COMPLIANCE AUDIT COMMITTEE – SEPTEMBER 2, 2011

COMMUNICATIONS

Distributed August 31, 2011		Item No.
C1.	Mr. Anthony Niro, Time For Change Vaughan, dated August 30, 2011.	1
C2.	Mr. Richard Lorello, Affidavit.	1

Distributed September 2, 2011		
C3.	Facebook page, dated October 14, 2011	1
C4.	Facebook event, dated October 25, 2011	1

Please note there may be further Communications.

C 1
COMMUNICATION
Compliance Audit Committee
September 2/11
ITEM # – 1

August 30th 2011

Office of the City Clerk

City Hall
Level 100
2141 Major Mackenzie Drive
Vaughan, L6A 1T1

Dear Compliance Audit Committee Members;

My name is Antony Niro and I am the sole officer and Director of the corporation operating under the trade name Time for Change Vaughan.

As you can see in the application, Time for Change Vaughan is mentioned on numerous occasions along with other allegations which I would like to address. Unfortunately, I have not had enough time to review the allegations with my legal counsel in time to meet the deadline of Wednesday August 31st for responding materials. I respectfully request that the Compliance Audit Committee grant an adjournment for at least 1 week to provide me with enough time to review the application and the allegations with respect to my corporation and respond appropriately.

Respectfully,

Antony Niro, P.Eng.

Founder Time for Change Vaughan
antony.niro@timeforchangevaughan.ca
416.479.0427

From: Abrams, Jeffrey
Sent: Wednesday, August 31, 2011 7:11 AM
To: Winborn, Donna; Bellisario, Adelina
Cc: Atwood-Petkovski, Janice; Bendick, Chris; Zito, Madeline
Subject: FW: Compliance Audit Application, August 24, 2011, filed by Carlo DeFrancesca
Attachments: Lorello Compliance Audit Request - letter for adjournment Aug 30 2011 - signed.pdf

Please process this as a communication for the item at CAC Friday

Jeffrey A. Abrams
City Clerk
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON L6A 1T1
Tel: (905) 832-8585 Ext. 8281
Fax:(905) 832-8535
jeffrey.abrams@vaughan.ca

VAUGHAN

From: Antony Niro TimeForChangeVaughan [mailto:antony.niro@timeforchangevaughan.ca]
Sent: August-30-11 11:21 PM
To: Abrams, Jeffrey
Cc: Richard Lorello
Subject: Compliance Audit Application, August 24, 2011, filed by Carlo DeFrancesca

Dear Compliance Audit Committee Members,
My name is Antony Niro and I am the sole officer and Director of the corporation operating under the trade name Time for Change Vaughan.
As you can see in the application, Time for Change Vaughan is mentioned on numerous occasions along with other allegations which I would like to address. Unfortunately, I have not had enough time to review the allegations with my legal counsel in time to meet the deadline of Wednesday August 31st for responding materials. I respectfully request that the Compliance Audit Committee grant an adjournment for at least 1 week to provide me with enough time to review the application and the allegations with respect to my corporation and respond appropriately.

Antony Niro, P.Eng.
Founder Time for Change Vaughan

C 2
COMMUNICATION
Compliance Audit Committee
September 2/11
ITEM # - 1

Affidavit of Richard Lorello

(Sworn August 31, 2011)

I, Richard Lorello, of the City of Vaughan, in the Province of Ontario, make oath and say as follows:

1. I am a resident of the City of Vaughan and ran for the position of Regional Councillor in the 2010 election.

2. I am responding to the affidavit of Carlo DeFrancesca, with regards to his request for an audit of my 2010 election campaign finances. I file this response for the purpose of addressing his request for an audit and for no other reason.

Standards

3. There are three legal standards or tests that are applicable to this application.

4. The first is the test for granting or disallowing a request for an audit. This standard has been applied by each of Justice Culver, Justice Favret and Justice Lauwers. The standard is one that quite specifically states audits cannot be granted based on Mere suspicion, conjecture, hypotheses or "fishing expeditions", taken from Justice Favret *Vaughan (City) v. Mastroguiseppe*, 2008 ONCJ 763 as follows in Parar [61] of Exhibit 1:

> Mr. Justice Culver in Chapman, supra at paragraph 41, that the definition of reasonable grounds was stated at page 10 of R. v. Sanchez 93 C.C.C. (3d) 357 by Mr. Justice Hill as follows:
> "Section 487(1) of the Criminal Code requires reasonable grounds as the standard of persuasion to support issuance of a search warrant. Judicially interpreted, the standard is one of credibly based probability...
> Mere suspicion, conjecture, hypotheses or "fishing expeditions" fall short of the minimally acceptable standard from both a common law and constitutional perspective. On the other hand, in addressing the requisite degree of certitude it must be recognized that reasonable grounds is not to be equated with proof beyond a reasonable doubt on a prima facie case...The appropriate standard of reasonable or credibly based probability envisions a practical, non-technical and common sense probability as to the existence of the facts and influences asserted "

5. The second is the standard for bad faith applied by Justice Lauwers in Jackson v. Vaughan (City), 2009 CanLII 10991. This standard applies to the decision of bad faith and bias and is as follows in Para [7] Issue 3 of Exhibit 2:

> While there are differences between the compliance audit report about Ms. Jackson and the report about Councillor Joyce Frustaglio, neither the differences nor the complaints are significant. They do not lead me to conclude that the auditors were biased against Ms. Jackson or biased in favour of Ms. Frustaglio. The facts and circumstances concerning each campaign were different and the differences are fairly reflected in the compliance audit reports. Ms. Jackson has not proven the existence of bias on the part of City Council, so it cannot form a support for her argument that it acted in bad faith. I also find that the evidence does not support the Applicant's allegations of capricious behaviour, corrupt motivation, bias, bad faith or otherwise unlawful action, response or purpose on the part of City Council.

6. The third is the standard for applying the Municipal Elections Act, "MEA" for "an improper purpose,.., marked unfairness, improper motives, fraud or absence of procedural fairness,.." Justice Lauwers, again articulates the test in para 157:

> In oral argument, Mr. Manning was at pains to say that his bad faith complaint was about non-compliance with the relevant elements of the statutory context. He was not, he advised, impugning the integrity of the Councillors, but was instead saying that they were using their power for an improper purpose, one for which it had not been designed, citing *Equity Waste Management of Canada v. Halton Hills (Town)*, 1997 CanLII 2742 (ON CA), (1997), 35 O.R. (3d) 321 and *Re H.G. Winton and Borough of North York*, (1978), 20 O.R. (2d) 737. In his factum he stated:
>
> > A finding of bad faith does not require any wrongdoing on the part of any council members, but only that council acted unreasonably and arbitrarily in the circumstances without the degree of fairness, openness and impartiality required of a municipal government. Bad faith by a municipality connotes a lack of candour, frankness and impartiality. It includes arbitrary or unfair conduct by the municipality, usually marked by unfairness, partiality, secretiveness, unreasonableness, improper motives, oppression, fraud or the absence of procedural fairness.
>
> These last sentences do raise issues about the integrity of the Councillors, especially the references to unfairness and impartiality.

General Background

7. The first issue, for the application, encompasses the bulk of and the focus of the request for the audit. It is alleged that a contribution in kind was given and accepted under Section 61(1), 61(2) and 61(3). Section 61(1) is specific that a contribution has to be *given* and *accepted*. Based on the definition of contributions 66(2), the alleged contributions in kind are not contributions.

8. Based on the groundless accusations, I believe this audit has been brought in bad faith and as retaliation for unrelated events.

9. Alternatively, filing an election finance audit against a *Candidate* for a *Contributor* allegation of third party advertising based on 71(2.1) for exceeding the $5,000 limit is nothing more than a frivolous, fishing expedition. Additionally, the audit request focuses on a third party advertising campaigning that is ultra-vires to the MEA as a third party advertising is not prohibited, or even mentioned in the MEA.

10. The request for an audit of a candidate for the purposes of gaining information on a third party advertiser is ultra-vires to granting an audit on a candidate, and is a fishing expedition and not contemplated by candidate responsibilities.

11. The TimeForChangeVaughan third party advertiser supported five candidates: Mayor Bevilacqua, Regional Councillor Deb Shulte, Ward 1 Councillor Marilyn Iafrate, who were successful in gaining a council seat, and two people who were not, Robert Craig and I. Exhibit 3.

12. The application was not brought against the five, but solely against me.

13. There were five previous members of council who were not endorsed by TimeForChangeVaughan (TFCV) ads and these previous members are: Previous Mayor Linda Jackson, Previous Ward 1 Councillor Peter Meffe, Previous Regional Councillor Joyce Frustaglio, and Previous

Councillor Mario Ferri who lost their seats and Regional Councillor Gino Rosati, who was re-elected. Exhibit 4.

14. It has come to my attention after the application was filed, and as a result of conversations between myself and various knowledgeable individuals that Carlo DeFrancesca has recently been seeking payment from the city as compensation for his "reported" costs for an election audit he co-filed with myself and a third person in 2007.

15. Mr. DeFrancesca did not inform me or the third party to this action that he was actively seeking compensation.

16. I personally undertook to pay significant legal costs on the DiVona legal matter and as such, I see Mr. DeFrancesca's claim as personal gain for himself. I do not support the personal gain of the funds that he seeks at the expense of the taxpayers of Vaughan and because he has not been successful, he may be using this audit request as a means of retaliation.

17. Although not happy with the ruling of no costs, I respect the decision of the court and do not support DeFrancesca's efforts to seek funds from the taxpayers of Vaughan.

18. The remaining three issues are frivolous, a fishing expedition, have no merit, are vexatious and are meant to embarrass and humiliate. This application has been filed in bad faith for an ulterior purpose.

The Facts

19. I ran as a candidate in 2010. I registered as a candidate on July 23, 2010 and opened a campaign office on September 1, 2010 located at 9505 Keele Street in Maple.

20. I was not successful in my election bid but I am confident that I satisfied each aspect of the MEA, as I understand them to be and as applied in previous decisions of the honorable courts.

21. Two residents, Quintino Mastroguiseppe and Gino Ruffolo, filed an audit application request against previous Mayor Linda Jackson and it was refused by City of Vaughan Council. The decision was appealed. On February 19, 2008, Justice Favret granted the audit against previous Mayor Jackson, and in that case, Justice Favret stated "[74] An application may be made to address the costs of this Appeal by any of the parties on notice."

22. In May-June 2007 I, along with Carlo DeFrancesca and Robert Zuccarini filed an application for an election audit against former Ward 3 Councillor DiVona. The application was rejected by City of Vaughan Council and an appeal was filed. On October 7, 2008, an audit was granted by Justice Chisvin and for various reasons no costs were granted.

23. In May of 2009, a report regarding election related costs was brought forward by Ward 2 Councillor Carella to Vaughan Council that outlined the cost of $50,000 for the Jackson trial. Carlo DeFrancasca was bitter and continued to attempt to seek costs from the City of Vaughan, making at least one deputation for funding from council. It was my understanding that the matter was dropped.

24. On January 14, 2011, a resident of Vaughan, Carrie Liddy filed an affidavit containing copies of the invoices for the use of the $50,000. This affidavit is filed in the Toronto Court under CV-09-383329-0000. It is public information and is available to the general public.

25. The information in the affidavit shows the use of the $50,000 given to Gino Ruffolo and Quintino Mastro-Guiseppe's lawyer, Eric Gillespie. The use of the $50,000 is highly questionable and paid without a court order. This information was given to Mayor Bevilacqua by a member of council along with request for a copy of the court order for the $50,000. In addition to providing this information to Council, there were several meetings that followed with the Council member and at least one of these meetings was attended by me and the Mayor and the City Manager. To date, no documentation of a court ordered settlement has been provided. I do verily believe that there is *no court order and the monies were improperly paid.*

26. Based on this new information, Carlo DeFrancesca again began a campaign to recover monies from the taxpayers of Vaughan through Vaughan Council. Unbeknownst to myself. Carlo DeFrancsca continued to attempt to seek compensation from the City Council for the DiVona audit.

27. With regards to TFCV, and during the 2010 election, there was indeed a great deal of third party advertising that was distributed by TFCV and in addition, a website was maintained. Antony Niro has claimed he was responsible for this advertising.

28. I have no knowledge of the involvement of other people or corporations in the TFCV third party advertising.

Response to Issue 1

29. The TimeForChangeVaughan (TFCV) campaign was a third party advertising campaign. Third party advertising is not prohibited in the MEA. The MEA was amended as part of an Omnibus Bill 110, the Good Government Bill and it was enacted in December 2009. If the legislature intended on bringing a prohibition against third party advertising, surely they would have done so at that time.

30. Under 61(1) and as defined in the MEA, a contribution has to be *GIVEN* and *ACCEPTED* by the *CANDIDATE.* The third party advertising was neither *given* to me, nor was it *accepted* by myself. Exhibit 5 is a letter from TFCV owner and Director Antonoy Niro. He substantiates that he is the sole officer and director of the corporation TFCV.

31. The MEA s. 66(2) includes a definition of contributions, as follows:

> **S 66. Additional rules**
> (2)Without restricting the generality of subsection (1), the following rules apply in determining whether an amount is a contribution:
>
> 1. The following amounts are contributions:
>
> i. an amount charged for admission to a fund-raising function,
>
> ii. if goods and services are sold at a fund-raising function for more than their market value, the difference between the amount paid and market value,
>
> iii. if goods and services used in a person's election campaign are purchased for less than their market value, the difference between the amount paid and market value, and
>
> iv. any unpaid but guaranteed balance in respect of a loan under section 75.

32. The TFCV third party advertising does not meet the definition of contribution, as defined in the MEA.

33. Mr DeFrancesca spends a great deal of the application estimating the value of the third party advertising. It is irrelevant to value the advertising, as third party advertising is not a contribution under the MEA and the application based on this issue, is ultra-vires to the MEA.

34. Attached in Exhibit 6 articles where Mayor Bevilacqua is supported in a similar manner, as TFCV endorsed me and four others. Should TFCV be considered a contribution, surely Mayor Bevilacqua's endorsements must also be considered a contribution and valued.

35. The application is brought for the purposes of seeking a candidate audit. The violation and related accusation is against a perceived "contributor". The MEA does not contemplate bringing an audit against a contributor however the MEA does provide a means of seeking justice through the courts for contributors in the s. 81(17), Savings Provision.

> **Saving provision**
> (17) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

36. Under the Savings Provision, Mr. Defrancesca has the ability to challenge TFCV directly to the courts, as a contributor and yet has not chosen to do so. Given he has this alternative and has not chosen to exercise this alternative this is an abuse of the process under the MEA.

37. Using the steps of an audit process outlined by Justice Lauwers in his decision on Jackson v City of Vaughan, he notes in para 28 and in para 32:

> [28] ,..., As the cases note, this is a control mechanism intended to prevent frivolous and vexatious applications. There must be "reasonable grounds".
> [31] The fourth stage or "check" is Council's consideration of the compliance audit report under s. 81 (10) and its decision to commence a legal proceeding for "any apparent contravention". The decision of Council must be

made in accordance with the ordinary principles of administrative law and is amenable to some form of judicial review.
[32] The fifth stage or "check" is the prosecution itself, in which the candidate has full natural justice protections and *Charter* rights

38. The standard of "reasonable grounds" set out in the process cannot be met, given the unreasonable use and inappropriate misuse of the MEA to bring an audit against a candidate and when the end process cannot result in prosecution of the candidate for the contribution, and when Charter rights of full justice prevent prosecution of the candidate for a third party advertising expense.

39. In any event, an audit brought against a candidate cannot be successful on an arm's length third party contributor, given third party advertising is not prohibited, and as it is an abuse of the proper process contemplated in the MEA.

40. The candidate audit applies to candidates and in this case, clearly the Municipal Elections Act outlines that third party advertising is not a contribution, never contemplated to be given and not at any time accepted by myself. It is outside of the MEA to use a candidate audit to audit an unconnected third party.

41. There is a clear case of bias and bad faith to be considered with regards to this application. This application was brought solely against me when in fact; there were five people that were endorsed by TFC third party advertising. Three of the candidates who were endorsed by TFCV were successful, including: Mayor Bevilacqua, Regional Councillor Deb Shulte, and Ward 1 Councillor Marilyn Iafrate and two that were not, including myself. I was the only one of the five that Mr. DeFrancesca has chosen to file an audit against. In failing to file against the remaining four, and in particular the three successful candidates and in doing so solely against me, this application is biased against myself, and has been filed in bad faith.

42. The bias is furthered by the application filed based on third party advertiser TFCV being brought *AFTER* an appeal was filed against his wife, Ward 3 Councillor Rosanna DeFrancesca's with regards to a compliance audit that was denied by this Committee.

43. Section 7 of the Charter of Rights and Freedoms and rules of natural justice confirm a person cannot be charged with an offence they did not commit. DeFrancesca uses MEA s. 71(2.1) states:

> **s. 71 Multiple candidates**
> (2.1) A contributor shall not make contributions exceeding a total of $5,000 to two or more candidates for office on the same council or local board. 2009, c. 33, Sched. 21, s. 8 (35).

44. S. 71 (2.1) has been used as a means to bring an audit against myself, as a candidate, when the section applies only to an alleged contributor and not a candidate. It is an abuse of rules of natural justice and misuse of the MEA to bringing an audit against a candidate for the purposes of obtaining a charge against an alleged contributor.

45. Following the ordering of an audit in 2008, against Linda Jackson by Justice Favret, an application was brought to quash the bylaw by Linda Jackson under the auspices of bias and bad faith. In the resulting ruling, Justice Lauwers found there was no bias and no resulting bad faith, because each of previous audits, being in this case, previous Regional Councillor Joyce Frustaglio's and previous Mayor Linda Jackson's <u>*had different circumstances*</u>, and as such , there was no bias:

> COURT FILE NO.: NEW-CV-08-091028 DATE: 2009/03/11
>
> This amounted to an invitation to find that City Council was biased against Ms. Jackson. I decline the invitation. <u>*The facts andcircumstances concerning each campaign were different*</u> and the differencesare fairly reflected in the compliance audit reports. Ms. Jackson hasnotproven the existence of bias on the part of City Council, so it cannotform a support for her argument that it acted in bad faith. I also find thatthe evidence does not support the Applicant's allegations of capriciousbehaviour, corrupt motivation, bias, bad faith or otherwise unlawful action, response or purpose on the part of City Council.

46. In this case, each of the five candidates has *EXACTLY* the same circumstances, and as such this application is biased and brought in bad faith. In failing to bring a court action, under the Savings Provision of the MEA against the alleged contributor and in failing to bring a compliance audit request against *ALL* five candidates, it proves bias and bad faith. The standard and test for granting an audit is: good faith and reasonable and clearly the standard, has *NOT* been met.

Response to Issue 2

47. The expenses for the BBQ are reflected in my campaign return. Mr. DeFrancesca could have easily contacted me regarding this matter and the information provided in good faith.

48. The BBQ expenses were claimed in full. I have provided the receipts for the expense and attached as Exhibit 7. There are no omissions and this is not a violation.

Response to Issue 3

49. The MEA demands that all contributions that are returned are recorded and reported in the financial return. Please reference the attached Exhibit 8.

50. ALL cheques are duly recorded and accounted for, and all cheques, *including the returned cheques* are fully properly disclosed on the financial return. This information was again purposefully omitted from the audit application.

51. This issue is frivolous given the full disclosure of the returned cheques.

Response Issue 4

52. This matter was brought forward in order to humiliate, embarrass, defame myself and my family and is truly vexatious and filed in bad faith.

53. In the fall of 2009, I brought forward a Municipal Conflict of Interest Application against then Ward 1 Councillor Peter Meffe. The application was brought forward in the public interest and in good faith. An abundance of evidence and information was presented to Justice Penny and to this day that evidence remains undisputable. At best Justice Penny could only see Mr. Meffe's actions as "Errors in Judgment." Never-the-less, the conflict application was rejected and given the further decisions of no right to appeal, costs were awarded.

54. The consumer protection application was filed specifically with regards to a conflict of interest brought against previous Ward 1 Councillor Peter Meffe, (now an employee of VHCC) for which the judge did not rule in my favor. The judge awarded costs and as a result and during the period of time when payment arrangements were made, a consumer protection application was filed. This application along with the costs, have been fully resolved.

55. Of note, is that the costs were also eligible to be paid by insurance, as was the situation with another conflict of interest of application made by Gino Ruffolo against previous Mayor Jackson.

56. This matter was settled amicably in court. Exhibit 9. The attached clearly shows the matter was settled, and that no bankruptcy proceeding was ever entered into.

57. The matter is ultra-vires to the MEA and included for the purposes of attempting to maliciously embarrassing myself and my family.

58. There is no violation and there is no evidence before this committee that suggests an unrelated consumer protection application is relevant to a Municipal Elections Act financial statement. It is

nothing more than a false accusation, a fishing expedition that lacks merit and not supported in any event by the Municipal Elections Act.

Summary

59. This application has been brought under an ulterior purpose and has no basis in the MEA.

60. Issue 1 is not supported by the MEA and in any event is biased and brought in bad faith.

61. Issue 2 is supported through documentation filed with the election finance return and purposefully omitted from the application.

62. Issue 3 is frivolous and the information provided on the return, and purposefully ignored by the applicant.

63. Issue 4 is brought to defame, embarrass and vexatious in nature. It is not supported under the MEA and has incorrect facts.

64. This application is a fishing expedition and brought in bad faith, and with improper motives.

65. I ask the Audit committee to please reject the application.

SWORN before me at the City of)
Vaughan, in the Province of Ontario)
This 31st day of August 2011.)

A Commissioner, etc.

James Todd Coles,
a Commissioner, etc.,
Regional Municipality of York, for
The Corporation of the City of Vaughan.
Expires March 27, 2013.

Richard Lorello

Exhibit 1

COURT FILE No.: Newmarket Info
Citation: *Vaughan (City) v. Mastroguiseppe*, 2008 ONCJ 763

ONTARIO COURT OF JUSTICE

B E T W E E N :

Quintino Mastroguiseppe and Gino Ruffolo;

Appellants

— AND —

The City of Vaughan

Respondent

-AND-

Mayor Linda Jackson

Intervener

Before Justice L. Favret

Reasons for Judgment released on February 19, 2008[1]

Eric K. Gillespie ..... **for the Appellants**
George H. Rust-D'Eye ..... **for the Respondent**
Andrew L. Jeanrie ..... **for the Intervener**

FAVRET, J.:

[1] This is an appeal by Quintino Mastroguiseppe and Gino Ruffolo (the "Appellants") from the decision of the Council of the City of Vaughan (the "City/Respondent") of May 22, 2007, on their application made pursuant to s. 81 of the Municipal Elections Act, 1996 S. O. 1996, C.32 (the 'Act') requesting a compliance audit of the financial statements and auditor report of then Candidate Mayor Linda Jackson (the "Candidate") be directed within 30 days (the "Application"), to extend the time period within which the City may consider the Application to a date after the last supplementary filing date in accordance with the Candidate's extension for filing and in accordance with the Act. The appeal is brought

[1] When the judgment was released the year noted was 2007 not 2008. This has been amended.

pursuant to s. 81(3.3) of the Act. The Appellants seek an order directing a compliance audit pursuant to s. 81(3) of the Act.

Issues

1. Does this court have jurisdiction to consider this appeal pursuant to s. 81 (3.3) of the Act?
2. If the Respondent made a decision under s.81(3) of the Act to extend the period to consider the Application was that decision: (a) ultra vires its statutory authority; (b) a failure to exercise jurisdiction; or, (c) a decision rejecting the Application?
3. If this court has jurisdiction to consider the appeal what relief should be granted if the appeal is allowed?

Position of the Parties

[2] The Appellants state this court has jurisdiction to review the Respondent's decision to extend the period within which it could consider their Application pursuant to s. 81(3.3) of the Act. The Application was filed within 90 days of the filing of the Candidate's financial statement and auditor report and as such the Respondent should have exercised its authority to either reject or grant the Application within 30 days of its receipt. The Appellants submit the only two decisions available to the City upon receipt of an application made under s.81 of the Act is to either reject or grant the application. The decision to extend the 30-day period, according to the Appellants is ultra vires the City's statutory authority. On this appeal the Appellants request that the court direct a compliance audit as they have complied with s. 81(2) of the Act and there are reasonable grounds to believe the Intervener contravened a provision of the Act relating to election campaign finances.

