

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

In the matter of an apparent contravention by Regional MacDonald of the campaign contribution limits under Section 88.9 of the Municipal Elections Act, 1996;

That the Election Compliance Audit Committee consider whether to commence a legal proceeding against Reginald MacDonald for an apparent contravention.

Moved by: Mike Phipps, Seconded by: Daniel Whittal:

“That after reviewing the report from the Clerk of the Municipality of Chatham-Kent, hearing oral submissions from the Contributor and considering appropriate provisions of the Municipal Elections Act, 1996, it is the decision of the Compliance Audit Committee (Committee) that the Contributor contravened the contribution limits of \$5,000 to two or more candidates for office of the same municipal council during the 2018 Municipality of Chatham-Kent Municipal Election as set out in section 88.34 of the Act. Based on the documentation and submissions before the Committee, the Committee finds the contravention not to be relatively significant, with the Contributor acting in good faith with no direct intention to contravene the Act and therefore commencement of a legal proceeding against the Contributor for the contravention is not warranted.”

Motion Carried

Reasons

The reasons for the decision are as follows:

1. Section 88.34 (1) of the Act requires that the Clerk review the contributions reported on the financial statements submitted by each candidate under section 88.25 to determine whether any contributor appears to have exceeded either the individual or aggregate contribution limits. While the individual and aggregate contribution limits have been in force for a number of years, the Committee notes that the 2018 Municipal Election was the first time the Clerk was required to review to determine if contribution limits have been exceeded.
2. The report identifies that the Contributor contributed a total of \$6300 to two or more candidates for office on the same council during the 2018 Municipality of Chatham-Kent Municipal Election. This total is \$1200 in excess of the \$5000 limit prescribed by section 88.94 (4) of the Act.

3. The Contributor has acknowledged the overcontribution in contravention of the Act, but has stated that he was completely unaware of the aggregate contribution limitation set out in the Act and did not in any way intend to contravene the Act. The Contributor further stated that at no time during the election campaign period was he made aware of the aggregate contribution limit by any candidate, election official, by any print or digital media or otherwise. He was not aware of the contribution contravention until informed by the Clerk. The Contributor stated that, had he been aware of the aggregate limit, he would have limited his contributions accordingly.
4. The Committee is satisfied that the Contributor acted in good faith and without any knowledge of the aggregate contribution limit of \$5000. He was responding primarily to candidates on an individual basis without thought, knowledge or consideration of an aggregate limit.
5. The Committee has taken into consideration that the intention of the Province of Ontario was to ensure there would be contribution limits applied to those contributing to candidates beginning with the 2018 Municipal Election. However, the Act and guidelines, while clearly stating the contribution limits, are primarily candidate and voter focused. In fact, it is the candidate, under section 88.22(1)(r) of the Act who is to ensure that each contributor is informed of the contribution limits, and the guidelines suggest that this might be accomplished, for example, by issuing annotated receipts.
6. The Committee is satisfied that media and other publicity with respect to its meetings and deliberations will serve to increase awareness of the contribution limits, will have a deterrent effect, and will lead to the refinement of future election practices relating to contributors and, in particular, the aggregate contribution limit. With respect to increasing public awareness of this provision of the legislation, the Committee encourages the Clerk of the Municipality of Chatham-Kent to develop media releases and digital notifications for future municipal council elections.
7. The Committee is also cognizant of the cost of further proceedings and believes that the deterrent effect of prosecution under the Act is not merited by the cost of such proceedings. The Committee is satisfied that it is extremely unlikely the Contributor will exceed contribution limits in future elections.
8. The Committee is satisfied that it is within its discretion and consistent with its responsibilities under the Act to determine whether the public interest would be served by the commencement of legal proceedings against the Contributor for an acknowledged contravention of the Act. For the reasons herein set out, it is the Committee's decision that is not in the public interest to commence a legal proceeding against the Contributor for his contravention of section 88.9(4) of the Act.

Issued by The Corporation of the Municipality of Chatham-Kent Election
Compliance Audit Committee at Chatham-Kent, Ontario, on June 19, 2019.

Compliance Audit Committee:

Original Signed by:

Daniel Whittal – Chair

Original Signed by:

Mike Phipps – Member