

**Date:** 2023-05-10

**Subject:** **2022 Municipal Election – Clerk’s Review of Candidate Campaign Contributions**

**Contact:** Shauna Danton, Coordinator, Elections and Special Projects, City Clerk’s Office

**Report Number:** Legislative Services-2023-551

**Recommendations:**

That the report from Shauna Danton, Coordinator, Elections and Special Projects, City Clerk’s Office, dated May 10, 2023, to the Compliance Audit Committee meeting of June 27, 2023, re: **2022 Municipal Election – Clerk’s Review of Candidate Campaign Contributions**, be received.

**Overview:**

- **The *Municipal Elections Act, 1996 (MEA)* requires all candidates for the 2022 Municipal and School Board Election to file their financial statement and auditor’s report (Form 4) with the Clerk.**
- **The MEA requires the Clerk to review the contributions reported on each submitted financial statement and prepare a separate report on each contributor who appears to have over-contributed. The report must be forwarded to the Compliance Audit Committee.**
- **This report provides an overview of the Clerk’s review of contributions and a summary of findings.**

## **Background:**

As legislated by the *Municipal Elections Act, 1996* (MEA), the 2022 Municipal and School Board Election was held on Monday, October 24, 2022.

### Nominations Filed by Candidates

During the nomination period, 127 candidates filed their papers to run for office, including 75 candidates for Council.

Four (4) candidates withdrew their nomination before the legislated deadline – this included three (3) Council candidates.

Eight (8) candidates withdrew their nomination and re-filed for a different race. This included seven (7) Council candidates.

### Contribution Limits

During the campaign period, candidates could receive contributions from individuals who are residents of Ontario.

Section 88.9 of the MEA established the following contribution limits for the 2022 Municipal and School Board Election:

- \$1,200 contribution limit to one candidate
- \$5,000 combined contribution limit to two or more candidates for office on the same Council or local board

Candidates for Council also have a limit on how much they and their spouse can contribute to their own campaign; however, this contribution limit is not part of the Clerk's review, as per Section 88.9.1(8) of the MEA.

### Duties of Candidates

Under Section 88.22(1) of the MEA, candidates have the following duties related to election campaign finance:

- (a) no contributions of money are accepted or expenses are incurred unless one or more campaign accounts are first opened at a financial institution exclusively for the purposes of the election campaign;
- (b) all contributions of money are deposited into the campaign accounts;
- (c) all funds in the campaign accounts are used exclusively for the purposes of the election campaign;
- (d) all payments for expenses are made from the campaign accounts;
- (e) contributions of goods or services are valued;
- (f) receipts are issued for every contribution and obtained for every expense;

**(g) records are kept of,**

- (i) the receipts issued for every contribution,
- (ii) the value of every contribution,
- (iii) whether a contribution is in the form of money, goods or services, and

**(iv) the contributor's name and address;**

- (h) records are kept of every expense including the receipts obtained for each expense;
- (i) records are kept of any claim for payment of an expense that the candidate disputes or refuses to pay;
- (j) records are kept of the gross income from a fund-raising function and the gross amount of money received at a fund-raising function by donations of \$25 or less or by the sale of goods or services for \$25 or less;
- (k) records are kept of any loan and its terms under section 88.17;
- (l) the records described in clauses (g), (h), (i), (j) and (k) are retained by the candidate for the term of office of the members of the council or local board and until their successors are elected and the newly elected council or local board is organized;
- (m) financial filings are made in accordance with sections 88.25 and 88.32;
- (n) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions under the direction of the candidate;
- (o) a contribution of money made or received in contravention of this Act or a by-law passed under this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention;
- (p) a contribution not returned to the contributor under clause (o) is paid to the clerk with whom the candidate's nomination was filed;
- (q) an anonymous contribution is paid to the clerk with whom the candidate's nomination was filed; and
- (r) each contributor is informed that a contributor shall not make contributions exceeding,**
  - (i) a total of \$1,200 to any one candidate in an election, and**
  - (ii) a total of \$5,000 to two or more candidates for offices on the same council or local board.**

Review of Contributions

After the campaign period, all candidates (including those who withdrew their nomination) were required to complete and file their Financial Statement – Auditor's Report – Form 4 with the City Clerk's Office, as required by Section 88.25 of the MEA. On the financial statement, candidates were required to document contributors that had contributed more than \$100 to their campaign.

Subsection 88.34(1) of the MEA requires the Clerk to review the contributions reported on each financial statement submitted by a candidate to determine whether any

contributor appears to have exceeded any of the contribution limits. The Clerk must prepare a report of any apparent contraventions (over-contributions) [ss. 88.34(2)] and forward the report to the Compliance Audit Committee for consideration [ss. 88.34(4)]. A separate report is required for each apparent over-contribution [ss. 88.34(3)].