[3] The Respondent and Intervener state that this court does not have jurisdiction on this appeal because the Application was filed prematurely. The Application did not satisfy the conditions precedent of s.81(2) of the Act. As those conditions were not present, the Respondent and Intervener state there was no application for the City to consider. The Respondent and Intervener state the Act contemplates only one compliance audit may be ordered and that where a Candidate indicates an intention to file supplementary financial

statements and auditor's reports, the 90 –day filing period referred to in s.81(2) begins when the latest applicable Candidate filing has ended. The Respondent's jurisdiction to consider the Application, the Respondent and Intervener state, only arises when an application has been filed within 90 days of the end of a Candidate's election campaign as defined by the Act. The Respondent and Intervener state there is only one such period. Where that occurs, as here, an application can only be considered at the conclusion of 30 days following receipt of an application filed within the 90- day filing period. As the candidate has indicated she intends to file a supplementary financial statement and auditor report, the Respondent states that on the basis of the current known facts the period for filing an application is March 1, 2008 to May 29, 2008 and the 30-day period for the Respondent to consider any such application would commence following receipt of an application made in that period.

[4] As the Respondent has not made a decision pursuant to a validly filed application the Respondent states the court has no jurisdiction to consider this appeal. The underlying Application is not valid and therefore the court lacks jurisdiction to consider the appeal. The Respondent states the court does not have jurisdiction to consider the appeal as the Application was not made within the within the filing period set out in s.81(2) of the Act specifically "within 90 days after the later of the filing date, the Candidate's last supplementary filing date, if any, or the end of the Candidates' extension for fling granted under subsection 80(6), if any'.

[5] The Respondent and Intervener submitted the Respondent did not decline jurisdiction or either grant or refuse the Application but extended the time to consider the Application until the Application was properly before it. The Candidate indicated she wished to extend the campaign period pursuant to s.68 (1)5 of the Act. Until a supplementary financial statement and auditor's report was filed, the period for filing an application under s.81(2) of the Act was not available until after those documents were filed and as such on May 22, 2007 there was no application under the Act for the Respondent to consider. The decision to extend the period to deal with the Application the Respondent states was valid and consistent with the law.

[6] If the court concludes the Respondent's position on jurisdiction is not correct, it takes no position on whether a compliance audit should be directed or not, but states that if the court disagrees with its position the court should return the Application to the City for its consideration or reject the Application because the Application was not properly made.

[7] The Appellants state neither the Respondent nor the Intervener is a proper party on the merits of the appeal. Neither made any submissions on the merits of the Application. Both the Intervener and the Respondent have limited their submissions to the jurisdiction of this court to consider the appeal as set out above.

Issue One: Jurisdiction on Appeal

[8] This appeal was made pursuant to s. 83(3.3) of the Act which provides:

> "The **decision of the council** or local board **under subsection (3)** and of a committee under subsection (3) pursuant to a delegation under subsection (31.) **may be appealed to the Ontario Court of Justice** within 15 **days after the decision is made and the court may make any decision** either **council**, local board or committee **could have made.**" **(emphasis added)**

Jurisdiction on this appeal requires that there be a decision of a municipal council made under s. 81(3) of the Act.

[9] Section 81 of the Act provides in part:

> **"(1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances.**
>
> **(2) The Application shall be made to the clerk** of the municipality or the secretary of the local board for which the candidate was nominated for office, **within 90 days after the later of the filing date, the candidate's last supplementary filing date, if any, or the end of the candidate's extension for filing granted under subsection 80(6), if any; it shall be in writing and shall set out the reason's for the elector's belief.**
>
> **(3) Within 30 days after receiving the application, the council** or local board, as the case may be, **shall consider the application and decide whether it should be granted or rejected.**
>
> ...
>
> **(4) If it is decided to grant the application under subsection (3), the** appropriate **council** or local board **shall, by resolution, appoint an auditor to conduct a compliance audit of the candidate's election campaign finances.**

...

> (11) If the report indicates that there was no apparent contravention and the council or local board finds that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant." (emphasis added)

[10] It was not suggested as a basis for concluding there is no jurisdiction on this appeal that: (a) the appeal was not filed within 15 days of the Respondent's decision to extend the period to consider the Application; (b) the Appellants were not electors living in the City entitled to vote in the election held November 13, 2006; (c) the Intervener was not a Candidate that stood for election that year; and/or (d) that the Application did not set out the Appellants' belief that reasonable grounds existed for requesting a compliance order be made.

[11] On April 2, 2007 the Candidate filed a financial statement and auditor's report for the period April 6, 2006 to December 31, 2006. On March 31, 2007, prior to filing those documents the Candidate sent an email to the City Clerk notifying that she wished to extend her campaign period pursuant to subsection 68(1)5 of the Act. No other detail was provided. In the Interveners' factum she states, having extended her campaign period in this way, the supplementary reporting periods in s. 77 and 78 of the Act came into effect. The Intervener states in paragraph 4 of her factum that the Act provides that the campaign period extends to the farthest date following a candidate's last supplementary filing date In this case that will be 60 days after December 31, 2007, February 29, 2008.

[12] In its factum the Respondent stated that December 31, 2007 was the anticipated end of the Candidate's current and last supplementary reporting period pursuant to s.77(c) of the Act. The Respondent stated that on the basis of the current facts the Candidate's last supplementary filing date, after the end of her last supplementary reporting period under s.77(c) of the Act, was February 29, 2008.

[13] As of the last date of submissions received on this appeal, there is no evidence the Candidate filed any material relating to her campaign election finances by August 29 2007, the first supplementary filing date pursuant to s.77 (b) of the Act or intended to do so prior to December 31, 2007, described by the City in its factum as the 'current anticipated end of the

candidate's current and last supplementary reporting period" pursuant to s.77(c) of the Act. Further there was no indication on this appeal that any anticipated filings would impact on the issues raised by the Appellants in their Application.

[14] On May 14, 2007 the Appellants filed an Application in writing with the Clerk of the City requesting a compliance audit pursuant to s. 81 of the Act regarding the financial statements and auditor report of the Candidate, for the period April 6, 2006 to December 31, 2006, filed April 2, 2007 (the "Statement" and the "Report").

[15] On May 17, 2007 a memorandum was prepared by Heather A. Wilson, Director of Legal Services for the Mayor and Members of council concerning the Application filed (the "Memorandum") which was marked as 'additional information item no 32 report no 26 council May 22 07". Both this item number and report number are on the extract from council meeting minutes of May 22, 2007 at tab E of the Appeal Book filed (the "Minutes") which indicate a confidential memorandum from the Director of Legal Services dated May 17, 2007 was also received. Neither the Appeal record nor Respondent record include that memorandum.

[16] The Memorandum referred to s.81(2) of the Act, the filing requirements at issue on this appeal, which provides in part that an application may be filed in the following period, "90 days after the later of the filing date, the candidate's last supplementary filing date, if any, or the end of the candidate's extension for a filing granted under subsection 80(6), if any". The Memorandum did not state the Application was not properly received or if it failed to comply with any filing requirements. In part the Memorandum stated:

> "Subsection 68(1)(5) provides that if, after the election campaign period ends (in this case Dec. 31, 2006), **the candidate incurs expenses relating to a recount and the candidate notifies the Clerk in writing, the campaign period is deemed to have recommenced.**
>
> Mayor Jackson gave written notice to the clerk on March 30 2007 pursuant to the above section.
>
> **The act does authorize a candidate to file a supplementary financial statement and auditor's report for a supplementary reporting period, which, pursuant to subsection 78(3) of the act, shall include all the information contained in the initial statement or report filed under subsection (1), updated to reflect the changes to the candidate's election campaign finances during the supplementary reporting period.**

> In view of these provisions, it would be a prudent course of action that no compliance audit should be considered until the final election expenses for the candidate during the supplementary campaign period have been established, as shown by the final supplementary financial statement and auditor's report. This final statement and report may be filed by September 4, 2007 or February 29, 2008[2] in accordance with the Act."(emphasis added)

[17] I infer that the Mayor's notice refers to a recount and the expenses incurred in relation to that recount. The only basis for the City to consider an application is its authority in s.81 of the Act. There is no other authority for doing so. Neither the Respondent or the Intervener referred to any statutory authority to extend the time in s.81(3) for it to consider the Application.

[18] The Minutes indicate that the deputation by Mr. Eric K. Gillespie and the affidavit of Mr. Mastroguiseppe of May 14, 207 were item number 32. It had been referred to staff for a report to the council meeting of May 22 2007. I infer from the Memorandum that this occurred. The Memorandum was noted in the Minutes as adopted as amended.

[19] Based on the materials listed as received by the City listed in the Minutes, I concluded the City met on May 22, 2007 and that the affidavits of Mr. Mastroguiseppe of May 14, 2007 and May 18, 2007 and affidavit of Mr. Gino Ruffolo dated May 18, 2007, all listed as received, indeed were received by the City. I find therefore the Application requesting a compliance order was before the City at that meeting.

[20] The Memorandum set out following options for the City:

> "1. council may resolve that **the period of time within which council should consider the application and decide whether it should be granted or rejected, be extended to a date after the last supplementary filing date, in accordance with the candidate's extension for filing and in accordance with the act.**
>
> 2. council **may reject the application,** if it is provided with information that the act was complied with, or if satisfied there are no reasonable grounds for the application. Council may then deal with the application on May 22, 2007 or at the council meeting of June 11, 2007.
>
> 3. council **may grant the application,** however a supplementary financial statement and auditor's report will be filed and an application for a compliance audit may be made after the candidate's last supplementary

[2] These are not the dates the respondent on this appeal relied on as the dates for supplementary filings. See p. 3of the Factum, referred to above. .

> **filing date. A duplication of effort and expense could be avoided should council proceed with option 1."(emphasis added)**

The Memorandum does not provide an opinion or any information regarding the number of compliance audits that may be imposed, if any.

[21] The Minutes provide:

> "Item 32, Report No. 26, of the Committee of the Whole, which was adopted, as amended, by council of the City of Vaughan on May 22, 2007, as follows:
>
> **By approving the following:**
>
> **That council resolves that the period of time within which council should consider the application and decide whether it should be granted or rejected, be extended to a date after the last supplementary filing date, in accordance with the candidate' extension for filing and in accordance with the Act;"(emphasis added)**

[22] The word 'consider' is defined in the Oxford Dictionary of Current English (3rd edition) at page 186 as: "1. think carefully about. 2. believe or think. 3. take into account when making a judgment." The definition of the word 'received' in the same text at pages 750, 751 includes" '1. be given or paid. 2. accept or take in(something sent or offered). 3. form (an idea) from an experience. 4. experience or meet with." As well this text referred at page 628 states that the definition for the word 'option' includes: "1 a thing that is or may be chosen. 2 the freedom or right to choose. ..." A 'resolution' is defined in the above text page 786 to include: "1. a firm decision. 2. a formal expression of opinion or intention by a law-making body. .... 4. the resolving of a problem or dispute. 5. ..." The verb 'resolve' is defined at the same page to include: "1. find a solution to. 2. to decide firmly on a course of action. 3. (of a law-making body) to take a decisions by a formal vote. . ...".

[23] I have considered the above facts and the above definitions and conclude an application in writing was prepared and filed with the Respondent and that that Application was received by the City prior to its meeting of May 22, 2007. Indeed staff was directed to prepare a report and did so. The Memorandum is the report prepared. In the Memorandum the City was provided with three options. The options included reviewing the Application to determine if it should be granted or rejected. The only inference I find based on the facts is that the City did make a decision. Of the three options presented the City accepted option

one and decided, as set out in its resolution in the Minutes, "that the period of time within which council should consider the application and decide whether it should be granted or rejected, be extended to a date after the last supplementary filing date, in accordance with the candidates' extension for filing and in accordance with the Act."

[24] I do not agree with the Respondent's submission or that of the Intervener that by extending the period for it to consider the Application the Respondent did not make a decision pursuant to its authority under s. 81(3) of the Act. That section provides that within 30 days **after receiving an application,** the council **shall consider** the application and decide whether it should be granted or rejected. The Act provides no authority for the Respondent to extend that period of time. The decision to grant or reject an application should include whether the application meets the requirements of s.81(2) of the Act. Part of the Respondent's consideration of the application should include whether or not an application satisfies these requirements. It would be illogical to conclude no application had been made or received given the minutes of the May 22, 2007 meeting of council and the Memorandum which set out options for council's consideration. I do not accept the submissions of the Respondent or Intervener that there was no application to consider.

[25] It was submitted that on this appeal the court should consider whether the Application satisfied s.81(2) and if it did not, conclude there is no jurisdiction to consider the appeal. As the Minutes clearly state the Application was received and that the City resolved how to deal with the Application, that submission in my view is illusory and lacks both logic and common sense. Having received an application, s.81(3) of the Act required that the Respondent consider it and then either reject or grant it. There is no other statutory power available to the Respondent. The statute does not allow the Respondent to extend the period of time to consider an application.

[26] The City made a resolution. It is set out in the Minutes.

[27] The Respondent acted on the Application received, informed by the Memorandum, and by made a resolution to extend the time to consider the Application. I find the

Respondent did indeed consider the Application, albeit in a cursory fashion. Having concluded the City made a decision, I conclude this court has jurisdiction on this appeal.

Issue Two: Was the City's decision, ultra vires, a failure to exercise jurisdiction or a decision rejecting the Application?

(i) Standard of Review

[28] Counsel agree that the standard of review to be applied on this appeal is set out in *Pezim v. British Columbia (Superintendent of Brokers) [1994] 2 SCR 557 (SCC)*, correctness. At page 23 of that decision Justice Iacobucci said that

> "[para. 61 The central question in ascertaining the standard of review is to determine the legislative intent in conferring jurisdiction on the administrative tribunal. In answering this question, the courts have looked at various factors. Included in the analysis is an examination of the tribunal's role or function. Also crucial is whether or not the agency's decisions are protected by a privative clause. Finally, of fundamental importance, is whether or not the question goes to the jurisdiction of the tribunal involved."
>
> [para. 62] Having regard to the large number of factors relevant in determining the applicable standard of review, the courts have developed a spectrum than ranges from the standard of reasonableness to that of correctness. Courts have also enunciated a principle of determine that applies not just to the facts as found by the tribunal, but also to the legal questions before the tribunal in the light of its role and expertise. At the reasonable end of the spectrum, where deference is at its highest, are those cases where a tribunal protected by a true privative clause, is deciding a matter within its jurisdiction and whether there is no statutory right of appeal. ...
>
> [para 63] At the correctness end of the spectrum, where deference in terms of legal questions is at its lowest, are those cases where the issues concern the interpretation of a provision limiting the tribunal's jurisdiction (jurisdictional error) or where there is a statutory right of appeal which allows the reviewing court to substitute its opinion for that of the tribunal and where the tribunal has no greater expertise than the court on the issue in questions, as for example in the area of human rights. ..."

[29] I agree with Mr. Justice Culver in paragraph 36 of Chapman v. Hamilton (City) (2005) O.J. No. 1943 that whether or not an elector has reasonable grounds to believe a candidate has contravened a provision of the Act relating to campaign finances is a question of mixed fact and law. Further I agree with Justice Culver at paragraph 37 of that decision that there is nothing here to indicate that the City would have any expertise in interpreting the Act. None of the parties on this appeal, suggested the City had any special expertise. Counsel have agreed that correctness is the proper standard of review for this court.

[30] I agree with the submissions of counsel, correctness is the standard of review on this appeal. The City did not have any special expertise in determining the legal interpretation of s.81(2) of the Act. Indeed it did not have a legal opinion concerning the interpretation of that section and in its decision did not state the Application received did not comply with the statutory filing conditions of s.81(2) of the Act. The question on this appeal concerns the[3] City's authority as set out in the Act. Applying the legal principles in the above paragraphs, correctness is the standard of review on this appeal. As such the decision by the City is not entitled to deference by this court.

(ii) Was the City's decision ultra vires, a failure to exercise jurisdiction, an available decision or a decision rejecting the Application?

[31] The position of the Respondent and the Intervener is that by extending the time to consider the Application the Respondent did not decline to consider the Application or decline to exercise its jurisdiction. As the Application was not properly made, both the Respondent and Intervener stated the decision to extend the time was lawful and not a failure by the Respondent to exercise jurisdiction. As the Application was premature, that is, it was not filed within the period referred to in s.81 (2) of the Act, there was no application to consider. The Appellants disagree. They state the City's decision to extend the time for it to consider their Application was ultra vires its statutory authority, to either grant or reject the application, no more.

[32] The Act sets out the framework within which a municipal election is run including determining dates for elections, who is a candidate and who is eligible to vote. As well the Act sets out duties of candidates regarding both the expenses and contributions they may incur and receive along with the obligation of a candidate to file financial statements and an auditor report regarding those expenses and contributions. The financial statements, the duties of a candidate and the ability of a voter to bring to the attention of the City reasonable grounds they have to believe a candidate has contravened any section of the Act regarding expenses and contributions are all determined by the Act. See p. 3-7 of Chapman, supra.

[3] On January 21, 2009 the word "the" repeated in error was deleted.

[33] S.81 of the Act is a complete code of procedure for any elector who alleges campaign finance wrongdoing by a candidate and elected official: See Chapman, supra, and R. v. Hall [2003] OJ No. 3613. I accept, as did Mr. Justice Culver in Chapman, supra, the following excerpt by Mr. Justice Trafford in Hall, supra, regarding s. 81 of the Act:

> "[para. 21] Given **the Legislative intention, that is, to ensure the legitimacy of attacks on elected officials** and, I infer, other candidates, by electors, it is my view **that s. 81 of the Act is, in its purpose and effect, a provision to screen allegations by electors of election campaign finance wrongdoing by candidates and elected officials**, especially where the allegations are determined by an auditor and / or council, to be frivolous, vexatious, or otherwise devoid of merit." **(emphasis added)**

[34] I accept, as did Mr. Justice Culver in Chapman, supra, that if the elector is found to have had reasonable grounds to believe that a candidate had contravened a provision of the Act relating to campaign finances, an audit is the only remedy available. I also accept as did Mr. Justice Duncan in Savage v. Niagara Falls [2005] O.J. No. 5694 that the Act permits proceedings such as the application filed by the appellants herein. Mr. Justice Duncan concluded in para 11 of his decision in Savage, and I agree that 'The filter for this kind of application is the need for that applicant to establish reasonable grounds and I think that that is what Justice Trafford was saying in the decision that he gave in the case of The Queen v. Hall, [2003] O.J. no 3613."

[35] In this matter there is no evidence of any debate at the City's meeting which informed the decision made. The only evidence of the information at the meeting is that listed in the Minutes, all of which I have concluded was present and informed the decision the City made.

[36] Section 81(3) of the Act, set out above, provides the City, in its screening function, may grant or reject an application made. The Respondent and Intervener state the decision to extend the time to consider the Application was valid and consistent with the law and not a failure to exercise the City's jurisdiction nor an act declining jurisdiction because the Application did not satisfy the criteria in s.81(2) of the Act. As set out above, in my view that reasoning lacks common sense. If after considering an application the City concludes it did not satisfy the filing criteria then the only logical decision is to reject such an application.

Deferring its decision, by extending the period of time for it to consider an application does not address the filing criteria and cannot logically be viewed as such.

[37] Although I agree whether or not an application satisfies that criteria is an appropriate part of the review of any application received, a decision extending the time period for the City to consider an application does not inform an elector their application was deficient and thereby potentially deprives an elector with a remedy, to re-file in the appropriate period of time, if they chose to do so. The decision here did not set a future date when the Application would be considered. The language of s.81 of the Act in my view did not intend that the period for considering an application would be a mystery to either the elector or candidate.

[38] In this case, there is no evidence when the candidate will file the balance of the financial statements and auditor's report required by the legislation or indeed whether she will seek an extension pursuant to s.80(6) of the Act. I find the request made by the candidate was made on the basis of a recount. There is no evidence on this appeal regarding the length of time the recount required.

[39] The purpose of the legislation and section at issue, is to ensure that legitimate attacks by electors regarding a candidate's campaign finances are dealt with expeditiously. Further, section 81 of the Act ensure that attacks which are frivolous or without merit are dealt with expeditiously so that a candidate can be protected. Deciding whether an Application satisfies the filing criteria is part of the City's screening function.

[40] The Minutes and the Memorandum, when considered together, do not support a conclusion that the City looked at whether the Application satisfied the filing criteria. I do not accept that the City did so. The Respondent and Intervener submitted that the legislation only contemplates one compliance audit be conducted for an individual candidate's campaign period. Neither the Memorandum nor the minutes support that this was a factor which the city considered. The Memorandum is silent on this issue. The Act does not state there will be one audit per candidate.

[41] The City's decision here does not satisfy any of the purposes of the Act referred to above. The Minutes and Memorandum when viewed together suggest the city considered that, (a) the candidate would file a supplementary financial statements and auditor's reports, (b) by inference the cost of the option to grant the Application, and (c) specifically that deciding to extend the time to consider the Application provided cost savings if the City directed a compliance audit.

[42] Based on the record filed on this appeal, I am not satisfied that the City considered whether the Application met the filing criteria. I am not satisfied the City considered whether the Appellants' affidavits set out reasonable grounds to believe the Statement and Report demonstrated a failure to comply with the Act and whether a compliance audit should be held or not, in any fashion other than cursory.

[43] There is no basis to conclude the City considered whether or not the legislation only provided it may direct one compliance audit per candidate as submitted during this appeal by the Respondent and Intervener. The submissions on this appeal, I conclude, are an effort to justify the City's decision after the fact. The appeal record does not support a conclusion that those submissions were the basis for the City's decision.

[44] Section 81(3) of the Act provides the City, in its screening function, may grant or reject an application made.. For the reasons stated above I cannot conclude that the City declined to exercise its statutory authority. It made a decision. Further as there is no basis to conclude the City concluded the Application was not properly filed, there is no basis for concluding the City rejected the Application for that reason. There is no statutory authority allowing the City to decide to extend the time period for it to consider the Application. The decision to do so was ultra vires.

Issue 3: What relief is appropriate? Should a compliance audit be directed?
(i) Position of the Parties

[45] The Appellants state the affidavits filed in support of the Application set out their belief that there are reasonable grounds to conclude the Candidate contravened a provision of

the Act relating to election campaign finances. They request a compliance audit of the Candidate's election campaign finances be directed.

[46] The Respondent and Intervener both submitted the Application was filed prematurely. Neither made any submission about whether or not the affidavit material disclosed reasonable grounds. The Respondent suggested that if the appeal was granted the Application should be returned to the City for its consideration. The Intervener made no submission concerning the relief which should be granted.

(ii) Statutory Authority for the Appeal

[47] S.81(3.3) of the Act provides that on appeal, this court may make any decision the City could have made. I have agreed with both the Respondent and Intervener that consideration of an application includes whether or not the application satisfies the filing criteria as well as whether the application discloses reasonable grounds for the belief that a Candidate has not complied with the Act. Returning the Application to the City for it to consider, as suggested by the Respondent would constitute a delegation of the court's authority on this appeal. It is not an appropriate remedy.

(iii) Did the Application satisfy the filing criteria?

[48] One of the issues on this appeal was whether the Application satisfied the filing criteria in s.81(2) of the Act. That subsection provides:

> "(2) **The application shall be made to the clerk** of the municipality or the secretary of the local board for which the candidate was nominated for office, **within 90 days after the later of the filing date, the candidate's last supplementary filing date, if any, or the end of the candidate's extension for filing granted under subsection 80(6),** if any; **it shall be in writing and shall set out the reason's for the elector's belief.** "(emphasis added)

The Appellants state the above section sets out that an Application may be filed within 90 days of the filing date and no later than 90 days after any further filings the Candidate may make. According to the Appellants an application may be filed for each period for which a candidate submits a financial filing. The Respondent and Intervener disagreed with this interpretation. They submitted the language of s.81(2) of the Act provides that only one

application may be filed within 90 days after the final financial filing a candidate makes. Both the Respondent and Intervener submitted this interpretation was consistent with the Act which contemplates only one compliance audit per candidate and with the wording of s. 81(2) underlined above "after the later of".

