

# Corporate Report

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**REPORT NUMBER** 052-2023-City Manager's Office-Office of the City Clerk

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**DATE**

**PREPARED**

April 3, 2023

**FILE**

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**MEETING DATE**

May 15, 2023

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**SUBJECT**

Election 2022 - Candidates' Financial Statements Compliance Report

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## **RECOMMENDATION**

For information only.

## **EXECUTIVE SUMMARY**

The *Municipal Elections Act, 1996* (the Act) requires the City Clerk to provide a report as soon as possible after April 30 in the year following a regular election, stating whether candidates for City Council and School Boards complied with s.88.25 of the Act. The report must include the identities of all candidates in default of filing their financial statement by the legislated filing deadline.

## **DISCUSSION**

All prescribed forms and timelines associated with the 2022 Municipal & School Board Elections were provided for each candidate on a USB flash drive at the time their nomination was filed. All candidates were asked to provide their campaign email addresses for communication purposes between candidates, the Office of the City Clerk, and the Election Office. All candidates provided valid email addresses that were confirmed by Election Office administration.

The legislated financial statement filing deadline for the 2022 Municipal & School Board Elections was on or before 2:00 p.m. on Friday, March 31, 2023. All candidates were sent notice of their obligations by email on Tuesday, November 8, 2022, Monday, February 13, 2023 and Wednesday, March 1, 2023.

A candidate who fails to file a financial statement by the legislated deadline is in default and subject to the following penalties:

- The candidate forfeits any office to which they were elected and the office is deemed to be vacant; and
- Until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which this Act applies.

As per Section 88.23(9) of the Act, the above noted penalties do not take effect if, no later than 2:00 p.m. on the day that is 30 days after the legislated deadline, the candidate files a financial statement and pays a late filing fee of \$500.

Ninety-one (91) candidates registered for the 2022 Municipal & School Board Elections.

Eighty-five (85) candidates complied with the Act and filed their financial statements by the legislated deadline of March 31, 2023.

No candidates applied to the Ontario Superior Court of Justice for an extension to file their financial statement.

The following six (6) candidates failed to meet their obligations under the *Municipal Elections Act, 1996* and are ineligible to be elected or appointed to any office until after the 2026 Municipal & School Board Elections:

- Dan Courtney, candidate for Councillor At Large
- James Glavish, candidate for Councillor At Large
- Ahsanul Habib, candidate for English Public School Board Trustee
- Iqbal Khan, candidate for Councillor At Large
- Gary Mack, candidate for Mayor
- James Dean Marsh, candidate for Red River Ward Councillor

A Notice of Default was issued to each of the above noted candidates on Monday, April 3, 2023.

Candidate financial statements have been posted on the election website, [www.tbayvotes.ca](http://www.tbayvotes.ca). Any eligible elector who believes on reasonable grounds that a candidate has contravened the rules of the Act relating to election campaign finances can request a compliance audit of the candidate's election campaign finances. A compliance audit can be requested even if the candidate has not filed a financial statement. The deadline to apply for a compliance audit is Thursday, June 29, 2023.

As per section 88.34 of the Act, the City Clerk is required to review the contributions reported on the candidates' financial statements and prepare a separate report identifying each contributor who appears to have contravened any of the contribution limits under section 88.9. The Clerk must forward those reports to the Compliance Audit Committee.

Following the City Clerk's review of 2022 campaign finances, reports relative to two candidates' election campaign finances will be forwarded to the Compliance Audit Committee.

### **FINANCIAL IMPLICATION**

A candidate is entitled to receive a refund of their nomination filing fee if their financial statement is filed by the legislated deadline. Six (6) candidates were in default of the Act and forfeited the refund of their nomination filing fee. \$700 became property of the municipality.

If a candidate's financial statement shows a surplus when the campaign period has ended, they may refund to themselves or their spouse any contributions made to their own campaign. Any remaining surplus must be paid to the Clerk at the time the statement is filed. Three (3) candidates filed financial statements showing a surplus. A total of \$739.23 was paid to the Clerk and became property of the municipality.

### **CONCLUSION**

It is concluded that, as required by s.88.23(4)(5) of the *Municipal Elections Act*, the names of all candidates who did not comply with the Act, and are in default, have been submitted to City Council for information purposes. Furthermore, until the next regular municipal election has taken place in 2026, the six (6) candidates listed above are ineligible to be elected or appointed to any office to which the Act applies.

### **BACKGROUND**

As per section 88.25(1) of the *Municipal Elections Act, 1996*, on or before 2 p.m. on Friday, March 31, 2023, candidates were required to file with the Clerk a financial statement in the prescribed form, reflecting the candidate's election campaign finances. A candidate who fails to file a document as required under section 88.25, is in default and subject to penalties listed in subsection (2), namely (a) the candidate forfeits any office to which they were elected and the office is deemed to be vacant; and (b) until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which this Act applies.

As per Section 88.23(9) of the Act, the above noted penalties set out in subsection (2) do not take effect if, no later than 2:00 p.m. on the day that is 30 days after the applicable day for filing the document, the candidate files the relevant document as required under section 88.25 and pays the Clerk a late filing fee of \$500.

Section 88.23(4)(5) of the Act requires that the Clerk make available to the public a report setting out all candidates in an election, along with an indication of whether each has filed a financial statement and auditor's report. The report must be made available

to the public on a website or in another electronic format as soon as possible after April 30 in the year following a regular election.

***REPORT PREPARED BY***

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***REPORT SIGNED AND VERIFIED BY***

Norm Gale, City Manager

05/05/2023