

**COMPLIANCE AUDIT DECISION  
2006 MUNICIPAL ELECTION CAMPAIGN FINANCES  
BERNIE DI VONA**

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**Recommendation**

The Commissioner of Legal and Administrative Services and City Solicitor in consultation with the City Manager and Deputy City Manager and Commissioner of Finance and Corporate Services request direction regarding appointment of an auditor to conduct a compliance audit pursuant to section 81(6) of the *Municipal Elections Act, 1996* in regard to the 2006 Municipal Election Campaign finances of Bernie DiVona.

**Economic Impact**

The economic impact is not known at this time.

**Communications Plan**

The parties will be advised of Council's decision.

**Purpose**

The purpose of this report is to seek direction regarding the appointment of an auditor to conduct the compliance audit.

**Background - Analysis and Options**

On October 7, 2008 the Ontario Court of Justice released its decision regarding the appeal of Council's refusal of the application for an audit of Bernie DiVona's 2006 Municipal Election Campaign finances. The Court ordered a compliance audit pursuant to section 81.

The *Municipal Elections Act, 1996* sets out the duties and responsibilities of candidates in how they manage their election campaign finances. Those duties and responsibilities can be segregated into three broad categories:

1. The receipt and proper recording of eligible financial contributions.
2. The expenditure and proper recording of eligible campaign expenses.
3. The preparation and timely filing of financial reports.

The next step is to appoint an auditor licensed under the *Public Accounting Act, 2004* to conduct the compliance audit pursuant to section 81(6) of the *Municipal Elections Act, 1996*.

A Request for Proposal could be issued for professional auditing services similar to the RFP issued for appointment of an auditor to conduct the compliance audit of Linda D. Jackson's 2006 campaign finances. The criteria to be included in the RFP would have a technical and cost component.

A staff team of the Internal Auditor, Deputy City Clerk, Commissioner of Legal and Administrative Services and City Solicitor, and the Director of Financial Services would be the evaluation team, as in the previous RFP.

The Technical evaluation would be based on the following evaluation categories: Experience and Qualification, Methodology and work plan, Experience of firm and Cost.

In order to preserve the integrity of the process, the successful proponent would be required to sign a Conflict of Interest and Full Disclosure Form. As well, provisions will be included in the evaluation criteria to exclude any firm and/or partner which specifically had a conflict of interest on this matter. The City's Auditor, KPMG will therefore be unable to submit a proposal.

In March 2008, RFP 08-100 was issued for an auditor, and Council appointed Mr. K. Froese of LECG Canada Ltd. and Glen Davison, C.A., to conduct the audit of the 2006 campaign expenses of Linda Jackson. Council appointed the same auditors to conduct the compliance audits of Michael Di Biase's and Joyce Frustaglio's 2006 campaign finances. Council could appoint the same auditors to conduct the audit of Bernie Di Vona's 2006 campaign finances as well, which would provide consistency.

The Auditor will submit the report to the candidate, Council, the Clerk and the applicant(s). For the purpose of the audit, the auditor is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality and has the powers of a commission under Part II of the *Public Inquiries Act* which Part applies to the audit as if it were an inquiry under that *Act*.

Upon receipt of the Auditor's Report Council has 30 days to consider the report (section 81(10)) and may commence a legal proceeding (prosecution) against a candidate for any apparent contravention of the election campaign finance provisions of the *Act*. The *Act* also provides a range of possible penalties for contraventions of various provisions.

#### **Relationship to Vaughan Vision 2020**

This report is consistent with the priorities previously set by Council and the necessary resources have not been allocated.

#### **Regional Implications**

N/A.

#### **Conclusion**

Council direction is requested regarding the appointment of an auditor to conduct a compliance audit of the 2006 campaign finances of Bernie Di Vona as ordered by the Court on October 7, 2008. Council may appoint the auditors presently retained for the three compliances audits currently underway, or may direct a Request for Proposals be issued for the retention of an auditor.

#### **Attachments**

None

#### **Report prepared by:**

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Respectfully submitted,

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Commissioner Legal and Administrative Services and City Solicitor