[49] The Intervener submitted the decision of the Supreme Court of Canada in Multiform Manufacturing Co. Ltd. Et al. c. R. et al (2002) 58 CCC (3d) 257 set out the approach to be taken in interpreting section 81(2) of the Act. In that case the Court considered the meaning of then s.443 of the Criminal Code which referred to whether a justice of the peace could issue a search warrant and its application to the Bankruptcy Act. At paragraph 9 of that decision the Court held:

> "When the courts are called upon to interpret a statute, their task is to discover the intention of Parliament. When the words used in a statute are clear and unambiguous, no further step is needed to identify the intention of Parliament. There is no need for further construction when Parliament has clearly expressed its intention in the words it has used in the statute. As sir Peter B. Maxwell stated in Maxwell on the Interpretation of Statutes, 12th ed. By P. St. J. Langan (London: Sweet & Maxwell, 1969), at pp.28-29:
>
> > If there is nothing to modify, alter or qualify the language which the statute contains, it must be construed in the ordinary and natural meaning of the words and sentences. 'The safer and more correct course of dealing with a question of construction is to take the words themselves and arrive if possible at their meaning without, in the first instance, reference to cases.'
> >
> > Where the language is plain and admits of but one meaning, the task of interpretation can hardly be said to arise.
>
> Or, as Professor Piere-Andre Cote synthetically puts it in The Interpretation of Legislation in Canada, trans. K. Lippel, J. Philpot and Bill Schabas (Cownaville, Qie.: Yvon Blais, 1984), at p. 2:
>
> > 'It is said that when an Act is clear there is no need to interpret it; a simple reading suffices.'
>
> To the same effect see Elmer A. Driedger, Construction of Statutes, 2d ed. (Toronto, Butterworths, 1983), at p. 28."

[50] I have reviewed Bell ExpressVu Limited Partnership v. Rex [2002] S.C. J. No.43 where the Supreme Court of Canada considered the proper interpretation of s.9(1)(c) of the Radiocommunications Act R.S.C. 1985, c. R-2 (as am. by S.C. 1991, c.11, s.83). Mr. Justice Iacobucci stated at paragraph 26:

> "In Elmer Driedger's definitive formulation, found at p.87 of his Construction of Statutues (2nd ed. 1983):

> Today there is only one principle or approached, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.
>
> Driedger's modern approach has been repeatedly cited by this Court as the preferred approach to statutory interpretation across a wide range of interpretive settings: see, for example.....I note as well that, in the federal legislative context, this Court's preferred approach is buttressed by s. 12 of the Interpretation Act, R.S.C. 1985, c.I-21, which provides that every enactment "is deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of is objects".

In the following paragraphs of the above decision Mr. Justice Iacobucci provided the following analysis regarding the preferred approach to statutory interpretation:

> "[para 27] The preferred approach recognizes the important role that context must inevitably play when a court construes the written words of a statute:.... This being the case, where the provision under consideration is found in an Act that is itself a component of a larger statutory scheme, the surroundings that colour the words and the scheme of the Act are more expansive. In such an instances, the Application of Driedger's principles gives rise to what was described in R. v. Ulybel Enterprises Lts., [2001] 2 S.C.R. 867..., at para. 52 as "the principle of interpretation that presumes a harmony, coherence, and consistency between statutes dealing with the same subject matter". ...
>
> [para 28] Other principles of interpretation—such as the strict construction of penal statutes and the "Charter values" presumption – only receive Application where there is ambiguity as to the meaning of a provision. ...
>
> [para 29] What , then, in law is ambiguity? To answer, an ambiguity must be "real" (Marcotte, supra, at p.115). The words of the provision must be "reasonably capable of more than one meaning" (Westminster Bank Ltd. V.Zang, [1966] A.C. 182 (H.L.), at p.222, per Lord Reid). By necessity, however, one must consider the "entire context" of a provision before one can determine if it is reasonably capable of multiple interpretations. In this regard, Major J.'s statement in CanadianOxyChemicals Ltd. V. Canada (Attorney General), [1999] 1 S.C.R. 743, at para 14, is apposite: "It is only when genuine ambiguity arises between two or more plausible readings, each in accordance with the intentions of the statute, that the courts need to resort to external interpretive aids" (emphasis added), to which I would add, "including other principles of interpretation".
>
> [para 30] For this reason, ambiguity cannot reside in the mere fact that several courts – or, for that matter, several doctrinal writers – have come to differing conclusion on the interpretation of a given provision. Just as it would be improper for one to engage in preliminary tallying of the number of decision supporting competing interpretations and then apply that which receive the "higher score", it is not appropriate to take as one's starting point the premise that differing interpretations reveal an ambiguity. It is necessary, in every case, for the court charged with interpreting a provision to undertake the contextual and purposive approach set out by Driedger, and thereafter to determine if " if the words are ambiguous enough to induce two people to spend good money in backing two opposing views as to their meaning" (Willis, supra, at pp.4-5)."

I have also considered Sullivan & Driedger on the Construction of Statutes (4th ed.) at p. 10.

[51] I have adopted the modern approach, referred to above, in interpreting s. 81(2) of the Act. For that purpose I have reviewed the Act as a whole. The following sections are helpful in this analysis:

(a) Section 68 of the Act concerns election campaign periods. It provides in part:

"(1) for the purposes of this act, **a candidate's election campaign period for an office shall be determined in accordance with the following rules:**

1. **the election campaign period begins on** the day he or she files a nomination for the office under section 33.
2. **the election campaign period ends on December 31 in the case of a regular election** and 45 days after voting day in the case of a by-election.
3. **despite rule 2, the election campaign ends,**
   (i) on the day the nomination is withdrawn under section 36 or deemed to be withdrawn under subsection 29(2), or
   (ii) on nomination day, if the nomination is rejected under section 35.
4. **despite rules 2 and 3, if the candidate has a deficit at the time the election campaign period would otherwise end** and the candidate notified the clerk in writing on or before December 31 in the case of a regular election and 45 days after voting day in the case of a by-election, the campaign period is extended and is deemed to have run continuously from the date of nomination until the earliest of ...;
5. **if, after the election campaign period ends under rule 2,3 or 4, the candidate incurs expenses relation to a recount** or to a proceeding under section 83 (controverted elections) **and the candidate notifies the clerk in writing, the campaign period is deemed to have recommenced, subject to subsection (2), and to have run continuously from the date of nomination until the earliest of,**

   ...

   iv. **the following December 31 in the case of a regular election**

   ..."

(b) Section 69 of the Act provides in part:

"(1) A candidate shall ensure that,

...

(k) **financial filings are made in accordance with section 78;**

...

(m) a contribution of money made or received in contravention of this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention;
(n) a contribution not returned to the contributor under clause (m) is paid to the clerk with whom the candidate's nomination was filed;
...."

(c) Section 70 of the Act provides in part:
"...
(2) only the following may make contributions;;
1. an individual who is normally resident in Ontario
2. a corporation that carries on business in Ontario.
...
...
(7) a contribution may be accepted only from a person or entity that is entitled to make a contribution. ..."

(d) Section 71 of the Act provides in part:
"(1) a contributor shall not make contributions **exceeding a total of $750 to any one candidate in an election....**"

(e) Section 72 provides in part:

"for the purposes of sections 66 to 82, corporations that are associated with one another under section 256 of the Income Tax Act (Canada) shall be deemed to be a single corporation.

(f) Section 77 of the Act provides in part:

"**For the purposes of sections 66 to 82,**
(a) **the filing date is,** in the case of a regular election, the following March 31...;
(b) **a supplementary filing date** is the date that is 60 days after the end of the supplementary reporting period; and,
(c) **a supplementary reporting period is,** in the case of a regular election, each six-month period in the 12-month period following the year of the election and, ..."

(g) Section 78 of the Act provides in part:
"(1) **on or before 5 pm on the filing date, a candidate shall file with the clerk** with whom the nomination was filed **a financial statement and auditor's report, each in the prescribed from, reflecting he candidate's election campaign finances,**

(a) **in the case of a regular election, as of December 31, in the year of the election**; and,

...

(2) if the candidate's election campaign period continues during all or part of a supplementary reporting period, he or she shall, on or before 5 pm on the corresponding supplementary filing date, file a supplementary financial statement and auditor's report for the supplementary reporting period.

(3) A supplementary financial statement or auditor's report shall include all the information contained in the initial statement or report filed under subsection (1) and in any previous supplementary statement or report under subsection (2), as the case may be, **updated to reflect the changes to the candidate's election campaign finances during the supplementary reporting period."**

(h) Section 80 of the Act provides in part:

"(1) a candidate is subject to the penalties listed in subsection (2), in addition to any other penalty that may be imposed under this Act, if, he or she fails to file a document as required under section 78 by the relevant date;

...

(6) The Candidate may, within 91 days after the last day for filing a document under section 78, **apply to the Ontario Court of Justice to extend the time for filing the document under that section** and if, the court is satisfied there are mitigating circumstances justifying a later date for fling the document, the court may grant an extension for the minimum period of time necessary for the candidate to file the document."**(emphasis added)**

[52] I have also considered the purpose of the Act referred to in the above case law. The Respondent and Intervener did not submit that the purpose of s.81 as described by Justices Trafford and Culver in the decisions of Hall supra, or Chapman, supra, respectively, is incorrect. I have accepted the conclusions of the court in those cases, as set out above.

[53] Section 81(2) of the Act sets out a limitation period for applications to be received from electors. That section refers specifically to financial filings a candidate is required to make not a candidate's election campaign period as submitted by the Respondent and Intervener. The section specifically does not provide that an application must be filed within 90 days after a candidates' election campaign period ends.

[54] When read as a whole the legislation is concerned that the City take action expeditiously, if it concludes an elector has reasonable grounds to believe a candidate did not comply with a provision of the Act, and direct a compliance audit. There is no provision to extend that period of time.

[55] The legislation is concerned that a candidate file both financial statements and an auditor's report to reflect expenses and contributions. Sections 69, 77 and 78 refer to these financial filings. The legislation does not contemplate an exception when there is a recount as here. If that were so, the Candidate, on March 31, 2007 would have known a filing for the period April 6, 2006 to December 31, 2006 was not necessary.

[56] The legislation contemplates that further filings may be necessary, as here, but that those filings would, in this case, pursuant to section 78(2) of the Act be a supplementary financial statement and auditor's report for the supplementary reporting period. Section 78 provides in part:

> **(2) if the candidate's election campaign period continues during all or part of a supplementary reporting period, he or she shall, on or before 5 pm on the corresponding supplementary filing date, file a supplementary financial statement and auditor's report for the supplementary reporting period.**
>
> **(4) A supplementary financial statement or auditor's report shall include all the information contained in the initial statement** or report filed under subsection (1) and in any previous supplementary statement or report under subsection (2), as the case may be, **updated to reflect the changes to the candidate's election campaign finances during the supplementary reporting period."(emphasis added)**

This section requires that the supplementary financial statement or auditor's report reflect changes during the supplementary reporting period. The section at issue, above, does not refer to the candidate's election campaign period as submitted by the Respondent and Intervener on this appeal. All of the filings are important and provide information. That a further report also includes the initial filing in my view simply ensures the supplementary report is comprehensive.

[57] The legislative role assigned to the City, to scrutinize applications and decide if a compliance audit should be directed, does not depend on the cost incurred. Indeed at the

conclusion of the audit if a report indicates and the City concludes there were no reasonable grounds, such costs may be recovered from the Appellants. Any delay in scrutinizing an application is inconsistent with the purpose of the Act which requires that the City act expeditiously.

[58] I am not in agreement that the Act contemplates only one compliance audit. First the legislation does not state only one audit is available. Secondly, this interpretation does not consider that more than one elector may make an application within the 90-day period in s.81(2) of the Act. If that occurred, within 30 days of each application the City must consider that application. On that basis alone, it is possible that two meritorious applications could be received which would require two audits.

[59] Section 81(4) of the Act provides that if it is decided to grant an Application under subsection (3), by resolution the City shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. This section does not refer to the campaign period but to the finances. It does not preclude the City from requiring an audit be conducted of a specified period. Similarly sections 80 and 81(1) of the Act refer to finances not the election campaign period.

[60] I have considered the grammatical and ordinary sense of the words in section 81(2) of the Act and the broader context as well as the consequences of any action taken by the City, all of which in my view require that the City be able to fulfil its screening function expeditiously so that a candidate is protected and so that the public interest in ensuring election campaign finances are conducted pursuant to the legislation is protected. The public has an interest in ensuring that valid attacks on campaign finances be audited so that any wrongdoing can be dealt with quickly. I conclude therefore that s.81(2) of the Act refers to a 90-day period following each of the filing periods referred to therein. I do not agree with the Appellant that the period continues beyond any one 90-day period. Such an interpretation would be overly long and unfair to a candidate. An elector must file an application within 90 days of the specific filings referred to in s. 81(2) of the Act.

(iv) Are there reasonble grounds to require a compliance audit?

[61] I accept, as did Mr. Justice Culver in Chapman, supra at paragraph 41, that the definition of reasonable grounds was stated at page 10 of R. v. Sanchez 93 C.C.C. (3d) 357 by Mr. Justice Hill as follows:

> "Section 487(1) of the Criminal Code requires reasonable grounds as the standard of persuasion to support issuance of a search warrant. Judicially interpreted, the standard is one of credibly based probability...
>
> Mere suspicion, conjecture, hypotheses or "fishing expeditions" fall short of the minimally acceptable standard from both a common law and constitutional perspective. On the other hand, in addressing the requisite degree of certitude it must be recognised that reasonable grounds is not to be equated with proof beyond a reasonable doubt on a prima facie case...The appropriate standard of reasonable or credibly based probability envisions a practical, non-technical and common sense probability as to the existence of the facts and influences asserted "

The above standard was applied by Justice Culver in Chapman, supra and is the standard to apply here.

[62] If a review of the Application leads to a conclusion that the Appellants have reasonable grounds to believe the Candidate has contravened a provision of the Act, I agree with Justice Culver in Chapman, supra, the only remedy is a compliance audit.

[63] In support of the Application the Appellants filed several affidavits. Mr Ruffolo, in his affidavits of May 14, 2007, May 18, 2007 and May 25, 207 agrees with the information set out in the affidavits of Mr. Mastroguiseppe and states he shares the concerns of Mr. Mastroguiseppe that the Candidate may have contravened the Act. His affidavits do not contain any specific details which assist this court in determining whether there are reasonable grounds. The fact that Mr. Ruffolo accepts the evidence of Mr. Mastroguiseppe does not tilt the balance in favour of this court concluding the information in the affidavits of Mr. Mastrogiuseppe constitute reasonable grounds to believe the Candidate contravened any provision of the Act.

[64] Mr. Mastroguiseppe has raised several issues which he believes are contraventions by the Candidate of sections 69(1)(m), 71(1) and 66(2)(i)(iii) of the Act which include:

(1) over contribution by associated corporations (affidavit of May 14, 2007, tab 2A, Annual Record);

(2) undervaluing the cost of tickets for a fundraising event (affidavit of May 18, 2007, tab 2B, Annual Record);

(3) over contribution of cash donations in relation to fundraising event and failure to issue receipts for cash donations received (affidavit of May 18, 2007, tab 28B, Annual Record);

(4) failure to report over contributions relating to office expenses (affidavit of May 18, 2007, tab 2B, Annual Record); and,

(5) failure to record contribution from the lessor of the Candidate's office on Islington Ave. (affidavit of May 25, 2007, tab 2C, Annual Record).

(v) Over contribution by Corporate Donors

[65] As set out above a candidate cannot accept contributions in excess if $750 from individual contributors defined in section 71 of the Act, which includes corporations. Section 72 provides that where corporations are associated they are deemed to be a single corporation if they are associated under s. 256 of the Income Tax Act. Section 69 of the Act requires a candidate return contributions which exceed $750 as soon as possible.

[66] I agree with Mr. Justice Culver in Chapman, supra, at paragraph 43, that when a candidate is aware of an over-contribution, instructions must be given to a person with signing authority over the candidate's accounts and a cheque must be sent to a contributor in the amount of the over-contribution. I agree with Justice Culver in Chapman, supra, "In my view, that suggests a relatively simple process, not involving much delay."

[67] Mr. Mastroguiseppe states he believed the Candidate's Statement and Report disclosed a number of violations of the Act. In his affidavit of May 14 2007 he stated he believed there were reasonable grounds to conclude the candidate contravened s. 69 (1)(m) and 71(1) of the Act on four occasions by failing to return over contributions the Candidate should have known were from associated corporations. The Appellants rely on s. 256 of the Income Tax Act, R.S.C. 1985, c.1 (5th Supp.) to found their belief, based on the commonalities between the corporations, set out in the affidavits of Mr. Mastroguiseppe, that the corporations are associated.

[68] A list of single contributors totalling more than $100 was attached to the affidavit along with corporation profile reports for the associated corporations the Appellant believed

made over contributions which had not been returned by the Candidate during the period referred to in the Statement and Report.

[69] The Appellants suggest that the commonalities between the above corporations should have caused the Candidate to know the corporations were associated. In Chapman, supra, Justice Culver in paragraph 51, concluded he would not extend the obligations of candidates to require that they make inquiries of every corporate donor as to whether or not it is an associated corporation to another corporation unless there is a compelling reason to do so "for example a similar corporate name". I concur. Other similarities which should cause a candidate to make further inquiries include shared ownership and/or similar addresses, directors/officers, and business type or related business type. For example, it would not be far-fetched to conclude businesses with a similar name, the same director/officer located at the same address carrying on related activities in a similar field may be associated corporations. A family relationship alone however is not a sufficient basis for such a conclusion. A conclusion based on that alone in my view is speculative.

[70] I agree the affidavit material demonstrates that there are reasonable grounds to conclude some, not all, of the corporations listed are associated and that pursuant to s.72 of the Act they would be deemed a single corporation for the purpose of who is an eligible contributor. As such I agree that there are reasonable grounds to conclude there was a contravention of the Act as there is no indication over contributions were returned.

(ii) Fundraising Events

[71] I do not accept that paragraphs 4 to 6 of Mr. Mastroguiseppe's affidavit sets out a sufficient basis to conclude there was a contravention of the Act by the Candidate in relation to either fundraising event. The affidavit lacks sufficient particularity to support such a conclusion. Regarding paragraph 7 however I find it supports a conclusion that the Candidate failed to issue a receipt for one of the events on one occasion contrary to s. 69(1) of the Act.

(iii) Office Expenses

[72] Paragraphs 9 to 11 of the affidavit material do not provide a sufficient basis for believing on reasonable grounds that the Candidate contravened the Act. As above, the affidavit does not contain sufficient particularity to support such a conclusion. Doing so in my view would be speculative on the basis of the information in the affidavit.

CONCLUSION

[73] The appeal is allowed. A compliance audit is ordered pursuant to s.81 of the Act regarding the period in the Statement and Report. The City of Vaughan will appoint an auditor pursuant to section 81(4) of the Act to conduct a compliance audit for the period in the Statement and Report as required by s.81(6) of the Act following which the auditor will report as required pursuant to s.81(7) of the Act.

[74] An application may be made to address the costs of this Appeal by any of the parties on notice.

Exhibit 2

COURT FILE NO.: NEW-CV-08-091028
DATE: 2009/03/11

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	
LINDA D. JACKSON	Morris Manning, Q.C. and Timothy J. Riddell, for the Applicant
Applicant	
- and -	
THE CORPORATION OF THE CITY OF VAUGHAN, LECG CANADA LTD., KEN FROESE and TIMOTHY WILKIN	Ian J. Lord, for the Respondents, Corporation of the City of Vaughan and Timothy Wilkin and Sarah J. Erskine and Robert Rueter, for Respondents, LECG Canada and Ken Froese
Respondents	
	HEARD: October 2, 2008 and January 12, 2009

DECISION

Lauwers J.

I. Overview

[1] The Applicant, Linda D. Jackson, was elected as the Mayor of the City of Vaughan on November 13, 2006. She won by 90 votes.[1]

[2] Two residents of the City of Vaughan, Quintino Mastroguiseppe (Mastroguiseppe) and Gino Ruffolo (Ruffolo), brought an application under ss. 81 (1) and (2) of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as amended (the "MEA" or the "*Act*"), seeking a compliance audit of the Applicant's election campaign finances. When the City declined, the complainants appealed under s. 81 (3.3) of the *Act*. On February 19, 2008, Justice L. Favret (Ontario Court of Justice) directed the City to appoint an auditor "to conduct a compliance audit for the period in the Statement and Report ... following which the auditor will report as required pursuant to s.81(7) of the Act". (para. 73)

[3] The audit identified numerous "apparent contraventions" of the election campaign financing rules under the *Act*.

[4] On June 24, 2008, the Council of the City of Vaughan approved the laying of charges against Ms. Jackson for "numerous apparent contraventions" of the *Act* and retained Timothy J. Wilkin as prosecutor.

[5] Ms. Jackson asks this Court to quash both the authorizing By-law 205-2008 and confirming By-law 228-2008 under s. 273 of the *Municipal Act, 2001*, S.O. 2001, c. 25, calling in aid s. 24(1) and s. 52 of the *Canadian Charter of Rights and Freedoms*. She thereby seeks to avoid the prosecution.[2]

[6] For the reasons set out below, I decline to quash the By-laws. The Ontario Court of Justice judge who hears the ultimate charges will have the task of hearing the evidence, considering the proof offered by the prosecutor, and any defences Ms. Jackson may choose to raise. It is not my task to determine matters of guilt or innocence, only whether there is a legal impediment to the prosecution rooted in the numerous grounds raised by Ms. Jackson including the *Canadian Charter of Rights and Freedoms*. I have concluded that there is no such impediment at this time.

[7] Mr. Manning, on behalf of Ms. Jackson, made submissions on four main issues.

> Issue One: Section 81 of the MEA offends the Rule of Law and s. 7 of the *Canadian Charter of Rights and Freedoms* in that it is impermissibly vague and does not limit enforcement discretion.

I find that s. 81 of the MEA and its other relevant provisions are not impermissibly vague. The statutory terms, the structure of the compliance audit and the prosecution, the ordinary principles of administrative law that apply to municipalities and the terms of the City's by-laws properly limit enforcement discretion. This argument has no merit.

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[1] As determined on judicial recount: *DiBiase v. Vaughan* (2007), 34 M.P.L.R. (4th) 219; 39 M.P.L.R. (4th) 112; 43 M.P.L.R. (4th) 287 per Howden J.

[2] The parties did not dispute the court's jurisdiction to deal with the application.

> Issue two: The nature of the audit in s. 81 (6) directed toward apparent contraventions of the MEA and the requirement and inspection powers granted to an auditor under s. 81 (8) of the MEA breached the Applicant's right against self-incrimination contrary to s. 7 of the *Charter*.

I find that the audit/prosecution process under s. 81 of the MEA does not engage the protections in s. 7 of the *Charter*. The interests affected are not understood by the law to constitute a protected aspect of "life, liberty and security of the person." The audit/prosecution process does not have the predominant purpose of determining penal liability, and that the disclosure obligations do not violate the protection against self-incrimination under s. 7 of the *Charter*. I also find, however, that the use of the auditor's powers respecting the Applicant personally after the City's decision to prosecute would violate the Applicant's *Charter* rights.

> Issue three: The acts of the Council of the City of Vaughan were so markedly inconsistent with the relevant legislative context that they amounted to bad faith.

This amounted to an invitation to find that City Council was biased against Ms. Jackson. I decline the invitation. While there are differences between the compliance audit report about Ms. Jackson and the report about Councillor Joyce Frustaglio, neither the differences nor the complaints are significant. They do not lead me to conclude that the auditors were biased against Ms. Jackson or biased in favour of Ms. Frustaglio. The facts and circumstances concerning each campaign were different and the differences are fairly reflected in the compliance audit reports. Ms. Jackson has not proven the existence of bias on the part of City Council, so it cannot form a support for her argument that it acted in bad faith. I also find that the evidence does not support the Applicant's allegations of capricious behaviour, corrupt motivation, bias, bad faith or otherwise unlawful action, response or purpose on the part of City Council.

> Issue four: By-Law 205-2008, which authorized the prosecution, and confirming By-law 228-2008 are illegal and ultra vires the Council on municipal law grounds.

I find that the by-laws are not illegal on municipal law grounds. In particular, I find that the allegation that Council erroneously believed it was obligated to commence legal proceedings against Ms. Jackson is not proven.

[8] Virtually all of the complaints made by Ms. Jackson about the MEA, its interpretation and the acceptability of the process followed by City Council could have been raised in the defence of the prosecution at trial; they can be reasserted in the defence, except for those foreclosed by this decision.[3]

[3] There is support for the proposition that I should exercise my discretion against hearing this application, since the arguments could have been made in the prosecution. Regrettably the parties did not cite the authorities referred to by I. MacDonnell J. in *R. v. Khan*, [2009] O.J. No.111, which came to my attention after these reasons had been drafted.

[9] Each of these grounds and the plethora of subsidiary grounds advanced by Ms. Jackson will be addressed in detail below after the facts and the statutory context are described. In his arguments on behalf of Ms. Jackson, Mr. Manning took a scattershot approach; addressing these arguments systematically makes these reasons regrettably lengthy.

