



CITY OF HAMILTON

DECISION of the ELECTION COMPLIANCE AUDIT COMMITTEE

established under Section 81.1(1) of the *Municipal Elections Act, 1996*

A COMPLIANCE AUDIT APPLICATION RESPECTING THE ELECTION CAMPAIGN FINANCES OF TERESA DIFALCO, CANDIDATE, WARD 10

With respect to the meeting held on July 13, 2015 and July 27, 2015 to deal with the application submitted by Mr. John Makkai concerning the Financial Statement of Teresa DiFalco:

The Committee verified with the Manager of Elections that Schedule 2, Fundraising Events and Activities, related to Dinner Dance was not included in the original submission to the Clerk.

The spending limit reported on Page 1 of Form 4 of the Candidates Financial Statement is overstated by \$221.85.

The failure to obtain a Lottery Licence may be a violation of Provincial and/or Municipal legislation but is not a contravention of the *Municipal Elections Act, 1996* (MEA).

The fundraising ticket revenue support schedule was not in the original submission and does not agree with the Financial Statements by \$60, however, the variance would not have resulted in exceeding the spending limit.

Based on the additional information provided by the Candidate the remaining cash balance noted as \$929.92 does not agree with the amount reported (\$1,086.45) on line D1 of Box D (Excess (deficiency) of income over expenses), indicating line D1 may not have been calculated correctly.

In addition, the Candidate when calculating the deficit, refunded \$2,780.08 of her total contribution of \$3,710 rather than an amount equal to the surplus as required by Section 79 (6) of the MEA.

The Committee is in agreement that there have been contraventions of the MEA, namely with respect to complying with Section 79 (6) of the MEA and the omission of information from the Financial Statements, and as such it has the authority to order a compliance audit. In the Superior Court rulings of *Lancaster v. Compliance Audit Committee et al.*, 2013 ONSC 7631 and *Vezina v. Parrish*, 2013 ONSC 2368, it was held the ordering of compliance audit is discretionary.

The Committee, after considering all of the evidence and submissions, finds that a compliance audit is not warranted.

Dated at the City of Hamilton July 28, 2015

Written and approved by the following Committee Members:

Ross Anderson, Chair

Barry Gilbert, Vice Chair

John Klein

Linda Lister