The report will be considered at a meeting of the Committee, which must decide whether to commence a legal proceeding against a contributor for an apparent contravention [s. 88.34(8)]. Notice of the meeting is given to the contributor, the applicable candidate and the public [ss. 88.34(9)].

### **Current Situation:**

The Clerk's Office received 73 financial statements for Council candidates before the filing deadline of Friday, March 31, 2023, 2 pm, or during the grace period for filing (deadline of Monday, May 1, 2023, 2 pm).

The contributions reported on each financial statement were reviewed and entered into a spreadsheet that tracked contributions by contributor's name and address, as well as the amount contributed.

Seventeen (17) apparent contraventions were identified during the review. Sixteen (16) contraventions related to contributors appearing to exceed the individual contribution limit of \$1,200, and one (1) contravention related to a contributor appearing to exceed the combined contribution limit of \$5,000 to two or more candidates.

A separate report for each apparent contravention has been prepared and the Committee will consider each report.

Two (2) of these apparent contraventions relate to contributions provided to Peel District School Board Trustee candidates. As per ss. 88.34(5) of the MEA, the corresponding reports have been forwarded to the school board.

### **Incomplete Financial Reporting**

#### *Missing / Incomplete Address Information*

On some financial statements, address information for contributors was not provided, or was incomplete. In some cases, some candidates stated that they did not feel comfortable including address information for their contributors out of concern for their privacy. In other cases, candidates claimed they had no way of obtaining a contributor's address as it was not collected when the contribution was made. The financial statement is a public record and all statements are posted to the City of Brampton's public website [www.brampton.ca/bramptonvotes](http://www.brampton.ca/bramptonvotes), as per Section 88(9.1) of the MEA.

The Clerk's review of contributions made to candidates found that 34 contributors were reported with missing or incomplete address information.

In order to determine if a contributor appears to have exceeded the combined contribution limit of \$5,000, name and address information for each contributor is

required. Name and address help to identify instances where a contributor has donated to multiple candidates, and further determine if a contributor appears to have exceeded the combined limit.

Name and address information also helps to identify instances where a contributor has donated to the same candidate more than once, and therefore determine if a contributor appears to have exceeded the individual contribution limit of \$1,200.

Without name and address information for all contributors, the Clerk's review may be seen as incomplete.

#### *Two Names / Incomplete Name Provided for Contributor*

A contribution can only come from one person. Twenty-two (22) contributions to candidates were recorded as having been received by two people (e.g. Joe and Jane Doe), and fifteen (15) contributions were recorded with an incomplete name (e.g. J. Doe, Joe D.). The Clerk was unable to determine who provided the contribution, and therefore the Clerk's review may be seen as incomplete.

#### *Missing Contribution Date*

The Financial Statement and Auditor's Report – Form 4 requires candidates to provide the date(s) in which a contribution was received. A handful of candidates did not provide these dates. In these cases, the Clerk was unable to determine if the contribution was received during the time in which a candidate is permitted to accept contributions, and therefore the Clerk's review may be seen as incomplete.

#### Next Steps

The Committee must now consider each report and decide whether to commence a legal proceeding against a contributor for an apparent contravention of the contribution limits. If the Committee decides to commence a legal proceeding, the Committee will pass a motion to initiate the proceeding under the MEA.

Under Section 88.34(11) of the MEA, the Committee's decision, as well as brief written reasons for the decision must be provided to the contributor and the Clerk.

#### **Corporate Implications:**

##### Financial Implications:

Costs associated with the function of the Compliance Audit Committee are funded through the Council-approved City Clerk's Office budget. Costs associated with the function of the Compliance Audit Committee of the Peel District School Board or Dufferin-Peel District School Board are funded by the respective school boards.

Other Implications:

There are no other direct implications from this report.

**Term of Council Priorities:**

This report achieves the priority of a Well-Run City by facilitating the review of the Clerk's reports prepared for the Compliance Audit Committee in compliance with prevailing legislation.

**Conclusion:**

This report fulfills the Clerk's responsibilities under the *Municipal Elections Act, 1996*, for the administration of certain post-election matters.

Authored by:

Reviewed by:

---

Shauna Danton, Coordinator,  
Elections and Special Projects

---

Shawnica Hans, Program Manager,  
Elections, and Peter Fay, City Clerk

Approved by:

Approved by:

---

Paul Morrison, Acting Commissioner,  
Legislative Services

---

Marlon Kallideen, Chief Administrative  
Officer