1. The Relief Sought – Details

[10] In the amended Notice of Application, under which the argument proceeded on consent, Ms. Jackson seeks an order:

a) Quashing By-Law 205-2008;

b) Declaring the appointment of Ken Froese and LECG Canada Ltd. [to conduct the Compliance Audit] to be null and void;

c) Prohibiting Ken Froese and LECG Canada Ltd. from continuing their alleged investigation concerning alleged contraventions by the Applicant of the *Municipal Elections Act, 1996*;

d) Declaring the appointment of Timothy J. Wilkin [as prosecutor] null and void;

e) Prohibiting Timothy J. Wilkin from acting pursuant to By-Law 205-2008 passed by the Council of the City of Vaughan and in particular from laying any charges against Linda D. Jackson in relation to any alleged contraventions against the *Municipal Elections Act 1996*;

f) Declaring s. 81 of the *Municipal Elections Act, 1996*, to be in breach of:

   i) section 7 of the *Canadian Charter of Rights and Freedoms*,

   ii) the rule of law as protected by the preamble to the *Canadian Charter of Rights and Freedoms* and the *Constitution Act, 1867*, and therefore

   iii) of no force or effect pursuant to s. 52 (1) of the *Constitution Act, 1982*;

g) Quashing By-Law 228-2008 passed by the Council of Vaughan on September 8, 2008.

II. The Facts

[11] The following facts, taken largely from the Affidavits of the Applicant, appear to be either agreed upon among the parties or not disputed:

a) the Applicant was elected to the office of Mayor of the City of Vaughan on November 13, 2006;

b) on May 14, 2007, two residents of the City of Vaughan, Quintino Mastroguiseppe (Mastroguiseppe) and Gino Ruffolo (Ruffolo), brought an application to John Leach, City Clerk, pursuant to ss. 81 (1) and (2) of the *Act*, seeking a compliance audit of the Applicant's election campaign finances for the election. That application claimed that there were reasonable grounds to believe the Applicant had contravened a provision of that *Act* relating to election campaign finances. That application was based on the Applicant's financial statement and auditor's report dated April 2, 2007, for the period ending December 31, 2006;

c) on May 22, 2007, the Council of the City of Vaughan deferred consideration of the application;

d) on June 6, 2007, Mastroguiseppe and Ruffolo appealed under s. 81 (3.3) of the *Act* to the Ontario Court of Justice on the basis that the Council had no jurisdiction to defer the hearing of the application;

e) Council argued that the application for the compliance audit was premature since Ms. Jackson had, by notice under s. 68 (1)(5) of the *Act*, extended her campaign period, which allowed the supplementary reporting period ending December 31, 2007, to come into effect;

f) on February 19, 2008, Justice Favret allowed the appeal and ordered a compliance audit pursuant to s. 81 of the *Act* for the period in the financial statement and audit report, being April 6, 2006, to December 31, 2006;

g) on March 28, 2008, the City Clerk's Department received a second application by Mastroguiseppe and Ruffolo for a compliance audit of the Applicant's election campaign finances respecting campaign finances within the initial reporting period as well as finances during the supplementary reporting period.

h) on March 31, 2008, Council confirmed the appointment of Ken Froese and Glen R. Davison, C.A., of LECG Canada Ltd., to conduct the first compliance audit of the campaign expenses for the 2006 municipal election for the period of April 6, 2006, to December 31, 2006, and directed that a second compliance audit for the period from April 6, 2006, to December 31, 2007, be combined with the earlier audit process ordered by Justice Favret;

i) on June 18, 2008, Council received the compliance audit report regarding the campaign finances of the Applicant for both periods;

j) at its regularly scheduled meeting on June 23, 2008, Council moved to schedule a special meeting for June 24, 2008, for the purpose of dealing with the compliance audit report, that the requirements for forty-eight hours notice be waived and that Timothy Wilkin be retained to provide legal advice to Council regarding the report;

k) on June 24, 2008, Council resolved into Committee of the Whole (Closed Session) for the purpose of receiving legal advice from Mr. Wilkin. After reconvening into a public session, Council passed By-law No. 205-2008 retaining Mr. Wilkin as prosecutor and instructing him to prosecute Ms. Jackson for breaches of the Municipal Elections Act.

l) on September 8, 2008, after this application had been served and filed, City Council passed By-Law Number 228-2008, which "adopted, confirmed and ratified ... as having been duly made by the Council, including, without limiting the generality of the foregoing, the decisions made at the meetings of the Council," up to that point related to the matter.

m) on September 12, 2008, the auditor served a Summons on Blair McCreadie, counsel for the Applicant, and Mario Campese, the Applicant's campaign manager, pursuant to the *Public Inquiries Act*, R.S.O. 1990, c. P.41, purportedly in connection with the compliance audit, which were returnable September 29 and September 30, 2008. They were placed in abeyance pending the outcome of this application.

1. The Compliance Audit Report

[12] The compliance audit report was comprehensive in detailing the apparent contraventions. It was neutrally framed and factual. It listed a range of contraventions from relatively significant apparent contraventions such as excess campaign spending to relatively insignificant ones such as missing postal codes on the addresses of some contributors contrary to the requirements for the financial statements set out in the prescribed form. As listed in the executive summary:

- Ms. Jackson had a campaign spending limit of $120,419.00 under s. 76 (4) of the *Act*, but spent $12,356.00 more than the limit;

- There were a number of apparent contraventions of the *Act* in relation to contributions including the receipt of cash in excess of the $25.00 limit set out in s. 70 (8) of the *Act*; instances of contributors contributing more than $750.00 contrary to s. 71 (1) of the *Act*; a number of instances of contributions in excess of $750.00 from companies or associated groups of companies that were not

returned to contributors contrary to s. 69 (1)(m) of the *Act*; a number of instances of contributions being returned months after the filing of the 2006 financial statement and not as soon as possible after the candidate became aware of the contravention, contrary to s. 69 (1)(m) of the *Act*; and a number of instances of contributions being recorded in the name of partnerships and not in the names of individual contributors;

- In the area of expenses, the report set out thirteen apparent contraventions in which the cost of certain items was omitted or possibly understated;

- In the area of financial reporting, seven apparent contraventions were identified.

III. The Statutory Context

[13] The rules regarding elections are set out in the MEA. The determination of the issues in this matter requires that the *Act* be construed. I am guided in that task by the decision of the Ontario Court of Appeal in *Kerr v. Danier Leather Inc.* (2005), 77 O.R. (3d) 321 (C.A.), aff'd [2007] 3 S.C.R. 331. At paras. 82-85, the court held:

> Section 130 [of the *Securities Act*] should be interpreted by applying Professor Driedger's "modern approach" to statutory interpretation, the approach consistently preferred by the Supreme Court of Canada:
>
> > Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.
>
> See Elmer A. Driedger, The Construction of Statutes, 2nd ed. (Toronto: Butterworths, 1983) at 87 ("Driedger"), approved in, for example, ... [Internal citations omitted]
>
> This modern approach has two aspects. One aspect is that context matters. The court must interpret s. 130, not as a stand-alone provision, but in its total context. In Bell ExpressVu at para. 27, Iacobucci J. stressed the importance of context in interpreting the words of a statute:
>
> > The preferred approach recognizes the important role that context must inevitably play when a court construes the written words of a statute: as Professor John Willis incisively noted in his

> seminal article "Statute Interpretation in a Nutshell" (1938), 16 Can. Bar Rev. 1 at p. 6, "words, like people, take their colour from their surroundings."
>
> The context for interpreting s. 130 includes its purpose, the purpose of the OSA as a whole, an issuer's express disclosure obligations in Part XV of the statute, and related provisions of the OSA dealing with disclosure of material facts and material changes.
>
> The second aspect of this modern approach imports the sound advice of Professor Ruth Sullivan, who has edited the third and fourth editions of Driedger. In interpreting a statutory provision, the court should take account of all relevant and admissible indicators of legislative meaning. After taking these indicators into account, the court should adopt an interpretation that complies with the legislative text, promotes the legislative purpose, and produces a reasonable and sensible meaning.... [Internal citations omitted]

[14] The court is directed by these principles to take a purposive approach and to consider s. 81 of the MEA not in a vacuum, but in the context of the statute as a whole, especially in view of s. 81 (6), which points expressly to "the provisions of this Act relating to election campaign finances." The court may also consider ancillary material such as the regulations under the *Act*, prescribed reporting forms and the related publication of the Ministry of Municipal Affairs and Housing available on the website, entitled the "Municipal Elections 2006 Guide". The latter is a plain language guide for candidates and voters. It does not have the force of law: *Rayside v. Ontario (Commission on Election Finances)*, (1992), 10 OR (3d) 287 (Div. Ct.).

[15] Courts and commentators have discussed the purposes of election campaign funding rules. J. Patrick Boyer commented in *Local Elections in Canada: The Law Governing Elections of Municipal Councils, School Boards and Other Local Authorities* (Toronto: Butterworths, 1988) at 18:

> Campaign costs have been mounting in recent years, and electors and elected people alike have become concerned that campaign financing be as open, fair, and as broadly based as possible. This represents nothing more than a recognition of the importance and pervasiveness of modern government and the attendant need to ensure that the campaigns of candidates reflect general rather than specific interests in society.

[16] In *Figueroa v. Canada (Attorney General)*, [2003] 1 S.C.R. 912, the Supreme Court noted at para. 72 that: "Electoral financing is an integral component of that process, and thus it is of great importance that the integrity of the electoral financing regime be preserved."

[17] In *Libman v. Quebec (Attorney General)*, [1997] 3 S.C.R. 569, the Court held at para. 47:

> To ensure a right of equal participation in democratic government, laws limiting spending are needed to preserve the equality of democratic rights and ensure that one person's exercise of the freedom to spend does not hinder the communication opportunities of others. Owing to the competitive nature of elections, such spending limits are necessary to prevent the most affluent from monopolizing election discourse and consequently depriving their opponents of a reasonable opportunity to speak and be heard.

[18] In *Harper v. Canada (Attorney General)*, [2004] 1 S.C.R. 827, the Court held at para. 103:

> Maintaining confidence in the electoral process is essential to preserve the integrity of the electoral system which is the cornerstone of Canadian democracy. In *R. v. Oakes*, [1986] 1 S.C.R. 103, at p. 136, Dickson C.J. concluded that faith in social and political institutions, which enhance the participation of individuals and groups in society, is of central importance in a free and democratic society. If Canadians lack confidence in the electoral system, they will be discouraged from participating in a meaningful way in the electoral process. More importantly, they will lack faith in their elected representatives. Confidence in the electoral process is, therefore, a pressing and substantial objective.

[19] These principles apply with necessary modifications to municipal campaign funding.

1. The Municipal Elections Act

[20] It is important to note that the MEA creates two classes or categories of contraventions. The more serious contraventions are called "corrupt practices" and the less serious relate to election campaign finances. Ms. Jackson is now facing possible charges only in respect of the latter.

(a) Corrupt Practices

[21] Corrupt practices, which are not the subject of this application, are described in ss. 89-91 of the *Act*. Depending on the nature of the offence, s. 90 imposes fines and imprisonment at various levels. The offence of bribery to secure a vote, for example, exposes the person who is convicted of the offence to "a fine of not more than $5,000, or to imprisonment for not more than 6 months, or to both, and is disqualified from voting at an election until the fourth anniversary of voting day," under s. 90(2). The conviction of a candidate carries the additional penalty of

forfeiture of office, and, unless the presiding judge finds that the candidate lacked "any intent of causing or contributing to a false outcome of the election," conviction disqualifies the candidate from running again for six years, under s. 91.

(b) Contraventions of Election Campaign Finance Rules

[22] The quasi-criminal treatment of corrupt practices can be usefully contrasted with the treatment of contraventions of the election campaign finance rules that are set out in ss. 66-79. Section 80 imposes specific penalties on the candidate which may include loss of pay, forfeiture of office, and ineligibility for election until the next regular election has taken place:

> 80. (1) A candidate is subject to the penalties listed in subsection (2), in addition to any other penalty that may be imposed under this Act, if,
>
> a) he or she fails to file a document as required under section 78 by the relevant date;
>
> b) a document filed under section 78 shows on its face a surplus, as described in section 79, and the candidate fails to pay the amount required by section 79 to the clerk by the relevant date; or
>
> c) a document filed under section 78 shows on its face that the candidate has incurred expenses exceeding what is permitted under section 76.
>
> (2) The following penalties apply:
>
> a. In the case of the defaults described in clauses (1) (b) and (c),
>
> i. the candidate forfeits any office to which he or she was elected and the office shall be deemed to be vacant,
> ii. 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.
>
> b. In the case of the defaults described in clause (1) (a), the candidate is suspended without pay from any office to which he or she was elected until the document is filed

> and subparagraphs 1 i and ii apply if the candidate has not filed the document within 91 days after the last day the document was required to be filed under section 78.

[23] A candidate may be subject to the penalties referred to in s. 80 (2), but s. 92 (6) has a saving provision:

> 92 (6) However, if the presiding judge finds that the candidate, acting in good faith, committed the offence inadvertently or because of an error in judgment, the penalties described in paragraph 1 of subsection 80 (2) do not apply.

[24] In addition, under s. 92 certain contraventions of ss. 69, 70, or 73-79 can be prosecuted as provincial offences, which exposes an individual to a fine of not more than $5,000.

[25] The important distinction for the purposes of the constitutional analysis is that, in contrast to corrupt practices, election campaign finance offences do not attract imprisonment as a possible penalty.

(c) The Election Campaign Finance Rules

[26] The rules on election campaign finances rely heavily on the candidate's competence and honesty. The system works on self-reporting. Section 78 of the MEA requires a candidate to file a financial statement accompanied by an auditor's report, each in the prescribed form, and to file a supplementary financial statement where necessary. It is worth noting that in each municipal and school board election in Ontario literally hundreds of candidates are obliged to complete and submit these documents and appear to do so without difficulty.

[27] Section 69 (1) (m)-(o) obliges a candidate to return a non-compliant campaign contribution to the contributor "as soon as possible after the candidate becomes aware of the contravention" or to the clerk. Under s. 79, a candidate is obliged to pay a surplus to the clerk. Under s. 80, the clerk is obliged to monitor compliance and to send a notice of default to the candidate where the defaults are plain in the financial reports or where the reports have not been filed as required under the *Act*.

(d) Overview of the Statutory Audit Compliance/ Prosecution Process

[28] There are five stages or "checks" in the legislative scheme. First, under s. 81 (3) of the *Act*, Council is obliged to "consider the application" of an elector for a compliance audit under s. 81 (1) of the *Act*. As the cases note, this is a control mechanism intended to prevent frivolous and vexatious applications. There must be "reasonable grounds". The application is received by municipal council as a public document and placed on the agenda. Subsection 81 (11) discourages frivolous applications by exposing the Applicant to being required to pay the auditor's costs if the compliance audit report notes that there was "no apparent contravention" and council "finds that there were no reasonable grounds for the application".

[29] The second stage or "check" is that an applicant whose application is refused by Council can appeal to a judge of the OCJ under s. 81 (3.3). In this case when Vaughan Council deferred the application, the complainants appealed and Justice Favret ordered the compliance audit.

[30] The third stage or "check" is in the form of the independent audit required under s. 81 (4). This is to be conducted by an independent auditor licensed under the *Public Accounting Act, 2004* (s. 81 (5)) and the directions to the auditor are clear and distinct under s. 81 (6). The auditor's powers are set out under the MEA in s. 81 (8).

[31] The fourth stage or "check" is Council's consideration of the compliance audit report under s. 81 (10) and its decision to commence a legal proceeding for "any apparent contravention". The decision of Council must be made in accordance with the ordinary principles of administrative law and is amenable to some form of judicial review.

[32] The fifth stage or "check" is the prosecution itself, in which the candidate has full natural justice protections and *Charter* rights.[4]

(e) The Audit Function

[33] Section 81 of the MEA is part of the enforcement mechanism, and exposes the candidate to the possibility of an audit:

> 81. (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances.
>
> (2) The application shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office, within 90 days after the later of the filing date, the candidate's last supplementary filing date, if any, or the end of the candidate's extension for filing granted under subsection

[4] As an aside, in response to a question from the bench, Mr. Lord asserted that a candidate could appear before a municipal council as a delegation to respond to allegations of fact in an application for a compliance audit, and to address the matters raised in the compliance audit report when council is deliberating a prosecution, as part of municipal compliance with fairness requirements. (This aside assumes, without deciding, that the factors in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 at para. 21 *et.seq.* mandate fairness in these circumstances without qualification by the reasoning in *Dunsmuir v. New Brunswick* 2008 SCC 9.) Ms. Jackson did not seek to address Vaughan Council and has not complained about any inability to do so. My reading of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, however, suggests that s. 5 and s. 15 prevent a successful, but not an unsuccessful, candidate from addressing a municipal council on the subject of an audit or a prosecution under the MEA. This is an incongruous result.

80 (6), if any; it shall be in writing and shall set out the reasons for the elector's belief.

(3) Within 30 days after receiving the application, the council or local board, as the case may be, shall consider the application and decide whether it should be granted or rejected.

...

(3.3) The decision of the council or local board under subsection (3) ... may be appealed to the Ontario Court of Justice within 15 days after the decision is made and the court may make any decision the council, local board or committee could have made.

(4) If it is decided to grant the application under subsection (3), the appropriate council or local board shall, by resolution, appoint an auditor to conduct a compliance audit of the candidate's election campaign finances.

(5) Only an auditor who is licensed under the *Public Accountancy Act, 2004* may be appointed under subsection (4).

(6) An auditor appointed under subsection (4) shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and prepare a report outlining any apparent contravention by the candidate.

(7) The auditor shall submit the report to,

(a) the candidate;
(b) the Council or local board;
(c) the clerk with whom the candidate filed his or her nomination; and
(d) the applicant.

(8) For the purpose of the audit, the auditor,

(a) is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
(b) has the power 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.

> (9) The municipality or local board shall pay the auditor's costs of performing the audit.
>
> (10) The council or local board shall consider the report within 30 days after receiving it and may commence a legal proceeding against the candidate for any apparent contravention of a provision of this Act relating to election campaign finances.
>
> (11) If the report indicates that there was no apparent contravention and the council or local board finds that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant...

(f) The Prosecution

[34] In *Audziss v. Santa* (2003), 223 D.L.R. (4th) 257 (Ont. C.A.), the Court of Appeal concluded that s. 81 of the MEA constitutes a "complete code of procedure that vested exclusive authority in the council to commence proceedings in respect of any alleged contravention of the provisions concerning election campaign finances." (paras. 26, 28) At issue in that case was whether an elector, faced with a decision of council not to order a compliance audit, is nonetheless free to bring an application for forfeiture of the councillor's seat or to commence a private prosecution (which is not an issue in this case). After describing the statutory scheme, the Court of Appeal went on to explain the inherent tensions in the following words at para. 28:

> Having regard to: a candidate's obligations under the MEA in relation to election campaign finances; the automatic sanctions that apply upon the clerk serving notice of default; the elector's right to apply for a compliance audit to ensure compliance with these provisions; the council's obligation to consider that application and its power to appoint an auditor; the council's obligation to consider any report resulting from a compliance audit and its power to commence a legal proceeding against the candidate for any apparent contravention of a provision relating to election campaign finances; and finally an elector's right to seek judicial review in respect of the council's decision; it is my view that the Legislature did not intend that an elector could simply by-pass the whole process and lay a private information. This interpretation is also one which, in my view, achieves a proper balance between an elector's right to challenge an elected official in regard to his or her statutory obligations and the need to limit, and to ensure the legitimacy of, attacks on elected officials.

[35] The legislative history of the *Act* shows that the right of appeal to the OCJ in s. 81 (3.3) used in this case was inserted after the Court of Appeal's decision in *Audziss*, when the only ability to challenge a refusal of council to appoint an auditor was to seek judicial review.

[36] The "balance" referred to by the Court of Appeal is between the policy goals of public accountability and transparency that compliance with the MEA campaign finance provisions are designed to accomplish on the one hand, with a certain degree of protection for candidates from legal challenges that do not comply with the standards in s. 81 (1) of the MEA on the other hand. Trafford J. referred to the latter aspect in his decision in *Hall v. Jakobek* (2003), 42 M.P.L.R. (3d) 55 at para. 21 (S.C.J.):

> Given the Legislative intention, that is, to ensure the legitimacy of attacks on elected officials and, I infer, other candidates, by electors, it is my view that s. 81 of the Act is, in its purpose and effect, a provision to screen allegations by electors of election campaign finance wrongdoing by candidates and elected officials, especially where the allegations are determined by an auditor and/or a Council to be frivolous, vexatious or otherwise devoid of merit.

IV. The Constitutional Complaints

[37] Section 7 of the *Canadian Charter of Rights and Freedoms* provides:

> 7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

[38] Ms. Jackson has two basic s. 7 complaints. First, she argues that s. 81 of the MEA is impermissibly vague; it contravenes s. 7 of the *Canadian Charter of Rights and Freedoms* and offends against the "rule of law" referred to in the preamble of the *Charter*; it is therefore of no force and effect under s. 52 (1) of the *Constitution Act, 1982.*

[39] Second, she argues that "the nature of the audit directed in Section 81(6) toward apparent contraventions of the MEA and the requirement and inspection powers granted to an auditor under 81(8) of the MEA breach the Applicant's right against self-incrimination contrary to section 7 of the *Charter*." Each of these complaints is addressed in turn.

1. Whether Section 81 of the MEA is Impermissibly Vague and Therefore Unconstitutional

[40] It is a principle of fundamental justice under s. 7 of the *Charter* that laws may not be too vague.

[41] In approaching this issue, I am guided by the words of the Supreme Court of Canada in *R. v. Nova Scotia Pharmaceutical Society,* [1992] 2 S.C.R. 606, where it held at para. 28 that "[t]he 'doctrine of vagueness' is founded on the rule of law, particularly on the principles of fair notice to citizens and limitation of enforcement discretion."

[42] Justice Gonthier added, at paras. 60-63:

> Legal rules only provide a framework, a guide as to how one may behave, but certainty is only reached in instant cases, where law is actualized by a competent authority. In the meanwhile, conduct is guided by approximation. The process of approximation sometimes results in quite a narrow set of options, sometimes in a broader one. Legal dispositions therefore delineate a risk zone, and cannot hope to do more, unless they are directed at individual instances.
>
> By setting out the boundaries of permissible and non-permissible conduct, these norms give rise to legal debate. They bear substance, and they allow for a discussion as to their actualization. They therefore limit enforcement discretion by introducing boundaries, and they also sufficiently delineate an area of risk to allow for substantive notice to citizens.
>
> Indeed no higher requirement as to certainty can be imposed on law in our modern State. Semantic arguments, based on a perception of language as an unequivocal medium, are unrealistic. Language is not the exact tool some may think it is. It cannot be argued that an enactment can and must provide enough guidance to predict the legal consequences of any given course of conduct in advance. All it can do is enunciate some boundaries, which create an area of risk. But it is inherent to our legal system that some conduct will fall along the boundaries of the area of risk; no definite prediction can then be made. Guidance, not direction, of conduct is a more realistic objective... .
>
> A vague provision does not provide an adequate basis for legal debate, that is for reaching a conclusion as to its meaning by reasoned analysis applying legal criteria. It does not sufficiently delineate any area of risk, and thus can provide neither fair notice to the citizen nor a limitation of enforcement discretion. Such a provision is not intelligible, to use the terminology of previous decisions of this Court, and therefore it fails to give sufficient

> indications that could fuel a legal debate. It offers no grasp to the judiciary. This is an exacting standard, going beyond semantics. The term "legal debate" is used here not to express a new standard or one departing from that previously outlined by this Court. It is rather intended to reflect and encompass the same standard and criteria of fair notice and limitation of enforcement discretion viewed in the fuller context of an analysis of the quality and limits of human knowledge and understanding in the operation of the law.

Ms. Jackson draws particular comfort from the following words at paras. 69-71:

> What becomes more problematic is not so much general terms conferring broad discretion, but terms failing to give direction as to how to exercise this discretion, so that this exercise may be controlled. Once more, an unpermissibly [sic] vague law will not provide a sufficient basis for legal debate; it will not give a sufficient indication as to how decisions must be reached, such as factors to be considered or determinative elements. In giving unfettered discretion, it will deprive the judiciary of means of controlling the exercise of this discretion...
>
> Finally, I also wish to point out that the standard I have outlined applies to all enactments, irrespective of whether they are civil, criminal, administrative or other. The citizen is entitled to have the State abide by constitutional standards of precision whenever it enacts legal dispositions. In the criminal field, it may be thought that the terms of the legal debate should be outlined with special care by the State. In my opinion, however, once the minimal general standard has been met, any further arguments as to the precision of the enactments should be considered at the "minimal impairment" stage of s. 1 analysis.
>
> The doctrine of vagueness can therefore be summed up in this proposition: a law will be found unconstitutionally vague if it so lacks in precision as not to give sufficient guidance for legal debate. This statement of the doctrine best conforms to the dictates of the rule of law in the modern State, and it reflects the prevailing argumentative, adversarial framework for the administration of justice.

