

**Notice of Decision
Election Compliance Audit Committee
Municipality of Chatham-Kent**

In the matter of an Application for Compliance Audit under section 88.33(1) of the Municipal Elections Act, 1996;

That the Election Compliance Audit Committee consider whether the application for a compliance audit of the finances for the 2018 General Municipal Election campaign of Candidate **Darrin Canniff** for Mayor submitted by Robert Powers be granted or rejected.

The application for compliance audit is: **REJECTED**

Moved by: Mike Lowther, Seconded by: Mike Phipps

Be it resolved that upon hearing the representations and reading the written submissions and documents submitted by the applicant, the candidate, and their representatives (as the case may be), the Committee hereby REJECTS the application for the following reason(s):

This application makes reference to Section 88(20)(2) of the Act, which says that an expense shall not be incurred by a candidate outside of the election period. In this case, the applicant alleges that Mr. Canniff's website was registered before for the beginning of the election period. Mr. Canniff concedes that the website was in fact registered before that date, but that he incurred no expense in relation to the website before that date. Mr. Powers has brought no evidence that Mr. Requena paid to register the website or that Mr. Requena was not reimbursed.

The application list various sections of the Municipal Elections Act that the Applicant believes have been contravened. The sections listed in the application are 88.9(4); 88.15; 88.15(3) 3; 88.22; 88.22(1)(e); 88.22(1)(f); 88.22(1)(g).

All of the above sections deal with campaign contributions, and are therefore dependent on a definition of "contribution". 88.15(1) states that, "For the purposes of this Act, money, goods and services given to and accepted by a person for his or her election campaign... are contributions."

The applicant alleges that the events held by Ben Labadie constituted a "service" that should have been reported by the candidates who participated. The Municipal Elections Act does not define the term "service". We are not prepared to attempt to define the term "service". However, even if Mr. Labadie's events were considered a service, we believe that his events were not organized for the benefit of any individual

candidate. We believe that the events were organized by Mr. Labadie for his own self-promotion and as a public service. The events are similar to town hall events and round tables that were conducted all over the municipality. We believe that this type of event is an important element of a democratic process. They assist in making the many candidates' positions available to the public. There is no evidence that Mr. Labadie accepted from the candidates, nor offered to the candidates, any payment related to the events. Further, there is no evidence indicating that Mr. Labadie only invited certain candidates. In fact, the applicant, in his written submissions, included a text message conversation between himself (a mayoral candidate) and Mr. Labadie, in which it appears that Mr. Labadie is inviting him to be a part of the event. We see no credible reason to invest taxpayer funds in an audit of these public events organized by Mr. Labadie.

It appears that Items 3 (a) and (b) bring up facts that are not related to acts or omissions by Mr. Canniff and as such may not be addressed in this decision.

Mr. Canniff clarified in his submissions that the 2019 date in his financial statement was a typo and should have been 2018. We accept this explanation.

Mr. Canniff explained in his submission that he was contacted by Rick Gardiner and answered questions from Mr. Gardiner for a "mock poll". The results of the poll were outside the control of Mr. Canniff and the applicant has submitted no evidence to suggest otherwise.

The applicant suggests the possibility that Mr. Canniff's involvement in positivity day may have resulted in preferential treatment or preferential rates from local media. Aside from raising that possibility, the applicant provided no indication of knowledge of facts to support any such allegation.

Mere possibility, belief or speculation on the part of the applicant is not sufficient for this committee to recommend an investigation.

Motion Carried

Issued by The Corporation of the Municipality of Chatham-Kent Election Compliance Audit Committee at Chatham-Kent, Ontario, on July 22, 2019.

Compliance Audit Committee:

Daniel Whittal – Chair

Mike Lowther – Member

Mike Phipps – Member