city and the province, I am convinced that there is no corporate donation being made to my campaign.

"I look forward to resolving the issue of the permit by-law soon."

Nisan sees the error as minor and that the matter is now closed.

Related news story:

Gareth Williams wants Elections Clerk to investigate fund raising efforts by Rory Nisan

Return to the Front page

Like 93 people like this. Be the first of your friends.

Share this:

Google LinkedIn Email Tumblr More

September 12th, 2018 | Category: Government All, Headlines, News, Private Sector

TAB G

Gmail

Rory Nisan <rnisan@gmail.com>

Election Audits - City of Burlington 2018

Rory Nisan <rnisan@gmail.com>
To: Colin Gray CA <colingray@colingrayca.com>

Tue, Sep 11, 2018 at 4:03 PM

Hi Colin,

Sounds good to me. I'd be happy to engage your services. I expect to spend over $10k. I am handling it myself though I have someone who I go to for advice on record keeping. It would probably be a good idea to meet soon as I'm going through some potential issues.

Cheers,

Rory

On Tue, Sep 11, 2018 at 1:25 PM, Colin Gray CA <colingray@colingrayca.com> wrote:

> If you are certain you will over the $10,000 limit we can do up an engagement letter. We can chat about record keeping as well. On that note, do you have someone looking after that or are you keeping track yourself?
>
> I have a fair bit of experience auditing at the municipal, provincial and federal level for campaigns and ridings over the last 20 years. I have also been official agent/CFO at all three levels and I am currently the CFO for a Burlington Provincial Riding Association.
>
> Colin
>
> **From:** Rory Nisan [mailto:rnisan@gmail.com]
> **Sent:** Tuesday, September 11, 2018 12:52 PM
> **To:** Colin Gray CA
> **Subject:** Re: FW: Election Audits - City of Burlington 2018
>
> Fair enough Colin. That gives me a good idea. Is there a reason to engage you now vs. after Oct 22?
>
> How much experience do you have with audits of campaign expenses?
>
> Thanks,
>
> Rory
>
> On Tue, Sep 11, 2018 at 12:49 PM Colin Gray CA <colingray@colingrayca.com> wrote:

Hi Rory,

Thanks for replying to our email. Like all professional services, the fees vary depending upon the work involved. To give you an idea, we did several audits last municipal election and the fees varied from $750 to $1,500. The cleaner the file and the earlier the file is completed results in a lower fee. While the deadline is March for filing, anything after the new year results in higher fees due to seasonal nature in our work.

Feel free to contact me with any questions you may have.

Colin

From: Halo [mailto:halo@colingrayca.com]
Sent: Tuesday, September 11, 2018 10:53 AM
To: colingray@colingrayca.com
Subject: FW: Election Audits - City of Burlington 2018

From: Rory Nisan [mailto:rnisan@gmail.com]
Sent: Tuesday, September 11, 2018 10:51 AM
To: Barbara Adelman
Subject: Re: Election Audits - City of Burlington 2018

Hello,

I am interested. What are your fees?

Cheers,

Rory

On Tue, Sep 11, 2018 at 10:49 AM Barbara Adelman <barb@colingrayca.com> wrote:

Colin Gray

Chartered Accountant

720 Guelph Line

Unit LL#105

Burlington, Ontario

L7R 4E2

Tel: (905) 333-4818

Fax: (905) 333-4732

Email: colingray@colingrayca.com

www.colingrayca.com

September 11th, 2018

Rory Nisan

Dear Sir or Madam,

Congratulations on putting your name forward for the 2018 municipal election! I know the effort and sacrifices that running for public office entail.

I am writing this letter to inform you that my office performs audits for candidates at all levels of government including municipal. Running for municipal office may or may not require auditing services. If your contributions or expenditures exceed $10,000, you will require an audit of your campaign finances.

If you have not yet engaged the services of an auditor for the upcoming election, please feel free to contact me to discuss our services.

Sincerely,

Colin Gray, CPA, CA

CG/dr

TAB H

Invoice / Receipt

Date: Jan 19, 2018 11:22 AM

Invoice / Receipt #: 1251992623
Customer #: 177449836

Bill To:
Roderick Nisan
238-2075 Walkers Line
Burlington, ON L7M4G7
Canada
+1.9054647195

Payment Information:
Roderick Nisan
MasterCard ##########1420
Paid: C$178.72

Items

Provided by: GoDaddy.com, LLC

Show Tax Receipt

.COM Domain Registration
rorynisan.com

Item Number: 101
Quantity: 1
Term: 1

List Price: C$19.99
Purchase Price: C$12.00
ICANN Fee: C$0.25
Discount: C$0.00
Subtotal: C$12.25

Tax: C$0.00
Total: C$12.25

.NET Domain Registration
rorynisan.net

Item Number: 12001
Quantity: 1
Term: 1

List Price: C$23.99
Purchase Price: C$11.00
ICANN Fee: C$0.25
Discount: C$0.00
Subtotal: C$11.25
Tax: C$0.00
Total: C$11.25

.ORG Domain Registration
rorynisan.org

Item Number: 12101
Quantity: 1
Term: 1

List Price: C$25.99
Purchase Price: C$15.00
ICANN Fee: C$0.25
Discount: C$0.00
Subtotal: C$15.25
Tax: C$0.00
Total: C$15.25

Search Engine Visibility – 1 Year

Item Number: 455104
Quantity: 1
Term: 1

List Price: C$119.88
Purchase Price: C$119.88
ICANN Fee: C$0.00
Discount: C$87.11
Subtotal: C$32.77

Tax: C$0.00
Total: C$32.77

Provided by: Go Daddy Domains Canada, Inc. Show Tax Receipt

.CA Domain Registration
rorynisan.ca

Item Number: 9405
Quantity: 1
Term: 1

List Price: C$19.99
Purchase Price: C$10.99
ICANN Fee: C$0.00
Discount: C$0.00
Subtotal: C$10.99
Tax (13.00%): C$1.43
Total: C$12.42

Office 365 Email Plus

Item Number: 1073688
Quantity: 1
Term: 1

List Price: C$95.88
Purchase Price: C$83.88
ICANN Fee: C$0.00
Discount: C$0.00
Subtotal: C$83.88
Tax (13.00%): C$10.90
Total: C$94.78

Subtotal: C$165.64
Fees: C$0.75
Taxes: C$12.33

Total: C$178.72 CAD

20 January 2020

To Compliance Audit Committee Members:

I just now had an opportunity to review the submission form McEachern and the photos contained therein. These photos have reminded me that there were some last-minute additions to the raffle that were not included in the List of Raffle Items at Schedule "A" to my Submission, which was the document prepared for the raffle. These items are as follows:

1. Cooler with six beers: $115
2. Beer: $39.60
3. Stuffed Animal: ~$10 in material
4. Book: $29.99
5. 12 pack premium beer: $71.40

Total: $265.99

This would amend the total of all Raffle items that were returned to $2,071.99 (1806 + 265.99 = **2071.99)**

The five above-noted items were all personally returned and have no effect on my total income.

In undertaking this review of raffle items, I was also reminded that these items would not have been counted towards my spending limit as they were directly related to fundraising. Fundraising expenses are exempt from the spending limit.

Thank you,

Rory Nisan