[43] In *Cochrane v. Ontario (Attorney General)* (2008), 92 O.R. (3d) 321 (C.A.), the Court of Appeal considered the constitutionality of the legislation banning "pit bull" terriers and, more

particularly, whether it provided an intelligible definition of the term "pit bull". Sharpe J.A. held at paras. 39 and 44:

> It is sufficient for the law to delineate an area of risk. It is only "where a court has embarked upon the interpretative process, but has concluded that interpretation is not possible" that a law will be declared unconstitutionally vague: *Ontario v. Canadian Pacific Ltd.*, [1995] 2 S.C.R. 1031 ... at para. 79.
>
> These cases [on vagueness] demonstrate that a law will not be struck down as being vague simply because reasonable people might disagree as to its application to particular facts. No doubt individuals, even experts, may disagree about what is in the "best interests of the child", whether a particular contract would "unduly" lessen competition, whether a specific political issue is "particularly associated" with a given political party, or whether a dominant characteristic of a publication is the "undue exploitation of sex". Yet each one of those phrases has been held to have sufficient precision to survive s. 7 scrutiny. In these and other areas of social or regulatory policy, the fact that identification and classification does not lend itself to linguistic certainty will not defeat laws which provide a degree of clarity capable of supporting intelligible debate. In my view, given the nature of the subject matter and the importance of the objective, the Attorney General's submission that the impugned provision gives sufficient guidance is well supported by the authorities cited.

[44] Professor Peter W. Hogg criticizes the test of whether the law provides an adequate basis for legal debate, "because almost any provision, no matter how vague, could provide a basis for legal debate": *Constitutional Law of Canada*, 5th ed., loose-leaf (Toronto: Carswell, 2007), at s. 47.18(b). A careful reading of Justice Gonthier's words in para. 63 of *Nova Scotia Pharmaceutical Society*, *supra*, shows, however, that the test is qualified: "A vague provision does not provide an adequate basis for legal debate, that is for reaching a conclusion as to its meaning by reasoned analysis applying legal criteria." [Emphasis added.]

[45] Professor Hogg goes on to say:

> What is perhaps most useful in giving some content to the rule against vagueness is to refer back to the two values that the rule protects, namely, fair notice to citizens and limitation of enforcement discretion. A law is unconstitutionally vague if it fails to give fair notice of what conduct is prohibited by the law, and if it fails to impose real limitations on the discretion of those charged with enforcement of the law.

[46] To summarize, a statutory provision is intelligible, sufficiently certain, and therefore not impermissibly vague, if it gives fair notice to citizens setting out the boundaries of permissible and impermissible conduct that delineate a zone or area of risk. It must be possible in specific cases to reach a conclusion as to the meaning and application of the statute through reasoned analysis applying legal criteria.

[47] In addition, a provision must not give unfettered discretion to a decision maker because doing so will deprive the judiciary of the means of controlling the exercise of the discretion. The enactment should therefore give a sufficient indication as to how decisions must be reached and the determinative factors or elements to be considered.

[48] Clarification is in order, however, concerning discretion. The Oxford Shorter Dictionary defines "discretion" as "freedom to decide or act as one thinks fit, absolutely or within limits; having one's own judgment as sole arbiter". In other words, within a certain ambit one is free to choose among different outcomes. This is the sense of the word evoked in *Baker v. Canada, supra*, at para. 52: "The concept of discretion refers to decisions where the law does not dictate a specific outcome, or where the decision-maker is given a choice of options within a statutorily imposed set of boundaries."

[49] There is, however, a real debate about the meaning of "discretion" in concrete settings. For example, consider the Supreme Court's words in *Baker*, *supra*, at para 54:

> It is, however, inaccurate to speak of a rigid dichotomy of "discretionary" or "non-discretionary" decisions. Most administrative decisions involve the exercise of implicit discretion in relation to many aspects of decision making. To give just one example, decision-makers may have considerable discretion as to the remedies they order. In addition, there is no easy distinction to be made between interpretation and the exercise of discretion; interpreting legal rules involves considerable discretion to clarify, fill in legislative gaps, and make choices among various options.

[50] In my view, and I say this with diffidence, the interpretation of legislation is not an example of true discretion. In "Another View of *Baker*" (1999), 7 R.A.L. 163 at 164, James L.H. Sprague observed, and I agree:

> Filling in legislative gaps and making choices among various options is not true discretion. That is trying to discern what the legislator meant to say. The legislator never said, or intended to say, that where there is a gap, the law is to be whatever a decision-maker may decide it should be. No, where the decision-maker has to fill in gaps or otherwise interpret law he or she is not exercising

> discretion. He or she is simply doing his or her best to ascertain what the law is—he or she is not a law-maker (or at any rate is not supposed to be).

[51] In the context of the MEA, there is minimal discretion in the council's decision on whether to appoint an auditor under ss. 81 (1) and (4). If the application shows reasonable grounds, that is the end of the matter and council must appoint an auditor. The section requires the exercise of judgment on which council may be right or wrong and will be subject to judicial oversight through an appeal under s. 81 (3.3).

[52] In *Chapman v. Hamilton*, [2005] O.J. No. 1943 (OCJ), Culver J. noted that "councillors were reluctant to exercise their jurisdiction, to consider the request for Compliance Audit on its merits, because they did not want to be seen as 'standing in judgment' of their colleagues." (para. 13) He held at paras. 36 and 37:

> ... I find that the issue to be determined, namely whether or not the elector has reasonable grounds to believe that a candidate has contravened a provision of The Act relating to campaign finances, is a question of mixed fact and law. Political considerations, in their highest sense, the creation of public policy as the political will of the citizens of the City, or in the lowest sense, political opportunism fed by ambition, have no place to play in such an analysis. The order for Compliance Audit is not dispositive. It may be that political considerations are appropriate when considering the laying of charges, should the audit determine misfeasance, but not at this stage.
>
> ... I note that Council in its debate, did not consider the merits of the application as it relates to the provisions of The Act, but, applied a political consideration, namely the unwillingness to judge their peers, and therefore dismissed the application with the desire to have the court make the ultimate decision. This debate, I find, amounts to a failure or refusal to meaningfully exercise jurisdiction....

[53] There may be some minimal discretion when it comes to minor breaches. The failure to insert a contributor's postal code in the prescribed form is a technical violation. It may be, for example, that the only violation for a candidate is a few missing postal codes. Perhaps a municipal council could justify refusing appointing an auditor in such circumstances. That is not the situation here.

[54] In carrying out the audit the auditor is not exercising true discretion. He or she will need to interpret the *Act*, and might be wrong or right in the interpretation, but is also subject eventually to judicial oversight such as when, for example, an OCJ judge rejects the auditor's

understanding of what constitutes a "fund-raising event" and dismisses a charge laid under s. 81 (10).

[55] There is some discretion in a council's decision to prosecute under s. 81 (10), which provides that council: "may commence a legal proceeding against the candidate for any apparent contravention of a provision of this Act relating to election campaign finances." The extent of the discretion will be discussed below, but the general administrative law principles, which govern municipalities and other such bodies, make it clear that there is no such thing as an "unfettered discretion."

[56] With these principles in mind, I now turn to consider the Applicant's specific arguments on vagueness.

(a) The Applicant's Arguments on Vagueness

[57] Mr. Manning raised various issues under the rubric of vagueness.

(i) The Standards Applicable to Council's Decision to Order an Audit

[58] I reproduce here the provisions in s. 81 that give rise to the audit:

> 81. (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances.
>
> (2) The application ... shall be in writing and shall set out the reasons for the elector's belief.
>
> (3) Within 30 days after receiving the application, the council or local board, as the case may be, shall consider the application and decide whether it should be granted or rejected....

[59] The Applicant complains:

> The factors which Council may take into consideration in deciding whether to grant or refuse an application for a compliance audit, including financial issues, matters of proportionality and other issues, are not enumerated under section 81(3). Therefore, it is unclear whether a compliance audit must be conducted merely if the applicant has reasonable grounds to believe a section of the MEA has been contravened or whether council may refuse an applicant who has "reasonable grounds" to believe that multiple

> sections MEA have been contravened. Moreover, the standard "reasonable grounds" is not defined in the legislation. It is unclear what will constitute "reasonable grounds" and how council must evaluate whether the applicant has satisfied the onus, under section 81(1) of showing that her or his belief in a candidate's contravention of the MEA is on "reasonable grounds."

[60] As noted earlier, there is little discretion for a municipal council in deciding whether to order a compliance audit once reasonable grounds are found to exist. The law is replete with provisions using the standard of "reasonable grounds" and courts and public bodies have had little difficulty in applying it to concrete facts. To some extent, however, in the context of this application this inquiry is redundant, since the main audit was ordered as the result of Justice Favret's decision on the appeal of Vaughan Council's initial refusal to order the audit. She had no trouble finding reasonable grounds.

(ii) The Scope of the Compliance Audit

[61] The Applicant raised an issue about the scope of the compliance audit both as an independent ground of complaint and as an example of impermissible vagueness. As the history of the matter noted, the Council initially declined to appoint an auditor to carry out a compliance audit. The complainants appealed under s. 81 (3.3), and Justice Favret issued a decision compelling the Council to appoint an auditor. Justice Favret found, at para. 70, that:

> there are reasonable grounds to conclude some, not all, of the corporations listed are associated and that pursuant to s.72 of the Act, they would be deemed a single corporation for the purpose of who is an eligible contributor. As such I agree that there are reasonable grounds to conclude there was a contravention of the Act as there is no indication over contributions were returned.

[62] Justice Favret went on, however, to reject the complaint that there was a contravention of the *Act* by the candidate in relation to fundraising events as lacking "sufficient particularity to support such a conclusion [that there was a contravention]", although she found that the material "supports a conclusion that the Candidate failed to issue a receipt for one of the events on one occasion contrary to s. 69(1) of the Act." (para. 71)

[63] The Applicant complains that the Act does not clearly answer the following question:

> [I]f an applicant demonstrates reasonable grounds that there has been <u>one</u> contravention of the MEA but fails to demonstrate reasonable grounds as to another contravention alleged, is the auditor conducting a compliance audit solely into the <u>one</u> contravention for which the applicant's belief is based on

> reasonable grounds? ... Having made a determination on the merits that the applicant does not have reasonable grounds to believe that there had been a contravention in respect of some but not all of the contraventions alleged, is the auditor appointed precluded from examining these allegations?

[64] The Applicant argued that the compliance audit must relate only to the matters in the complaint that are found by the judge hearing the s. 81 (3.3) appeal to have reasonable grounds.

[65] I disagree. I find that s. 81 (1) is a threshold requirement only. Once it is plain to a municipal council that there are reasonable grounds for the belief "that a candidate has contravened a provision of this Act relating to election campaign finances" under s. 81(1), then the result is "a compliance audit of the candidate's election campaign finances"; in other words, the audit is comprehensive and is not restricted to the matters referred to in the complaint. The trigger can be a single contravention, although in this case the applications for a compliance audit identified numerous possible contraventions.

[66] It is noteworthy that the cases that have considered the audit function have not limited the audit to the grounds of the original complaint: See *Savage v. Niagara Falls (City)*, [2005] O.J. No. 5694 (B.W. Duncan, OCJ); *Chapman, supra.* In *Mastroguiseppe and Ruffolo v. City of Vaughan* (February 19, 2008), Newmarket, 49119990790000352-01-02 (O.C.J.), Justice Favret did not review fully all of the alleged grounds of contravention by Ms. Jackson, leaving out, for example, the allegations relating to cash donations. She ordered a "compliance audit for the period in the Statement and Report" without restricting it to the particular grounds that she found were reasonable in reviewing the application.

[67] Similarly, in *DeFrancesca et al. v. City of Vaughan* (October 7, 2008), Newmarket, 07-000486 (O.C.J.), Justice H.I. Chisvin reviewed an application in which seven issues were raised concerning the campaign finances of Bernie DiVona, an elected councillor of the City of Vaughan. City Council denied the applicants' request for a compliance audit. Chisvin J. asked himself the following question: "Does any one raise a reasonable ground to believe that a violation has occurred?" (para 12) He looked at only one of the issues, concerning contributions by businesses apparently located at a single address and having similar officers and directors. He found that there were reasonable grounds to believe that there had been a violation of the finance provisions of the MEA. He concluded at para. 17:

> There are six other issues raised by the applicants in this factum with respect to this matter. I do not propose to review them in detail as it is not my function to determine the ultimate veracity of each and every one of these matters. As I've said, it is my function, like that of council's, to determine only if there are reasonable grounds for the electorate to believe that there has been a violation of the campaigns finance provisions of the *Act*....

[68] I find that there are good reasons for this approach. In terms of the statutory structure, the role of the Ontario Court judge in an appeal under s. 81(3.3) of the *Act* is limited. The judge's responsibility is to deal with the issue of reasonable grounds. It is the responsibility of other actors in the statutory framework, not the Ontario Court judge at this stage, to conduct the audit, evaluate the results, authorize a prosecution, carry it out and try the case. Further, the MEA's provisions are interrelated, and the identification of a problem may suggest that there might be more awaiting discovery. For example, the failure to issue a campaign receipt may be related to an unauthorized expenditure; this is grist for the auditor's mill and is well beyond the purview of an Ontario Court judge on an appeal under s. 81 (3.3).

(iii) What is a Compliance Audit?

[69] The Applicant argues that it not clear what a "compliance audit" is under ss. 81 (1) and 81 (4) of the MEA, noting that it seems to be something different than an audit, but precisely what is not clear, since: "there is no definition of what a compliance audit consists. An auditor's duty, under s. 81(6), is to prepare a report outlining any 'apparent contraventions' by the candidate but what constitutes an 'apparent contravention' is not defined." On behalf of the Applicant, Mr. Manning asks: "Is an 'apparent contravention' a real contravention?"

[70] Taken contextually, in my view the nature of a compliance audit readily emerges from the MEA. Subsection 81 (6) provides:

> (6) An auditor appointed under subsection (4) shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and prepare a report outlining any apparent contravention by the candidate.

[71] Section 81 relates back to the provisions of the MEA concerning election campaign finances, which are set out in ss. 66-79. These are detailed provisions that give content to the concepts of contributions (s. 66), expenses (s. 67), the election campaign period (s. 68), the duties of a candidate (s. 69), when a candidate may accept contributions (s. 70), maximum limits on contributions (s. 71), restrictions on fund-raising functions (s. 73), borrowing by a candidate (s. 75), filing dates in relation to financial statements (s. 77) and an auditor's report (s. 78) and the treatment of surpluses and deficits (s. 79).

[72] The term "compliance audit" in s. 81(1) obviously refers to compliance with "a provision of this Act relating to election campaign finances," set out in the Act and referenced in the prescribed forms for the financial statement and auditor's report required to be filed under s. 78 of the MEA. The term is nothing more than a convenient contraction for drafting purposes. It does not denote or connote anything more than an audit leading to a report to municipal council that, like any auditor's report, identifies "apparent contraventions" as required by s. 81(6) of the Act. I find that there is nothing vague, ambiguous or mysterious in the term "compliance audit". I find that it is not the auditor's function to determine whether an apparent contravention is a real

contravention. That is a determination which is ultimately for the judge of the Ontario Court of Justice to make in a prosecution under s. 81 (10), after being filtered through municipal council and a prosecutor.

(iv) Impermissible Delegation to the Auditor

[73] The Applicant argues that: "Section 81 of the MEA effectively delegates an ill-defined power to an auditor to determine whether there has been a contravention of the MEA. This power, to determine whether there has been an 'apparent contravention' of the MEA cannot be validly delegated to an auditor." She takes the position that:

> A statutory term which grants discretion but which fails to give direction as to how that discretion should be exercised, so that this exercise may be controlled, will be impermissibly vague. Laws that do not give a sufficient indication as to how decisions must be reached, such as factors to be considered or determinative elements, will be impermissibly vague. In giving unfettered discretion, it will deprive the judiciary of means of controlling the exercise of this discretion.

[74] The legal principles the Applicant cites are valid, but do not apply to the compliance audit specified by the MEA. There is no "delegation" of the "power to determine whether there has been a contravention of the MEA" by the municipal council to the auditor. The respective roles are statutorily determined. As noted above, it is not the auditor's role "to determine whether there has been a contravention of the MEA" (which is the function of the OCJ on a prosecution), only to identify "apparent contraventions." The compliance requirements of the *Act* are clear and simple. There will always be matters of detail that come up in concrete situations and that require interpretation by the auditor. But these can usually be resolved by reference to the principles in the legislation and are subject to judicial oversight.

(v) Fund-raising Functions

[75] The Applicant complains that there is no definition of "fund-raising event" in the MEA. The undefined term "fund-raising functions" is found in s. 79 (2) and s. 73, among other places. The concept, however, is quite simple to understand and, in my view, does not require further definition.

[76] The Applicant refers to the paras. 1.30-1.32 in the compliance audit report:

> **1.5 What the Act Says About Fundraising Events**
>
> 1.30 Paragraph 5 of subsection 67(2) of the Act includes *"the cost of holding fund-raising functions"* as a campaign expense, and

subsections 76(4) and 76(5) provide that these costs are not subject to limitation.

1.31 Although the Act does not define a fundraising event, the Municipal Elections 2006 Guide included the following guidance:

> "*Fund-raising functions are events intended to raise money for a person's election campaign. Such activities include dinners, dances, garden parties, etc. for which there is an admission charge, as well as auctions, button sales, etc. for which there may not be an admission charge.*" [Underlining added]

1.32 The candidates were required to file financial statements that included a schedule addressing each fund-raising activity (Schedule 2). The schedule includes a description of the fund-raising activity, the amount of the admission charge, the number of tickets sold, and ticket revenue. The form includes the notation "*if admission charge per person is not consistent, provide complete breakdown of all ticket sales*". [Emphasis in original; Footnote omitted]

[77] The Applicant particularly criticized the auditor's reliance on the Municipal Elections 2006 Guide ("the Guide") published by the Ontario government. The excerpt quoted above from the Guide gives common sense advice to candidates and those assisting them in election campaigns. I see no inconsistency between these elements of the Guide and the *Act*.

(vi) Contributions

[78] The MEA lists those who may be contributors and contribution limits:

> **70.** (3) Only the following may make contributions:
>
> 1. An individual who is normally resident in Ontario.
> 2. A corporation that carries on business in Ontario.
> 3. A trade union that holds bargaining rights for employees in Ontario.
> 4. Subject to subsection (5), the candidate and his or her spouse.
>
> **70.** (6) A contribution may be accepted only by a candidate or an individual acting under the candidate's direction.

> 70. (7) A contribution may be accepted only from a person or entity that is entitled to make a contribution.
>
> 71. (1) A contributor shall not make contributions exceeding a total of $750 to any one candidate in an election.
>
> 71. (2) if a person is a candidate for more than one office, a contributor's total contributions to him or her in respect of all the offices shall not exceed $750.
>
> 71. (3) Subsections (1) and (2) do not apply to contributions made to a candidate's own election campaign by the candidate or his or her spouse.
>
> 72. For the purposes of sections 66 to 82, corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be deemed to be a single corporation.
>
> 74. (1) A contributor shall not make a contribution of money that does not belong to the contributor.

[79] The auditor focused particularly on these provisions. The Applicant takes issue with the highlighted words in following discussion in the compliance audit report concerning contributions, and submits that they are signs of "uncertainty" that exemplify the *Act*'s impermissible vagueness:

> 1.25 The Act states that contributions may only be made from money that belongs to the contributor (Subsection 74(1)). It does not address whether one cheque may be issued on behalf of two or more individuals or entities. We have interpreted the Act to permit contributions on another's behalf where there is supporting documentation, such as a letter, advising the candidate that the funds are being contributed on the other party's behalf, using the other party's funds. For example, where a candidate is advised that a contribution is being made on behalf of a number of individuals, each of whom is reimbursing the entity, or where the funds are being charged to their shareholder loan account, or a similar situation. The Municipal Elections 2006 Guide suggests the following:
>
> > *"Before issuing a receipt for a contribution received by cheque, the candidate should ensure*

that the cheque is honoured at the bank and, if the contribution is:

- *from an individual, ensure the contributor meets the requirement of being a resident in Ontario;*
- *from a sole proprietorship, determine the name of the owner and issue a receipt in the owner's name, not the name of the business, as a good practice;*
- *from a corporation, ensure that it meets the requirement of carrying on business in Ontario;...*

Helpful Hints

- *... If a cheque for a contribution is drawn from a joint personal bank account, the receipt must be issued only to the person who signed the cheque. Where two people have signed a cheque drawn from the joint personal account, the candidate must determine who made the contribution and issue the receipt to that person.*
- *Unincorporated groups, such as a law partnership, may contribute to a candidate's campaign, however the candidate should:*
    - *Request a list of the names and addresses of the individual contributors that shared in the contribution and the amount contributed by each individual;*
    - *Issue receipts to the individual contributors, not the unincorporated group. The individual's proportion of the group's contribution counts towards that individual's campaign contribution limit of $750; and*
    - *Report these contributions on the candidate's financial disclosure in the*

> *same manner as contributions."* [Underlined emphasis added; Italics emphasis in original; Footnote omitted]

[80] The compliance audit report's interpretation of the Act and its use of the Guide are not unreasonable on their face and are likewise not inconsistent with the MEA. The fact that these matters of detail are not finely defined in the legislation does not make it impermissibly vague. Again, there will always be matters of detail that come up in concrete situations, which can be resolved by reference to the principles in the legislation.

[81] The Applicant also complains about the underlined words in the following excerpt from the compliance audit report:

> 1.27 The Act, by identifying only corporations, apparently does not permit contributions from an incorporated income trusts, limited and general partnerships, unincorporated co-tenancies, and other legal but non-corporate entities through which business is conducted in Ontario. [Emphasis added]

[82] It is to be noted that the compliance audit report's statement about the other entities appears to be correct but the reference to partnerships is not accurate, as the report seems to acknowledge later in referring to the need, in respect of a partnership, to list "the name of the person on whose behalf the contribution was made," consistent with the Guide.

(vii) Providing Proper Direction

[83] Section 69 (1)(l) provides:

> 69. (1) A candidate shall ensure that,
> (l) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions on behalf of the candidate;

[84] The related audit finding in the report provides:

> **1.8 What are Reasonable Expectations from a Candidate?**
>
> 1.37 Paragraph 69(1) (l) of the Act requires that candidates provide *"proper direction...to the persons who are authorized to incur expenses and accept or solicit contributions on behalf of the candidate."* The proper direction presumably includes ensuring that the authorized persons understand the candidate's responsibilities under the Act in relation to accepting contributions, incurring expenses, using bank accounts, retaining proper financial

> records, and preparing financial statements. [Emphasis added by the Applicant]

[85] The Applicant takes the position that the word "presumably" illustrates an impermissible vagueness in the statue. I disagree. As noted, there will always be matters of detail that come up in concrete situations. These can easily be resolved by reference to the principles in the legislation.

[86] One of the findings in the report with which the Applicant takes issue is the following: ...

> 2.7 (11) ... Linda Jackson informed us that she did not provide any direction to Mario Campese in relation to delegation of the financial aspects of the campaign. In our opinion the failure to provide direction to the Campaign Manager is an apparent contravention of paragraph 69(1) (1) of the Act (Section 4.7 of our Report);

[87] Later in the report it was stated:

> 4.62 ... Linda Jackson informed us that she did not provide any direction to Mario Campese in relation to delegation of the financial aspects of the campaign. She advised us that Mario Campese had fulfilled the Campaign Manager role in prior municipal elections and thus that she believed that he did not require further direction. In our opinion the failure to provide direction to the Campaign Manager is an apparent contravention of paragraph 69(1) (1) of the Act. [Emphasis added]

[88] Whether the underlined words provide a defence to Ms. Jackson would be a matter for subsequent proceedings. I note that in her August 28, 2008, affidavit, Ms. Jackson asserted:

> This statement is false. I never informed Ken Froese, or anyone else for that matter, that I did not provide direction to Mario Campese. In fact, Campese was provided with a copy of the Act, the City of Vaughan election guide and he possessed experience from 2 prior elections.

[89] The compliance audit report also states:

> 1.38 When a contribution is received, a candidate may reasonable be expected to identify contributions that exceed the $750 contribution limit or are clearly from inappropriate sources,

such as contributions from out-of- Province businesses, charities, federal or provincial political parties, or similar sources. Where accepting contributions is delegated to others, a candidate's instructions should include appropriate procedures to identify clearly inappropriate contributions.

...

1.40 Prior to finalizing a financial statement, a candidate may reasonably be expected to identify potential multiple contributions that result in an over-contribution, contributions from different individuals or corporations sharing a common address, or other commonalities that suggest a possible association resulting in an over-contribution. The candidate's responsibility is to then promptly refund over-contributions. However, in our view the candidate cannot reasonably be expected to do more than enquire of the contributors as to whether they are associated or are otherwise not permitted to contribute to the candidate's municipal election campaign.

1.41 A candidate may also be reasonably expected to monitor the level of expenses subject to limitation during the course of the campaign to ensure that the campaign does not exceed the limitation. As well, the candidate may reasonably be expected to provide direction to persons delegated financial responsibilities to ensure processes are in place to ensure expense limitations are not exceeded.

1.42 Our compliance audit considered that it is a reasonable expectation of a candidate who has delegated financial authority to others that the candidate will review expenses, by category, and consider the reasonableness of overall financial reporting.

1.43 Our compliance audit also considered that it is a reasonable expectation that a candidate consider whether there is inventory to report at the end of the campaign period (reusable signs, furniture, or other equipment or supplies), whether the amount loaned to the campaign agrees with the candidate's own financial records, whether the price of tickets and the number of attendees at fund-raising events is consistent with the candidate's recollection, and whether the total of expenses for fundraising are consistent with the cost of fundraising. [Emphasis by the Applicant]

[90] None of the expectations delineated in this part of the compliance audit report, which the Applicant challenges, are unreasonable or inconsistent in principle with the expectations of the MEA that refer to a candidate giving "proper direction".

(b) The Frustaglio Compliance Audit Report

[91] In support of the arguments on vagueness and partiality, on January 12, 2009, the Applicant brought a motion for the admission of fresh evidence concerning the compliance audit report related to councilor Joyce Frustaglio dated October 17, 2008. I heard argument and issued a decision on January 14, 2009. I agreed to admit the Frustaglio compliance audit report as fresh evidence and invited argument on it. I said at para. 21:

> I am alive to the concerns raised by Messrs. Rueter and Lord. At the same time, however, the common law is rightly suspicious of abstract questions. The expression "pure law" may be an oxymoron, since the law always needs a context within which it is to be considered. Experience in working with statutory provisions in the context of a real issue can reveal ambiguities that an abstract review would perhaps miss. The Jackson Compliance Audit Report assists in setting the context within which the vagueness argument can be assessed, and the Frustaglio Report may add usefully to that context.

[92] Careful reading of the Frustaglio compliance audit report, in comparison with the Jackson compliance audit report, shows that they are substantially the same in terms of format, methodology and the description of the interpretation taken by the auditor of obligations under the MEA. It is not surprising that Mr. Manning therefore launches the same complaints about the Frustaglio report as he did about the Jackson report. He asserts that: "In the Frustaglio report, LECG [the audit firm] reached its conclusions by interpreting the Act in a manner different from its interpretation of the Jackson audit and this is the very essence of arbitrariness." I reject this assertion; it is not true that the Frustaglio report interpreted the Act "in a manner different from its interpretation of the Jackson audit".

[93] Other aspects of the Frustaglio report will be addressed elsewhere in these reasons.

(c) The Standards Applicable to Council's Decision to Commence a Prosecution

[94] Section 81 (10) of the MEA provides:

> (10) The Council or local board shall consider the report within 30 days after receiving it and may commence a legal proceeding against the candidate for any apparent contravention of a provision of this Act relating to election campaign finances.

[95] The Applicant notes:

> After council has received a report outlining apparent contraventions, there is no articulation of the factors that council may take into consideration in determining, under section 81(10), whether to commence a legal proceeding. It is unclear whether even a single contravention is sufficient for the commencement of legal proceedings, or to whom council should delegate the commencement of legal proceedings.

[96] As noted above, the trigger can be a single contravention, although in this case the applications for a compliance audit identified numerous possible contraventions.

[97] In *Chapman, supra,* at para. 36, Culver J. stated that: "It may be that political considerations are appropriate when considering the laying of charges, should the audit determine misfeasance, but not at this stage [of considering an application for an audit]." By this he meant: "Political considerations, in their highest sense, the creation of public policy as the political will of the citizens of the City, or in the lowest sense, political opportunism fed by ambition." (para. 36) Mr. Manning, on behalf of Ms. Jackson, pronounced himself as "horrified" that political considerations would have any bearing on the decision of Council to prosecute.

[98] As noted above, there is some discretion in a municipal council's decision to prosecute under s. 81 (10), since council: "may commence a legal proceeding against the candidate for any apparent contravention of a provision of this Act relating to election campaign finances." There is, however, no such thing as an "unfettered discretion" in a municipal body.

[99] The overriding principles are expressed in *Baker, supra,* at para. 53:

> ... [D]iscretionary decisions, like all other administrative decisions, must be made within the bounds of the jurisdiction conferred by the statute ... [D]iscretion must still be exercised in a manner that is within a reasonable interpretation of the margin of manoeuvre contemplated by the legislature, in accordance with the principles of the rule of law ..., in line with general principles of administrative law governing the exercise of discretion, and consistent with the *Canadian Charter of Rights and Freedoms*....

[100] Among the relevant administrative law principles are that: power must be exercised for the purpose for which it was granted and not for another purpose; the decision maker cannot decline to decide an issue remitted to it; the decision must be made on the basis of relevant considerations and must not take into account irrelevant considerations; decision-making power may not be improperly delegated; there must be some evidence to justify decisions of fact; statutory preconditions to the exercise of power must be met; there should not be errors in the interpretation of legislation; and the decision must not be grossly unreasonable.

[101] Without being exhaustive, it is easy to see how these principles would apply to a decision on whether to prosecute under s. 81 (10) of the MEA. Possible examples abound. A decision based on concerns about maintaining the confidence of the electorate, the integrity of the election process and the values of public accountability and transparency would be consistent with the statutory purpose and would also be political considerations in the highest sense. On the other hand, a decision made to advance political ambition by ousting a rival would be for an improper purpose. A decision taking into account the scale of the apparent contraventions would be taking into account relevant considerations, but one based on personal animosity or bias would be improper. A decision to prosecute the slightest apparent contravention would run into problems of unreasonableness.

[102] As a relevant example, the auditor's report indicates that Ms. Jackson neglected to provide postal codes for some of the contributors to her campaign, as required in the form prescribed by the *Act*. In respect of this contravention, the doctrine of *de minimis non curat lex* might be a defence (a matter I leave for the trial judge). It essentially means that "the law does not concern itself with trifles": *R. v. Hinchey*, [1996] 3 S.C.R. 1128 at para. 69. The origins of this doctrine were outlined by the Ontario Court of Appeal in *R. v. Kubassek* (2004), 188 C.C.C. (3d) 307 (Ont. C.A.) at para. 19, quoting from *The Reward* (1818), 2 Dods. 265, 165 E.R. 1482, where Sir Walter Scott (later Lord Stowell) said, at 269-270 Dods., 1484 E.R.:

> The Court is not bound to a strictness at once harsh and pedantic in the application of statutes. The law permits the qualification implied in the ancient maxim, *de minimis non curat lex*. Where there are irregularities of very slight consequence, it does not intend that the infliction of penalties should be inflexibly severe. If the deviation were a mere trifle, which, if continued in practice, would weigh little or nothing on the public interest, it might properly be overlooked.

And see *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)*, [2004] 1 S.C.R. 76, where this defence was discussed in Justice Arbour's dissent at paras. 203-205.

(d) Improper Delegation to the Prosecutor

[103] By-law 205-2008 led to the retainer of the Respondent, Timothy J. Wilkin, in order to prosecute the Applicant. The resolution adopted by Council on June 24, 2008, and confirmed by By-law 205-2008 provided:

> WHEREAS ...
>
> AND WHEREAS it is important for all concerned to avoid any perception of bias as legal proceedings move forward.

NOW THEREFORE THE COUNCIL OF THE CITY OF VAUGHAN RESOLVES AS FOLLOWS:

1. That the City of Vaughan institute the laying of charges against Linda D. Jackson under The Municipal Elections Act, 1996; and

2. That Mr. Timothy J. Wilkin of Cunningham, Swan, Carty, Little & Bonham LLP, be retained to conduct the prosecutions and to proceed in a timely manner; and

3. That the charges to be laid shall be those for which reasonable and probable grounds exist for believing that an offence has been committed, as may be determined in the legal opinion of Timothy J. Wilkin; and

4. That the retainer includes instructions that Timothy J. Wilkin have the authority, in his sole discretion:

   i. to withdraw any charge, or charges, against Linda D. Jackson if, in his opinion, the available evidence in respect of a charge or charges does not provide a reasonable likelihood of obtaining a conviction; and
   ii. to conduct any pre-trial or trial proceedings necessary, and to summon such witnesses as may be required including, if necessary, the retaining of experts to appear as witnesses; and
   iii. to enter into negotiations with respect to the charges for the purposes of establishing an agreed statement of facts, a plea bargain and/or a joint submission to the Court in respect of penalty; and
   iv. to enter into a binding plea bargain agreement; and
   v. to establish what penalty to seek from the Court upon a conviction; and
   vi. to provide regular status reports to the City Solicitor for her information.

[104] The Applicant argues that the retention of Mr. Wilkin and the provision to him of a level of prosecutorial discretion amounts to an unlawful delegation:

> Nowhere does the MEA authorize a council to delegate the substance of its authority to make decisions under section 81(10) to commence a legal proceeding to anyone, let alone an unelected member of the public. Paragraphs 2, 3 and 4 of the resolution of June 24, 2008 ... reveal that the council delegated to Mr. Wilkin a power it thought it had – to institute the laying of charges against the Applicant. By-law 205-2008, purporting to adopt, ratify and confirm this resolution constitutes a purported grant to Wilkin of an unbridled and uncontrollable discretion with respect to the entirety of the prosecution, thereby leaving the Applicant at the mercy of Wilkin, who is entitled to impose whatever conditions he sees fit. This is an unlawful delegation of statutory authority.

[105] In oral argument, Mr. Manning added a submission that s. 81(10) of the MEA did not actually authorize the laying of a charge, but it is quite clear from *Audziss v. Santa, supra,* that this submission is wrong.

[106] Mr. Lord points to the authority of a municipality to delegate under s. 23.1 of the *Municipal Act, 2001*, S.O. 2001 c. 25. As a corporate body, a municipal council can only act through agents, so the appointment of a prosecutor is the only way that Council's statutory responsibility under s. 81 (10) can be exercised.

[107] The City, according to Mr. Lord, expects that in furtherance of the prosecution an information will be sworn by an employee of the City; that will form the basis of the prosecution, it being quite plain that a corporation cannot swear an information. Mr. Wilkin will act as the prosecutor. In essence, Mr. Lord argues that the kind of prosecutorial discretion that is normally exercised by the Crown in relation to criminal or quasi-criminal offences, or by municipal officials in prosecuting municipal by-law infractions, would be exercised by Mr. Wilkin: *Little v. Ottawa (City)* (2004), 49 M.P.L.R. (3d) 115 (Ont. S.C.J.) per J. Mackinnon J. at para. 12; *Toronto v. Polai*, [1970] 1 O.R. 483 (C.A.); affirmed [1973] S.C.R. 38. He disputes that Mr. Wilkin is without instructions in view of the detailed nature of paragraph four of the resolution. I agree with Mr. Lord's submissions.

[108] In response to a question from the bench, Mr. Manning conceded that if Council had obliged Mr. Wilkin to report back to it with his recommendations on these discretionary elements, requesting instructions from Council, then his objection would lose force. In my view, such a reference back would be permissible but is unnecessary since the criteria which Mr. Wilkin must apply in his decisions are set out in the resolution.

(e) Conclusion on Issue One: Whether Section 81 of the MEA is Impermissibly Vague and Therefore Unconstitutional

[109] For the reasons set out above, I find that there is no merit to the Applicant's arguments on this issue.

2. Ms. Jackson's Right Against Self-incrimination Under s.7 of the Charter

[110] I repeat here for convenience, s.7 of the *Canadian Charter of Rights and Freedoms*:

> 8. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

[111] There are three sub-issues: First, does the audit/prosecution process under s. 81 of the MEA engage s. 7 of the *Charter*? The Applicant argues that: "In the case at bar, there exists a real or imminent deprivation of life, liberty or security of the person, and this deprivation is not in accordance with the principles of fundamental justice contrary to s. 7 of the *Charter*." Mr. Manning asserts that the possibility that Ms. Jackson "may be subject to prosecution and, under s. 80 (2) of the MEA, may forfeit the office to which she was elected and be deemed ineligible to be elected or appointed to any office until the next regular election is taking place," fully engages s. 7. The City and the auditor argue that s. 7 is not engaged because the penalties under the MEA are relatively minor and do not involve imprisonment.[5]

[112] Second, based on the reasoning of the Supreme Court in *R. v. Jarvis*, [2002] 3 S.C.R. 757, does the audit/prosecution process under s. 81 of the MEA breach s. 7 of the *Charter* because the predominant purpose of the compliance audit under the MEA in the case at bar is the investigation of an alleged contravention? The Applicant argues that: "the auditor is not conducting a compliance audit but rather an investigation into the liability to prosecution and is so doing with inspection and requirements powers under which the Applicant is statutorily compelled to give information," thereby breaching the Applicant's s. 7 *Charter* rights against self-incrimination. The auditor argues that the "the purpose of the compliance audit is to determine whether Ms. Jackson had complied with the provisions of the *Act* with respect to her campaign finances. The predominant purpose of the compliance audit is not to determine any penal liability."

[113] Third, based on the reasoning of the Supreme Court in *R. v. Jarvis,* is the auditor prevented from continuing the audit after City Council decided to prosecute Ms. Jackson under s. 81 (10) of the MEA on June 24, 2008? The Applicant argues that this is the result in *R. v. Jarvis*,

[5] The City did not engage in the constitutional analysis beyond this assertion, taking the position that the issue was one for the Crown. The provincial and federal Crowns declined to intervene. The Applicant did not challenge the auditor's standing to address the constitutional issues.

which applies to her. The auditor argues that: "the fact that Council has resolved to commence proceeding against Ms. Jackson for apparent contraventions of the *Act* does not render the compliance auditor *functus officio*. The predominant purpose test does not prevent compliance audits and investigations into penal liability under the *Act* from being conducted simultaneously."

(a) First sub-issue: Does the audit/prosecution process under section 81 of the MEA engage section 7 of the *Charter*?

[114] The weight of the authority is that s. 7 is engaged only where the right to liberty of the subject is at stake owing to the threat of imprisonment, unless some other interest concerning the right to life or security of the person can be established (neither of which is present here).

[115] In *R. v. Jarvis*, the taxpayer was audited under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) ("ITA"). The taxpayer was then charged with tax evasion. The Supreme Court held that while the material gathered by the auditor before the commencement of an investigation into penal liability was validly gathered and could be used in the prosecution, information obtained by the auditor after the investigation was under way should be excluded because it violated the taxpayer's s. 7 *Charter* rights.

[116] In relation to s. 7, the Court held at paras. 66 and 67:

> ... A court conducting an analysis under s. 7 must first determine whether there exists a real or imminent deprivation of life, liberty, security of the person, or a combination thereof. Next, the court must identify the relevant principle or principles of fundamental justice and, finally, determine whether the deprivation is in accordance with this principle or principles.
>
> It is beyond doubt that the appellant's s. 7 liberty interest is engaged by the introduction of statutorily compelled information at his trial for the s. 239 offences, owing to the threat of imprisonment on conviction: see *Re B.C. Motor Vehicle Act*, [1985] 2 S.C.R. 486, at p. 515, *per* Lamer J. (as he then was); *Reference re ss. 193 and 195.1(1) (c) of the Criminal Code (Man.)*, [1990] 1 S.C.R. 1123. The relevant principle of fundamental justice in the present case is the principle against self-incrimination, an elemental canon of the Canadian criminal justice system, standing for the notion that individuals should not be conscripted by the state to promote a self-defeating purpose: *R. v. S. (R.J.)*, [1995] 1 S.C.R. 451, at para. 81, *per* Iacobucci J. This Court has clearly established that the principle against self-incrimination finds residual expression under s. 7: *Thomson Newspapers, supra*; *R. v. P. (M.B.)*, [1994] 1 S.C.R. 555, at p. 577, *per* Lamer C.J.; *R. v. Jones*, [1994] 2 S.C.R. 229, at p. 256, *per*

> Lamer C.J.; *S. (R.J.), supra*; *Branch, supra*; *R. v. Fitzpatrick*, [1995] 4 S.C.R. 154; *R. v. White*, [1999] 2 S.C.R. 417. [Emphasis added]

[117] By contrast, the Applicant relies on the decision of Lamer J. (as he then was) in *Re B.C. Motor Vehicle Act*, [1985] 2 S.C.R. 486, at 515-516 to argue that a penalty less than imprisonment might attract s. 7 protection:

> I would not want us to be taken by this conclusion as having inferentially decided that absolute liability may not offend s. 7 as long as imprisonment or probation orders are not available as a sentence. The answer to that question is dependent upon the content given to the words "security of the person". That issue was and is a live one. Indeed, though the question as framed focuses on absolute liability (s. 94(2)) in relation to the whole Charter, including the right to security of the person in s. 7, because of the presence of mandatory imprisonment in s. 94(1) only deprivation of liberty was considered....

[118] While I detect, from a reading of this passage in isolation, a faint glimmer of the Applicant's argument that s. 7 may apply where there is, as in this application, no imprisonment for a contravention, the Court's use of *Re B.C. Motor Vehicle Act* in *R. v. Jarvis* tends to rebut that. Indeed, the Court in *R. v. Jarvis* also cited *Reference re ss. 193 and 195.1(1)(c) of the Criminal Code (Man.)*, [1990] 1 S.C.R. 1123, where Dickson C.J.C. held at 1140:

> There are two components of s. 7 that must be satisfied before finding a violation. First, there must be a breach of one of the s. 7 interests of the individual -- life, liberty or security of the person. Second, the law that is responsible for that breach must be found to violate the principles of fundamental justice. With respect to the first component, there is a clear infringement of liberty in this case given the possibility of imprisonment contemplated by the impugned provisions. [Emphasis added]

[119] The City and the auditor take particular comfort from *Reference re ss. 193 and 195.1(1)(c) of the Criminal Code (Man.)*, which appears to limit s. 7 protected interests. They say that at best Ms. Jackson's interest is an economic one (that is her income from the position of mayor), and the right to exercise a chosen profession is not protected by s. 7. I find that such a narrow characterization seriously understates the impact of a prosecution and conviction on a municipal politician.

[120] While I am sympathetic to the Applicant's submission that the vocation of a politician is more than a mere economic interest, in *Blencoe v. B.C. (Human Rights Commission)*, [2000] 2

S.C.R. 307, the Supreme Court found that, in the case of a disgraced politician arguing that delay caused him harm, the impugned state action "must have had a serious and profound effect on the respondent's psychological integrity" to breach s. 7. (para. 81)

[121] The Court in *Jarvis* held, at para. 64, that: "For present purposes, where ss. 7 and 8 of the *Charter* are at issue, it is instructive to note both that the requirements of fundamental justice relevant to the former section 'are not immutable; rather, they vary according to the context in which they are invoked.'" Even so, the cases about s. 7 evoke an "on/off switch" metaphor.[6] This approach to s. 7 echoes throughout the careful distinction the Court makes in *Jarvis* between "regulatory penalties" and "administrative penalties," on the one hand, which do not attract s. 7 protection, and "penal liability," on the other hand, which does. This distinction emerges at the outset in para. 2:

> Ultimately, we conclude that compliance audits and tax evasion investigations must be treated differently. While taxpayers are statutorily bound to co-operate with CCRA auditors for tax assessment purposes (which may result in the application of regulatory penalties), there is an adversarial relationship that crystallizes between the taxpayer and the tax officials when the predominant purpose of an official's inquiry is the determination of penal liability. When the officials exercise this authority, constitutional protections against self-incrimination prohibit CCRA officials who are investigating ITA offences from having recourse to the powerful inspection and requirement tools in ss. 231.1(1) and 231.2(1). Rather, CCRA officials who exercise the authority to conduct such investigations must seek search warrants in furtherance of their investigation.

And see also para. 89.

[122] This logic underpins the *Jarvis* decision. The Court repeats an earlier finding that the ITA is "essentially a regulatory statute" (para. 48). At paras. 50 and 55, the Court explains that penalties are part of the regulatory scheme, as is an audit system:

> While voluntary compliance and self-assessment comprise the essence of the ITA's regulatory structure, the tax system is equipped with "persuasive inducements to encourage taxpayers to disclose their income": Krishna, *supra*, at p. 767. In this

[6] Arguably a "sliding scale" metaphor might be better suited to the concept of variability, for example analogizing to the factors for determining the degree of procedural protection offered in administrative law under *Baker v. Canada*, [1999] 2 S.C.R. 817, at para 21 *et seq.*

> connection, Krishna writes at p. 772, the "system is 'voluntary' only in the sense that a taxpayer must file income tax returns without being called upon to do so by the Minister". For example, in promotion of the scheme's self-reporting aspect, s. 162 of the ITA creates monetary penalties for persons who fail to file their income returns. Likewise, to encourage care and accuracy in the self-assessment task, s. 163 of the Act sets up penalties of the same sort for persons who repeatedly fail to report required amounts, or who are complicit or grossly negligent in the making of false statements or omissions
>
> ...
>
> To be effective, self-enforcing regulatory schemes require not only resort to adequate investigation, but also the existence of effective penalties.... To this end, s. 238(1) sets out a summary conviction offence that is triggered by non-compliance with the filing requirements or with other of the Act's provisions -- including ss. 231.1(1) and 231.2(1), and the documentary retention rules imposed by s. 230(1). Section 238's purpose is inherently pragmatic or instrumental: the offence exists "not to penalize criminal conduct but to enforce compliance with the Act". [Internal citations omitted]

[123] It is instructive to note that while the Court in *Jarvis* treats s. 238 of the ITA as part of the regulatory regime, the section does contain a penalty of imprisonment for failure to cooperate with an audit.

[124] The Court's focus in *Jarvis,* however, is on s. 239 of the ITA, which creates the more serious offences that "carry rather significant penalties" (para. 56) and which "are no trifling matter as this provision bears at least the formal hallmarks of criminal legislation, namely, prohibitions coupled with penalties. They may be prosecuted upon indictment, and conviction can carry up to five years' incarceration. It is because of these factors that the penal sanctions in s. 239 are, in certain contexts, referred to as 'criminal'." (para. 59)

[125] Taking the same approach to the MEA, it seems plain that the audit/prosecution process, which is aimed at securing compliance with the rules concerning election campaign finances, is regulatory in nature and the penalties associated with contraventions are "regulatory penalties" or "administrative penalties" within the rubric of *Jarvis*. By contrast, prosecution under the MEA for "corrupt practices" would be the provincial quasi-criminal analogue of a prosecution under s. 239 of the ITA. On this logic s. 7 of the *Charter* is not engaged by the prosecution of Ms. Jackson for contraventions of the election campaign finance rules under s. 81 (10) of the *Act* since imprisonment is not involved.

[126] Accordingly, on the first sub-issue I find that the audit/prosecution process under s. 81 of the MEA does not engage the protections in s. 7 of the *Charter*. The prosecution is not criminal or quasi-criminal but regulatory, and the interests affected are not understood by the law to constitute a protected aspect of "life, liberty and security of the person."

(b) Second Sub-issue: Based on the reasoning in *Jarvis*, does the audit/prosecution process under section 81 of the MEA breach section 7 of the *Charter* because the predominant purpose under the MEA is the investigation of an alleged contravention?

[127] Despite my ruling on the first sub-issue, I turn now to consider the second sub-issue.

[128] The Applicant argues that "clearly by the reference to 'apparent contravention' but also substantively, the predominant purpose of the compliance audit under the MEA in the case at bar is the investigation of an alleged contravention." The Applicant cites *Re Nelles et. al. v. Grange et al.* (1984), 46 O.R. (2d) 210 (Ont. C.A.) for the proposition that a "public inquiry is not the means by which investigations are carried out with respect to the commission of particular crimes." (page 216) She urges me to apply these words with necessary modifications to the actions of the auditor.

[129] The Applicant argues that the scheme in s. 81 of the MEA effectively merges the audit and investigative functions. The means that the entire compliance audit/prosecution process under the MEA is unconstitutional. The Applicant draws particular support from paras. 88 and 98 of the *R. v. Jarvis* decision:

> In our view, where the predominant purpose of a particular inquiry is the determination of penal liability, CCRA officials must relinquish the authority to use the inspection and requirement powers under ss. 231.1(1) and 231.2(1). In essence, officials "cross the Rubicon" when the inquiry in question engages the adversarial relationship between the taxpayer and the state. There is no clear formula that can answer whether or not this is the case. Rather, to determine whether the predominant purpose of the inquiry in question is the determination of penal liability, one must look to all factors that bear upon the nature of that inquiry.
>
> ...
>
> In summary, wherever the predominant purpose of an inquiry or question is the determination of penal liability, criminal investigatory techniques must be used. As a corollary, all *Charter* protections that are relevant in the criminal context must apply.

This means (para. 96):

> ...with respect to s. 7 of the *Charter*, when the predominant purpose of a question or inquiry is the determination of penal liability, the "full panoply" of *Charter* rights are engaged for the taxpayer's protection. There are a number of consequences that flow from this. First, no further statements may be compelled from the taxpayer by way of s. 231.1(1) (*d*) for the purpose of advancing the criminal investigation. Likewise, no written documents may be inspected or examined, except by way of judicial warrant under s. 231.3 of the ITA or s. 487 of the *Criminal Code*, and no documents may be required, from the taxpayer or any third party for the purpose of advancing the criminal investigation. CCRA officials conducting inquiries, the predominant purpose of which is the determination of penal liability, do not have the benefit of the ss. 231.1(1) and 231.2(1) requirement powers.

[130] In *Jarvis*, the Supreme Court, at para. 94, set out a list of factors that the Applicant submits apply with necessary modifications to the audit/prosecution process under the MEA:

> In this connection, the trial judge will look at all factors, including but not limited to such questions as:
>
> (a) Did the authorities have reasonable grounds to lay charges? Does it appear from the record that a decision to proceed with a criminal investigation could have been made?
>
> (b) Was the general conduct of the authorities such that it was consistent with the pursuit of a criminal investigation?
>
> (c) Had the auditor transferred his or her files and materials to the investigators?
>
> (d) Was the conduct of the auditor such that he or she was effectively acting as an agent for the investigators?
>
> (e) Does it appear that the investigators intended to use the auditor as their agent in the collection of evidence?
>
> (f) Is the evidence sought relevant to taxpayer liability generally? Or, as is the case with evidence as to the taxpayer's *mens rea*, is the evidence relevant only to the taxpayer's penal liability?

> (g) Are there any other circumstances or factors that can lead the trial judge to the conclusion that the compliance audit had in reality become a criminal investigation?
>
> It should also be noted that in this case we are dealing with the CCRA. However, there may well be other provincial or federal governmental departments or agencies that have different organizational settings which in turn may mean that the above factors, as well as others, will have to be applied in those particular contexts. [Emphasis added]

[131] It seems to me that the Applicant's logic proceeds on a false premise. The purpose of the compliance audit is to determine whether a candidate has complied with the requirements of the MEA. The process is part of the regulatory structure, particularly the enforcement mechanism. If there is a contravention, however, a prosecution is not automatic. That must be assessed by municipal council in accordance with the principles of administrative law discussed earlier. In short, the predominant purpose of the compliance audit is not to determine any penal liability, assuming that the penalties under the MEA are penal and not regulatory.

[132] The Applicant also argues, based largely on the reasoning of the Supreme Court in *R. v. Jarvis*, that if prosecution is the only available remedy when a compliance audit reveals an apparent contravention of the *Act*, then: "the auditor is not conducting a compliance audit but rather an investigation into the liability to prosecution and is so doing with inspection and requirements powers under which the Applicant is statutorily compelled to give information." This is said to breach the Applicant's s. 7 *Charter* rights against self-incrimination.

[133] On the interpretation of the *Charter* generally and s. 7 specifically, the Court has adopted a contextual approach, holding in *Jarvis* that: "[t]he scope of a particular *Charter* right or freedom may vary according to the circumstances" (para. 63).The Court also held, at para. 64, that: "context will determine the expectation of privacy that one can reasonably expect the latter section [s. 8] to protect."

[134] It is important to recall that under the MEA there are precise disclosure requirements placed on candidates that are set out in the *Act* and collected in the prescribed forms for both the campaign financial statement (form 4) and the candidate's auditor's report (form 5). These are public documents, and contain detailed information about the candidate's spending limits, contributions and contributors, expenses subject to the spending limit and those not so subject, surplus or deficit, and the inventories of campaign goods and materials contributed and those left over at the end of the campaign. The compliance audit under the MEA is largely aimed at assessing the accuracy and veracity of the public reports. By s. 81 (8)(b) of the MEA the auditor is given the inspection and requirement powers under Part II of the *Public Inquiries Act,* R.S.O. 1990, c. P.41. Section 7 of that Act gives the auditor the power to summon witnesses to give evidence under oath or to produce relevant documents, while s. 9 gives protection against self-incrimination.

[135] As the compliance audit report explained:

> 1.19 Our compliance audit procedures included the following general procedures, addressing both the issues raised by the applicants and other issues identified by the candidate or through our audit procedures:
>
> (1) Contributions: An analysis of the lists of contributors in order to identify possible apparent contraventions and communications with selected contributors in relation to possible ineligible contributions;
>
> (2) Financial Statements: A review of the Financial Statements and related supporting documents and evaluation of the appropriateness of financial reporting, including the allocation of expenses between those subject to, and not subject to, limitations; and
>
> (3) Expenses: A detailed review of certain expenses, including obtaining information from third parties for selected expense items and reviewing completeness of expenses in order to determine the likelihood of unreported contributions in kind.

[136] It is fair to say that no one who participates in a municipal election campaign has any reasonable expectation of confidentiality concerning any of the matters required to be reported by the MEA.

[137] I consider here the factors referred to in *Jarvis*. First, the audit was triggered by a complaint and not by any sense on the part of the "authorities" that there had been a contravention of the municipal election campaign finance rules. Second, the general conduct of the process was not "consistent with the pursuit of a criminal investigation". It was, rather, an investigation into whether there had been an "apparent contraventions" of the election campaign finance rules. Third, since the prosecution had not been initiated at the time of the audit, the conduct of the auditor was not as agent for the prosecutor, although ultimately the information obtained by the auditor would be transferred to the prosecutor. Fourth, the auditor was not after information that addressed the Applicant's *mens rea*, but only apparent compliance with the campaign finance rules. Fifth, since the entire audit process was regulatory in nature, there is no basis for concluding that the compliance audit had become a criminal investigation.

[138] In *Jarvis* the Court considered the "principle against self-incrimination" in the context of "statutorily compelled" information at para. 68:

> In giving expression to this principle, however, s. 7 does not envelop an abstract and absolute rule that would prevent the use of information in all contexts in which it is statutorily compelled. A court must begin "on the ground", with a concrete and contextual analysis of all the circumstances, in order to determine whether or not the principle against self-incrimination is actually engaged. This analysis necessarily involves a balancing of principles. One must, in assessing the limits on compellability demanded by the principle against self-incrimination, consider the opposing principle of fundamental justice suggesting that relevant evidence should be available to the trier of fact in a search for truth. These competing interests will often be brought to the foreground in regulatory contexts, where the procedures being challenged have generally been designed (and are employed) as part of an administrative scheme in the public interest. As the Court stated in *White*, at para. 48:
>
> > In some contexts, the factors that favour the importance of the search for truth will outweigh the factors that favour protecting the individual against undue compulsion by the state. This was the case, for example, in *Fitzpatrick, supra*, where the Court emphasized the relative absence of true state coercion, and the necessity of acquiring statements in order to maintain the integrity of an entire regulatory regime. In other contexts, a reverse situation will arise, as was the case, for example, in *Thomson Newspapers, supra, S. (R.J.), supra*, and *Branch, supra*. In every case, the facts must be closely examined to determine whether the principle against self-incrimination has truly been brought into play by the production or use of the declarant's statement. [Some internal citations omitted]

[139] The case of *R. v. Fitzpatrick*, [1995] 4 S.C.R. 154 is most instructive. The appellant was the captain of a vessel licensed for the regulated commercial groundfish fishery in British Columbia. He was charged with overfishing. The Crown sought to admit into evidence the fishing logs and hail report made by the appellant, which all fishermen are required to maintain and provide. The trial judge excluded the documents on the grounds that they were self-incriminatory.

[140] Justice La Forest used a contextual analysis to find that the right against self-incrimination was not violated. He found two factors to be critical: "First, the information provided in this case was not provided 'in a proceeding in which the individual and the state are

adversaries'. Instead, it was provided in response to a reasonable regulatory requirement relating to fishery management." (para. 34) He added: "In my view, the lack of adversarial relationship between the individual and the state at the time the hail reports and fishing logs are statutorily compelled is an important basis upon which to conclude that the principle against self-incrimination is not engaged in this case." (para. 36)

[141] La Forest J. held: "Second, the 'coercion' imposed on the appellant is at best indirect, for it arose only after he had made a conscious choice to participate in a regulated area, with its attendant obligations." (para 34) He added: "Surely it defies common sense to argue that the state, in seeking to regulate the commercial fishery by attaching certain conditions to a fishing licence, is coercing an individual to furnish information against himself." (para 42)

[142] La Forest J. concluded that neither of the fundamental purposes for the principle against self-incrimination were engaged, being the need to protect against unreliable confessions, and the need to guard against the abuse of power by the state. Concerning the latter he said: "I cannot see how it can be said to be abusive for the state to prosecute overfishing on the basis of the true returns it requires fishers to fill out as a condition of their voluntary participation in the commercial fishery." (para 46)

[143] Finally, La Forest J. brought in aid of his approach by analogy the Court's jurisprudence under s. 8 of the *Charter* concerning unreasonable search and seizure, noting that: "a decreased expectation of privacy exists respecting records that are produced during the ordinary course of business ... The documents should not be equated to involuntary confessions to investigators, reflecting as they do instead the voluntary compliance by commercial fishers with the statutory requirements of the regulated fishing regime." (para. 49)

[144] The Court's logic in *Fitzpatrick* applies, with necessary modifications, to the MEA. The public interest in the regulation of municipal elections is well explained in the cases referred to earlier in these reasons. Ms. Jackson's familiarity with the rules of campaign finance, as a third time candidate, is manifest, and she made a voluntary and informed decision to participate. Her knowledge of the statutory scheme for a compliance audit and possible prosecution of contraventions may safely be assumed, if not expected. The documents required by the MEA are meant to be public, much more so than the income tax receipts in *Jarvis* or the fishing records in *Fitzpatrick*. There is no expectation of privacy, an element that I find to be relevant to the s. 7 analysis. One cannot assert a right against self-incrimination – the distribution of information against one's interest – when that person has already effectively consented to its release by participation in the regulatory process that demands that the information be available to the public. It is only where the predominant purpose changes to assembling a case for conviction and *imprisonment* that the interests shift.

[145] Assuming that a prosecution under the MEA is covered by s. 7 of the *Charter*, I find therefore that the auditor's access to documents and witnesses in a compliance audit does not violate Ms. Jackson's freedom from self-incrimination, as understood by the cases.

[146] Accordingly, on the second sub-issue, I find that the audit/prosecution process does not have the predominant purpose of determining any penal liability, and that the disclosure obligations would not, in any event, violate the protection against self-incrimination. Consequently, s. 7 is not breached on these grounds.

(d) Third sub-issue: Based on the reasoning in *Jarvis*, is the auditor prevented from continuing the audit after City Council decided to prosecute on June 24, 2008?

[147] In relation to the third sub-issue, The Applicant argues that once the City decided to prosecute under s. 81 (10) of the MEA, any further investigation by the auditor was foreclosed, since the Rubicon had been crossed and the auditor was constitutionally prevented from continuing with the audit.

[148] In this respect, particular issue was taken with a reservation in the compliance audit report:

> 1.4 As part of the compliance audit we requested documentation from third parties, including certain contributors, the Bank of Montreal, the Toronto Star, CHIN Radio, NAIPI, Flags Unlimited, and the Venetian banquet and Hospitality Centre. Not all of the requested information has been provided as of the date of this Report. Accordingly, ***we reserve the right to issue a supplementary report should we obtain additional information from third parties concerning possible apparent contraventions of the Act.*** [Emphasis in original]

[149] I point out that there was no compulsion on the auditor to file the report in an incomplete form. The auditor could have waited until the report was complete before issuing it. The City, however, was obliged by s. 81 (10) to consider the report, once received, within thirty days. The filing of the report by the auditor, even though it was incomplete, was the trigger.

[150] In reliance on the reservation in the report, the auditor issued summonses to two individuals after the submission of the report to Council. These summonses have been placed in abeyance while this matter is being litigated. The Applicant takes the position that it is inappropriate for the auditor to continue work in these circumstances.

[151] Ms. Erskine, for the auditor, argues that the auditor is never an investigator in the sense contemplated by *Jarvis*. The auditor's report is a neutral document that ought to be completed. It stands on its own as a public record. Ms. Erskine submits that the auditor is never in an adversarial position. There is no objection, according to *Jarvis* at paragraph 97, to parallel processes. She submits that it is not the auditor's function to address the "mental element" or "*mens rea*"; this is specifically addressed in s. 92 (5) and (6) of the MEA and is to be assessed by the prosecutor in framing the prosecution and ultimately by the Court hearing the case.

[152] In *Jarvis* the Supreme Court noted that the requirements of fundamental justice "are not immutable; rather, they vary according to the context in which they are invoked" (para. 63), but I noted that there was little sign of this variability in the jurisprudence. In *Blencoe, supra*, the Supreme Court held that: "Section 7 can extend beyond the sphere of criminal law, at least where there is 'state action which directly engages the justice system and its administration.'" (para. 46) In *Gosselin v. Quebec (A.G.)*, [2002] 4 S.C.R. 429 at para. 77 the Supreme Court said: "the dominant strand of jurisprudence on s. 7 sees its purpose as guarding against certain kinds of deprivation of life, liberty and security of the person, namely, those 'that occur as a result of an individual's interaction with the justice system and its administration."

[153] It is plain that once a prosecution under the MEA has commenced, in the words of *Jarvis*, "the inquiry in question engages the adversarial relationship." (para. 88) In *Jarvis* at para. 94, the Supreme Court listed factors assessing whether the predominant purpose of an audit is prosecutorial; these factors apply, with necessary modifications, to the MEA. In the same paragraph. *Jarvis* also makes it clear that its logic applies to regulatory enactments including those of the province. See, for example, *R. v. Inco Ltd.* (2000), 54 O.R. (3d) 495 (C.A.).

[154] Consistent with the underlying purpose of s. 7 of the *Charter* and giving due recognition to its variable nature, I therefore agree with the Applicant that once the City decided to proceed with the prosecution, relying on the compliance audit report, the Rubicon was crossed, and the adversarial relationship between the Applicant and the municipality came into being. While at one level the auditor is a neutral and independent third party, at another level the auditor is an investigator being paid by the City. Under the *Jarvis* principles, the use of the auditor's powers respecting the Applicant personally after the City's decision to prosecute would violate the Applicant's *Charter* rights. Once the City decided to pursue prosecution of the Applicant, and notwithstanding the reservation in the compliance audit report, the auditor's mandate in relation to the Applicant was exhausted and he had no further authority to proceed.

Conclusion on Issue Two: Ms. Jackson's Right Against Self-incrimination Under s.7 of the Charter

[155] The audit/prosecution process under the MEA does not engage s. 7 of the *Charter*. It does not have the predominant purpose of determining penal liability. The disclosure obligations do not violate the protection against self-incrimination under s. 7 of the *Charter*. I find however, that the use of the auditor's powers respecting the Applicant personally after the City's decision to prosecute would violate the Applicant's *Charter* rights.

3. Precipitous Actions and Bad Faith on City Council's Part

[156] The Applicant argues that the By-laws passed by the City leading to the decision to prosecute in By-law 205-2008 and the subsequent By-law 228-2008 confirming previous Council actions were all passed in bad faith and therefore are subject to being quashed under ss. 272 and 273 of the *Municipal Act, 2001*.

[157] In oral argument, Mr. Manning was at pains to say that his bad faith complaint was about non-compliance with the relevant elements of the statutory context. He was not, he advised, impugning the integrity of the Councillors, but was instead saying that they were using their power for an improper purpose, one for which it had not been designed, citing *Equity Waste Management of Canada v. Halton Hills (Town)*, (1997), 35 O.R. (3d) 321 and *Re H.G.Winton and Borough of North York*, (1978), 20 O.R. (2d) 737. In his factum he stated:

> A finding of bad faith does not require any wrongdoing on the part of any council members, but only that council acted unreasonably and arbitrarily in the circumstances without the degree of fairness, openness and impartiality required of a municipal government. Bad faith by a municipality connotes a lack of candour, frankness and impartiality. It includes arbitrary or unfair conduct by the municipality, usually marked by unfairness, partiality, secretiveness, unreasonableness, improper motives, oppression, fraud or the absence of procedural fairness.

These last sentences do raise issues about the integrity of the Councillors, especially the references to unfairness and impartiality.

(a) Impartiality and Bias

[158] I note that Mr. Manning did not use the term "bias" in his main factum, his supplementary factum, his factum seeking to admit the Frustaglio compliance audit report as fresh evidence or in the further submissions that he filed relating the effect of the Frustaglio report on the vagueness issue. Nor did Ms. Jackson use the term in either of her affidavits. His diffidence signals his awareness that an allegation of bias is extremely serious on the one hand, and his concern that the facts in this case do not support such an allegation or finding, on the other hand. But I do not know how else to characterize his argument about partiality.

[159] In his factum, Mr. Manning made two assertions about partiality in noting that "Council treated the Applicant differently from Councillor Alan Shefman who was excused for late filing, as he was allowed to retain his seat even though he would have faced losing his seat under the provisions of the MEA", and "Council denied requests for compliance audits on Regional Councillor Rosati and Councillor Carella based solely on corporate searches, even though these did not prove or disprove corporate association". He did not pursue these references in oral argument. Differential treatment does not necessarily imply bias or discrimination.

[160] In his factum on the fresh evidence motion, Mr. Manning asserted:

> Notwithstanding the finding in the Frustaglio report that Councillor Frustaglio breached the provisions of the MEA, Council for the City of Vaughan treated the breaches by her in a manner different from that of the moving party. While the City of Vaughan decided to prosecute the moving party, the City relied on the manner of

> interpretation and application of the MEA by LECG to allow Councillor Frustaglio to be reprimanded and to make amends for her breaches by a donation to charity.

[161] I decline Mr. Manning's implicit invitation to find that City Council was biased against Ms. Jackson, or that it favoured the other Councillors referred to. The Applicant has not proven the existence of bias on the part of City Council, so it cannot form a support for his argument that City Council acted in bad faith.

[162] There are some differences between the Jackson compliance audit report and the Frustaglio compliance audit report. I set out below some excerpts from the Frustaglio report:

> 2.1 The candidate and her campaign team cooperated with the compliance audit and provided us with all requested information....
>
> 2.4 The financial statements for Joyce Frustaglio's election campaign did not properly disclose complete addresses for 2006 contributors and did not disclose the correct contributor names for many of the 2006 contributors. We accept the candidate's explanation that this occurred as a result of unintentional mistakes in finalizing the financial statements, with the external accountants printing incorrect columns in an electronic spreadsheet containing contributor details and including the inaccurate listing in the financial statements.

[163] Concerning this last comment, Mr.Manning noted in his factum: "Notwithstanding a limited statutory mandate requiring only an 'outlining' of 'any apparent contravention by the candidate' the auditors have arrogated to themselves power to either accept or reject a candidate's explanation for the actual contravention of the Act and, if they determined it was the result of an unintentional mistake, to excuse that contravention." I reject this complaint. It seems to me to be common sense that the auditor should identify those matters that appear to be simple calculation or other mistakes rather than outright "apparent contraventions". It is up to the Council and the prosecutor to determine how a particular matter will be addressed in terms of a prosecution under s. 81 (10) of the MEA.

[164] The expectation is that a candidate will cooperate with the audit. In this case, the compliance audit report noted that Ms. Jackson and her campaign manager, Mario Campese, initially cooperated but then stopped:

> 6.2 Although we received cooperation from Linda Jackson and Mario Campese throughout the course of our compliance audit, part way through our June 7, 2008 interview of Mr. Campese he refused to answer further specific questions.

> He advised us to issue our report without obtaining responses to our questions. Had we received responses to our questions, and questions we had yet to ask, we may have been provided additional information relevant to this Report.

[165] It is not known whether a completed review of the facts and circumstances behind the Jackson report would have disclosed inadvertent errors. Whether some of the apparent contraventions would have been re-characterized as errors after further discussion between the auditors and the Jackson campaign team is in the range of speculation given that cooperation was discontinued.

[166] The Frustaglio report states:

> 3.30 In our opinion the contributions from the two corporations are not apparent contraventions of the Act. However, based on the information provided by Phillip and Angelo Locilento and the information on the cheques, the two payments should have been recorded as personal contributions in the Financial Statements. In our opinion, this is an apparent financial reporting contravention of paragraph 69(1) (f) of the Act, which requires that the candidate obtain a contributor's name and address, and Section 78 of the Act, which requires that the Financial Statement "*be in the prescribed form*". [Emphasis in original]

[167] Concerning this discussion, the Applicant complains that: "The auditors were of the opinion that contributions from two corporations 'are not apparent contraventions of the *Act*', but then found that there was 'an apparent financial accounting contravention' of the *Act*."

[168] Taking the disputed paragraph as a whole, it is clear why the auditors took the position that they did; the failure was not in detecting the relationship between the corporations, but in how the contribution was documented in the Financial Statements. This was not an objectionable conclusion.

[169] A similar analysis can be made of the other complaints raised by the Applicant about the Frustaglio report. I find that the complaints taken individually or cumulatively are not significant. Moreover, they do not lead me to conclude that the auditors were biased against Ms. Jackson or biased in favour of Ms. Frustaglio. Facts and circumstances concerning each campaign were different and the differences are fairly reflected in the compliance audit reports.

(b) The Other Elements of Bad Faith

[170] The elements of bad faith alleged by the Applicant in her factum include: "[t]he by-law being pushed through with inordinate speed," and other specifics set out in the succeeding paragraphs.

[171] Mr. Manning alleges that bad faith is shown by the Council in the case at bar in commencing legal proceedings in an arbitrary manner without proper considerations. This is a restatement of the complaints dismissed elsewhere in these reasons for decision.

[172] The Applicant asserts that Ken Froese was appointed under s. 81 (5) of the MEA along with Glen R. Davison C.A. of LECG Canada Limited, but was not licensed when he prepared the compliance audit report as required by s. 81 (6) of the MEA, because the professional credentialing of auditors had changed in the meantime. The evidence was, however, that Mr. Froese and Mr. Davison both signed the compliance audit report. Mr. Davison was at all material times duly licensed under the *Public Accounting Act, 2004*, in accordance with the requirements of s. 81 (5) of the *Act*. I am satisfied that the auditors and the report met the qualifications requirements of the MEA.

[173] The Applicant alleges that the appointment of Ken Froese was contrary to the procedural by-law of the City regarding Requests for Proposal. I rejected this complaint earlier.

[174] The Applicant alleges that Ken Froese exceeded the terms of the audit ordered by Justice Favret, including resting his report on affidavit evidence that Justice Favret rejected. I ruled earlier that the auditor was not limited to the grounds found reasonable by an Ontario Court judge on an appeal under s. 81 (3.3).

[175] The Applicant alleges that there is no authority for the joining of an audit ordered by Justice Favret with a second audit requested by Quintino Mastroguiseppe, including no reasonable grounds for belief in contravention or by law to confirm the requested compliance audit. The introduction to the compliance audit report notes that it relates to two financial statements, being the financial statements for the period of April 6, 2006, to December 31, 2006, which was ordered to be audited by Justice Favret, and the financial statement for the period of April 6, 2006, to December 31, 2007, which City Council determined should be audited upon application by Mastrogiuseppe and Ruffolo. There is nothing in the MEA that prevents Council from joining the audits and, since there would inevitably be considerable overlap, there was efficiency in doing so. The application for the second audit was exhaustively reviewed in the report of the Commissioner of Legal and Administrative Services and the City Solicitor dated March 31, 2008. The grounds are substantially similar to those upheld by Justice Favret. Accordingly, this objection has no validity.

[176] The Applicant alleges that the final report based alleged contraventions of the Act on criteria not found in statute or the guide and on personal opinion and conjecture. This is a restatement of the complaints dismissed under Issue One.

[177] The Applicant alleges that Council ordered the laying of charges against the Applicant, naming Timothy Wilkin as the independent prosecutor, based on a preliminary and incomplete

audit report and, in so doing, set aside the usual municipality practices and procedures. I reject this complaint; Council was obliged by s. 81 (10) of the MEA to deal with the compliance audit report in the form in which it was filed.

[178] The Applicant alleges that Council passed the by-law having received and considered the legal advice of Timothy J. Wilkin on June 24, 2008, which advice was illegally received at a meeting that was held in the absence of any "emergency".

[179] As noted, at its regularly scheduled meeting on June 23, 2008, Council moved to schedule a special meeting for June 24, 2008, for the purpose of dealing with the compliance audit report, and that the requirements for forty-eight hours notice be waived. Although section 4.2 of the City's procedure by-law permits a meeting to be held on less than forty-eight hours notice in circumstances of emergency, Mr. Lord advised that this extension occurred under section 2.2, which provides that the "rules and regulations contained herein may be suspended by a two-thirds vote of the Members of Council ... present at the meeting...." He advised that this was customary when Council could not complete all of its business at the regular meeting, and conceded that this was not an emergency situation.

[180] Mr. Lord relies on the decision of the Ontario Court of Appeal in *Re Howard and City of Toronto*, [1928] 1 D.L.R. 952 at 965:

> Procedure is a matter of internal regulation of business, and in the absence of statutory obligation, the council is at liberty to alter or suspend the ordinary procedure.... It is well-settled that failure to conform with the rules of procedure of municipal council does not invalidate a by-law passed by it.... The Court cannot prescribe a procedure to be adopted by the council, and cannot quash a by-law for error in procedure, except in cases where there has been a failure to observe the formalities (by way of notice or otherwise) prescribed by the statute as a condition precedent to the exercise of its powers or unless the proceedings are so inequitable and unfair as to evidence of fraudulent misuse by the council of its powers.

[181] I am unable to say in the circumstances that the proceedings were inequitable, unfair, or a fraudulent misuse of Council's powers. A meeting on June 24, 2008, occurred with full and complete notice to all involved.

(c) Conclusion on Issue Three: Precipitous Actions and Bad Faith on City Council's Part

[182] In all of the circumstances I find that the evidence does not support the Applicant's allegations of capricious behaviour, corrupt motivation, bias, bad faith or otherwise unlawful action, response or purpose by the Council.

4. Are the By-laws Illegal on Municipal Law Grounds?

[183] Ms. Jackson asks this court to quash By-law 205-2008 and confirming By-law 228-2008, as being illegal and ultra vires on municipal law grounds. The complaint is that "Council did not enact specific confirming By-laws authorizing the conduct of a compliance audit into alleged contraventions of the MEA, ... [and] never passed specific confirming By-laws authorizing ... the laying of charges in relation to the apparent contraventions." This is said to be contrary to s. 5 of the *Municipal Act, 2001*, which results in "there being no valid corporate act."

[184] Ms. Jackson's affidavit takes a similar approach to the issues it raises under this rubric, so for convenience I will quote and address only one reference, by way of example:

> At no time did Council pass a specific Bylaw authorizing the Acting Head of Council and the proper officers of the City to do all things necessary to give effect to the issuance of a request for proposal for an auditor to conduct a compliance audit in relation to my campaign finances. The only confirming Bylaw passed by the Council on February 25, 2008, was one signed by myself and Sybil Fernandes, Deputy City Clerk confirming the proceedings of Council in relation to matters that I did not have an interest in.
>
> I am informed by my counsel Morris Manning, Q.C., and verily believe that as a result of the failure of the Council to pass a specific Bylaw authorizing the issuance of a request for proposal for an auditor to conduct a compliance audit in relation to my campaign finances the appointment of the auditors Ken Froese of LECG Canada Ltd. and Glen R. Davison was made illegally.

[185] Considering the substance of the paragraphs from Ms. Jackson's affidavit quoted above, it is necessary to look at the standard language of the confirming by-laws. By-law 55-2008 deals with the issuance of a request for proposal for an auditor to conduct the compliance audit. It states:

> **A By-law to confirm the proceedings of Council at its meeting on February 25, 2008.**
>
> The Council of The Corporation of the City of Vaughan ENACTS AS FOLLOWS:
>
> 1. THAT the actions of the Council at its meeting held on February 25, 2008 with respect to each recommendation contained in the Meeting Agenda of that date and in respect to each motion, resolution and other action taken by the Council at the said

meeting, subject to all approvals required by law, are hereby adopted, ratified and confirmed.

2. THAT the Head of the Council or the Acting Head of the Council and the proper officers of the Municipality are hereby authorized and directed to do all things necessary to give effect to the said motions, resolutions and other actions and to obtain approvals where required, and, except where otherwise provided, the Head or Acting Head of the Council the Clerk and/or Treasurer are hereby authorized to execute all documents necessary in that behalf, and the said Clerk is hereby authorized and directed to affix the corporate seal of the Municipality to all such documents.

[186] The Minutes to which the By-law refers contain the following:

> Item 23, Report No. 9, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on February 25, 2008, as follows:
>
> *By approving the confidential recommendations of the Committee of the Whole (Closed Session) meeting of February 25, 2008;*
>
> *By approving the following contained in the additional report of the Commissioner of Legal and Administrative Services and City Solicitor, dated February 25, 2008:*
>
> > *"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 recommend that Council direct that a Request for Proposal be issued for 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 Mayor Linda D. Jackson."* [Emphasis in original]

[187] A similar pattern is found in the other by-laws and reports.

[188] I find there to be no lack of clarity in the words of the By-law and the report to which it refers. I agree with Mr. Lord's submission, stated with some asperity, that: "[t]here is no basis in law, that every decision, even administrative decisions, made by a municipal council, involving

actions such as instructing staff in the performance of their duties and receiving legal advice, requires the enactment of a by-law by the Council."

[189] Section 5 of the *Municipal Act, 2001* provides:

> 5. (1) The powers of a municipality shall be exercised by its council.
>
> (2) Anything begun by one council may be continued and completed by a succeeding council.
>
> (3) A municipal power, including a municipality's capacity, rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise.
>
> (4) Subsections (1) to (3) apply to all municipal powers, whether conferred by this Act or otherwise.

[190] On behalf of the City, Mr. Lord submits that each decision of the City Council questioned in these proceedings was duly ratified, confirmed and assumed by the City in each successive decision, up to and including the decision by the Council to respond to these proceedings. The evidence shows that Council made all of the decisions in question by resolution, and in fact did confirm each decision by a confirmatory by-law duly enacted by vote by a quorum of the members representing all of the members of Council qualified to vote on the original matter; this includes By-law 205-2008 authorizing the prosecution and confirming By-law 228-2008.

[191] Single, specific, confirming by-laws are lawful: *Atkinson et al. v. Municipality of Metropolitan Toronto* (1976), 12 O.R. (2d) 401 (C.A.) at 409. A municipality has the power to ratify, by by-law, any previous decision lawfully made and without a time limit where, as here, there is no deprivation of a previous private right such as to litigate damages: *Mackay v. City of Toronto* (1917), 39 O.L.R. 34, per Middleton J., at 46; *Walker v. City of Chatham* (1982), 37 O.R. (2d) 325 (Div. Ct.), page 330.

[192] I have found no evidence that City Council breached its own procedural by-law, but failure by a council to conform with its own rules does not in any event invalidate in any way a by-law passed by the Council: *Re Howard and City of Toronto*, *supra*. This ground of complaint has no merit.

[193] I pause to address one lurking issue. The standard line that, by her signature, Ms. Jackson was only "confirming the proceedings of Council in relation to matters that [she] did not have an interest in" appears throughout the affidavit. This qualification was undoubtedly added

to address the possibility that by signing, Ms. Jackson was contravening s. 5 of the *Municipal Conflict of Interest Act*. This section forbids the involvement of a member of Council in the decision-making process on a matter in which she has an interest, which Ms. Jackson undoubtedly had in the matter in issue. That qualification is not expressed in the confirming by-laws, and for good reasons. First, in signing the by-laws Ms. Jackson was performing only a clerical task by virtue of her office as Mayor, so no danger of contravening the *Municipal Conflict of Interest Act* existed. Second, her action was quite consistent with the practice, which is set out in section 3.11 of the City's Procedural By-law No. 400-2002:

> No Member after having declared an interest on any matter may move, second or vote on the "adoption of items not requiring separate discussion", if the matter having declared an interest is contained therein. The Member after having declared an interest may move, second and vote on the Confirming By-law.

[194] There is no doubt that whether or not Ms. Jackson voted on any of the decisions, or any of the by-laws in question; whether or not she had a pecuniary interest in any such decision or a by-law; and whether or not she acted at any time in contravention of the *Municipal Conflict of Interest Act* does not affect the fact or validity of the Council's decision or by-law, pursuant to s. 12 of that Act.

[195] The Applicant refers to improper delegation by Council under this issue. It has been dealt with elsewhere in these reasons. Section 23.1 of the *Municipal Act, 2001*, as amended gives Council the power to delegate. To the extent that it delegated its powers in respect of the activities referred to in this application, Council did not delegate legislative powers to anyone. This ground of complaint has no merit.

[196] The Applicant takes special aim at By-law 205-2008 with respect to the retention of Mr. Wilkin to conduct the prosecution, which he says is *ultra vires* for a number of reasons. First, she submits that:

> The preamble to the resolution regarding the institution of the laying of charges against the Applicant under the *Municipal Election Act, 1996* reveals that the Council mistakenly thought it had an "obligation to commence legal proceedings ... rather than, as the statute provides, a discretion to exercise after considering whether the Report's identification of "numerous apparent contraventions" was correct and warranted legal proceedings. Council misinterpreted the statutory provision of section 81(10) which requires the council to exercise its own discretion and not blindly follow the audit report.

[197] The resolution adopted by Council on June 24, 2008, and confirmed by By-law 205-2008 provided:

> WHEREAS Council has received, reviewed, and considered the Report of Ken Froese and Glen R. Davison dated June 18, 2008, being the Compliance Audit Report regarding the 2006 municipal election campaign finances of Linda D. Jackson;
>
> AND WHEREAS the Compliance Audit Report has identified numerous apparent contraventions of the Municipal Elections Act, regarding the election campaign finances of Linda D. Jackson;
>
> AND WHEREAS Council has received and considered the legal advice of Timothy J. Wilkin on June 24, 2008;
>
> AND WHEREAS the obligation to commence legal proceedings in respect of such contraventions under the Municipal Election Act falls to Council;
>
> AND WHEREAS it is important for all concerned to avoid any perception of bias as legal proceedings move forward.
>
> NOW THEREFORE THE COUNCIL OF THE CITY OF VAUGHAN RESOLVES AS FOLLOWS: .... [Emphasis added]

[198] The underlined portion of the Preamble is the only support for the proposition that "Council misinterpreted the statutory provision of section 81(10) which requires the council to exercise its own discretion and not blindly follow the audit report." There is no other evidence to support the allegation that Council thought it was obligated to commence legal proceedings. It is quite plain that the authority to commence proceedings under s. 81 (10) of the MEA rests solely with Council. It is also clear from the minutes of the meeting that, quite apart from its in-house lawyer to whom Council would have access, that Council was legally advised by Mr. Wilkin. The substance of his advice is not before this court, but I have trouble making a dispositive assumption that he did not give Council the advice that they had discretion in the matter to be exercised in accordance with the ordinary principles of administrative law cited earlier.

[199] Council's deliberations around the Frustaglio compliance audit report show the proper pattern, and also contain the text of the legal opinion. The preamble to the resolution of Council dated November 10, 2008, provides:

> WHEREAS Council has been mindful of the overall public interest by giving due consideration to whether the candidate fulfilled the duties of a candidate under the Municipal Elections Act; and
>
> WHEREAS Council has been mindful of the overall public interest by giving due consideration to the need for general deterrence with

> respect to campaign finance issues and the need for this candidate to be deterred from possible future contraventions of the Municipal Elections Act, with consideration given to whether this candidate deliberately violated the Act, or whether any contraventions were through inadvertence only; and
>
> WHEREAS Council has considered the overall public interest by giving due consideration to whether the contraventions reported by the Compliance Auditor are substantive or technical in nature; and
>
> WHEREAS Council has considered all of the above matters and assessed whether the overall public interest has been served in relationship to achieving final compliance with the Act and whether the overall public interest aspect of the compliance audit process has been met; and
>
> WHEREAS Council has determined that both the public interest and compliance aspects required by the legislation have been achieved.

[200] The City Solicitor's opinion canvassed fully the options open to Council and the applicable legal and policy principles, and added as a concluding factor for Council to consider: "[w]hether, in Council's opinion, having regard to all of the circumstances with respect to the matter, it is in the public interest to commence legal proceedings against the candidate or take no further action." Council had the advice of qualified personnel and there is no reason for me to assume that the advice given in respect of Ms. Jackson's case was any different regarding the options open to Council. I therefore find that the allegation that Council erroneously believed it was obligated to commence legal proceedings against Ms. Jackson is not proven.

[201] Second, the Applicant challenges By-law 228-2008 on the basis that s. 81 (10) of the MEA, in giving discretion to a council to "commence a legal proceeding" does not give power to "institute the laying of charges against" the Applicant under the MEA, as Vaughan Council resolved to do. As set out above, the cases hold otherwise.

[202] Third, the Applicant submits that:

> Nowhere does the MEA authorize a council to delegate the substance of its authority to make decisions under section 81(10) to commence a legal proceeding to anyone, let alone an unelected member of the public. Paragraphs 2, 3 and 4 of the resolution of June 24, 2008 ... reveal that the council delegated to Mr. Wilkin a power it thought it had – to institute the laying of charges against the Applicant. By-law 205-2008, purporting to adopt, ratify and confirm this resolution constitutes a purported grant to Wilkin of an unbridled and uncontrollable discretion with respect to the

> entirety of the prosecution, thereby leaving the Applicant at the mercy of Wilkin, who is entitled to impose whatever conditions he sees fit. This is an unlawful delegation of statutory authority;

[203] Fourth, the Applicant submits that Council failed to give any, let alone specific, guidance and directions to Mr. Wilkin nor did it state with clarity the standards to be enforced. This repeats an argument that I rejected earlier.

[204] The Applicant also takes special aim at confirming By-law 228-2008 and submits:

> By-law 228-2008 purports to confirm the illegal actions of Council identified by the Applicant in Court File No. CV-0809028. The law has as its sole purpose the (sic) seeking to deny the Applicant access to the court in the application. Absent specific statutory authority, Council was acting without authority and in bad faith in passing By-Law 228-2008.

[205] I accept the City's submission that in response to these proceedings, and without prejudice to its position that the by-laws in question were valid and accomplished the purposes intended (including the confirmation of all of the Council decisions raised in these proceedings), the Council of the City of Vaughan, at its meeting held on September 8, 2008, enacted By-law 228-2008 to further confirm all of the decisions in question in these proceedings, should such be required, and out of an abundance of caution. This intent is amply borne out in the language of By-law 228-2008 and in the minutes of the Council meeting of September 8, 2008, to which it refers.

Conclusion on Issue Four: Are the By-laws Illegal on Municipal Law Grounds?

[206] I conclude that the by-laws are not illegal on municipal law grounds.

Ruling:

[207] For the reasons set out above, I dismiss this application with costs. I will accept written submissions on a 7-day respective turnaround from the successful parties, the moving party, and then reply. Cost submissions should specifically address whether the auditor is entitled to costs from the moving party.

Justice P. D. Lauwers

Released: March 11, 2009

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REASONS FOR JUDGMENT

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Exhibit 3

Vaughan Citizen, Sunday, Oct. 24, 2010 24

Bring TRUST to a NEW Vaughan

Marilyn IAFRATE
Local Councillor

Robert CRAIG
Local Councillor

Richard LORELLO
Regional Councillor

Deb SCHULTE
Regional Councillor

Marvin HEVIA-GOUA
Mayor

THEY NEED YOUR VOTE on October 25th!

In an online poll, you the residents have told us these candidates are your top choices for change. To succeed in bringing change to a New Vaughan, support these leading candidates chosen by your community.

TIME FOR CHANGE VAUGHAN

For Full ongoing poll results, visit our website at www.TimeForChangeVaughan.com

Exhibit 4

GOVERNMENT is all about TRUST

Current City of Vaughan Council

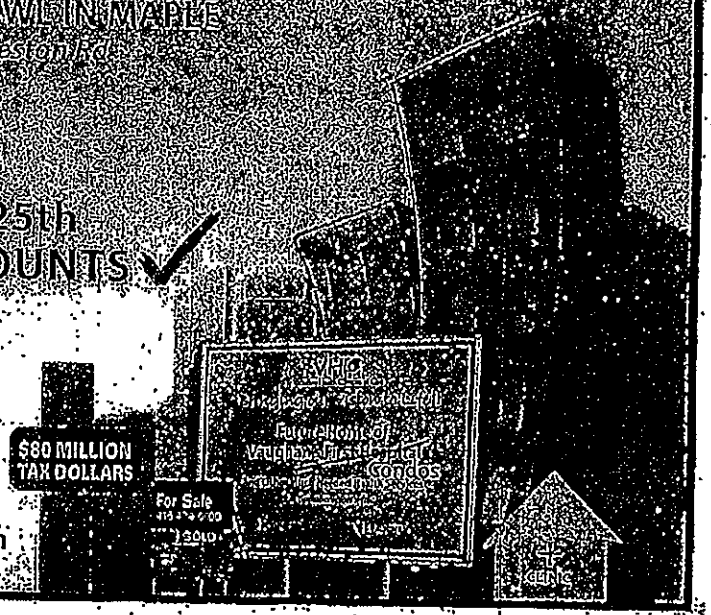
Joyce Frustaglio — Regional Councillor
Peter Meffe — Ward 1 Councillor
Linda Jeffrey — Mayor
Maria Ferri — Regional Councillor
Gino Rosati — Regional Councillor

we don't TRUST you!

- 72% INCREASE IN PROPERTY TAXES IN 4 YEARS
- APPROVED UP TO 24 STOREY HIGH-RISE BUILDINGS ALL ACROSS MAPLE AND KLEINBURG
- APPROVED URBAN SPRAWL IN MAPLE
  10,000 Units on 1200 Acres at Teston Rd.
- TRAFFIC EVERYWHERE

Sources: City of Vaughan Official Records

on October 25th
YOUR VOTE COUNTS ✓



TIME FOR CHANGE
VAUGHAN

a group of concerned Maple & Kleinburg residents and businesses

www.TimeForChangeVaughan.com

Exhibit 5

TIME FOR CHANGE
A group of concerned Maple & Kleinburg residents and businesses

August 30th 2011

Office of the City Clerk

City Hall
Level 100
2141 Major Mackenzie Drive
Vaughan, L6A 1T1

Dear Compliance Audit Committee Members,

My name is Antony Niro and I am the sole officer and Director of the corporation operating under the trade name Time for Change Vaughan.

As you can see in the application, Time for Change Vaughan is mentioned on numerous occasions along with other allegations which I would like to address. Unfortunately, I have not had enough time to review the allegations with my legal counsel in time to meet the deadline of Wednesday August 31st for responding materials. I respectfully request that the Compliance Audit Committee grant an adjournment for at least 1 week to provide me with enough time to review the application and the allegations with respect to my corporation and respond appropriately.

Respectfully,

Antony Niro, P.Eng.

Founder Time for Change Vaughan
antony.niro@timeforchangevaughan.ca
416.479.0427

Exhibit 6

Star's choices in York:Bevilacqua for Vaughan mayor

Article | Comments (5)

Published On Fri Oct 22 2010 Email | Print | |

Recommend

In recent years, Vaughan has morphed from "the city above Toronto" to "the city above the law," as its politicians have become embroiled in a series of court actions and conflict-of-interest allegations. Mayor Linda Jackson, who came to office four years ago pledging to "clean up" Vaughan city hall, is standing for re-election while still facing charges that she violated the municipal election financing rules in the last campaign.

Meanwhile, council remains fractious. But if there is one thing council can agree on, it is that Jackson must go: they voted unanimously for her to resign in 2008.

Jackson did not resign then, but it is time for her to go now and for a new mayor to try to restore stability. Vaughan is no small town. It has a quarter million residents and is growing fast. That growth must be properly managed.

There are two leading challengers: Mario Racco, a former MPP, and Maurizio Bevilacqua, a former MP who served in Jean Chrétien's cabinet. Racco is running a mostly negative campaign, accusing the mayor and others (including Bevilacqua) of being in the pockets of developers. "I have a problem with a few developers running the city through the mayor's office," he says.

We prefer Bevilacqua, who is running on a platform to promote economic development, build a hospital, develop public spaces, and improve access to post-secondary education. "You can't achieve any of these things if you don't have stable governance," he says.

As for Racco's allegation that he is tied to developers, Bevilacqua says: "In 22 years (as an MP), there's no evidence that anyone received any special favours from me." We accept that, but to allay concerns among the voters, Bevilacqua should run a transparent government in Vaughan. A good start would be to implement a ban on corporate donations in future campaigns, just as the Chrétien government did at the federal level.

Here are our choices in some other municipalities in the region:

In Aurora, the town council has been dysfunctional under Mayor Phyllis Morris. Topping off a rocky four years in office, she has launched a $6 million lawsuit against three citizens who criticized her on a popular local web forum. The suit was filed on behalf of Morris "in her capacity as mayor," which means the taxpayers will likely be picking up her legal fees. It's time for her to go. We prefer Geoff Dawe, who has a record of community service and business savvy.

In King, Mayor Margaret Black is facing another challenge from former councillor Steve Pellegrini. Black won our endorsement in 2006 and gets it again for steady, balanced leadership.

In Richmond Hill, Mayor Dave Barrow runs one of Canada's best-rated cities for attracting new residents and economic opportunities. He has cleaned up the planning department, has a good grasp of development issues, and deserves re-election. So does Mayor Frank Scarpitti in **Markham.** He has stickhandled development and intensification issues in one of the most densely populated cities in the 905 belt.

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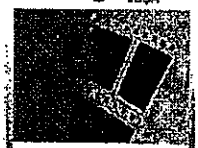

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Vaughan firefighters step into election fray

Article

2010/10/14 19:37:00 Email | Print | |

Gall Swainson
Urban Affairs Reporter

Vaughan's professional firefighters' union is officially endorsing four municipal election candidates in the hopes of sparking change at a scandal-plagued city hall.

Mike Doyle, president of the Vaughan Professional Fire Fighters' Association, said that although the union is strongly advocating for new blood on council, they are still supporting two incumbents, Ward 2 councillor Tony Carella and Ward 4 councillor Sandra Yeung-Racco, who Doyle says represent "reasonable experience.

"This time, the citizens want and deserve change," Doyle said. "But in any mess, there's always bright stars and there are two who deserve to stay."

Yeung-Racco said she is happy to receive the endorsement. "Their support for my re-election in Ward 4 provides me with great comfort in knowing that we share the same vision for community safety," she said.

The association is also endorsing challengers Steven Del Duca in Ward 3 and Deb Schulte for regional council. A total of 24 candidates were interviewed by the union and the four who showed strong support for their issues were selected.

"We have a chance every four years to support people who support our public safety issues," Doyle added. "We asked them if we had their ear, if they would consult on issues that affected us, and you could tell by their responses how much they saw the union as stakeholders."

Union membership will now be hitting the bricks in support of the four chosen candidates, door-knocking and handing out flyers.

"I think it will have a lot of impact," Doyle said. "We carry credibility."

Only 24 of the 37 candidates contacted responded to the interview call. Surprisingly, some incumbents failed to answer the call until it was too late.

"We'll just say some of them missed the boat," said Doyle. "But we are 100 per cent sure these candidates are the best."

Relations with the current council are so grim, that the union has been without a contract for four years.

"That speaks volumes to the kind of labour relations we've had in Vaughan," he said.

In the 2006 election, the association — which is made up of 270 full-time firefighters — supported only one candidate, Michael Di Biase for mayor. But this time around, they did not endorse Di Biase, who is running for one of three regional council seats.

"At the time, it was between him and (Linda) Jackson, and we liked Di Biase," said Doyle. The association is not backing Di Biase this time around because the public wants change on council, he emphasized. In 2006, Jackson, who was furious the firefighters endorsed her opponent, narrowly edged Di Biase by 90 votes for the job.

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The Star's choices for Toronto mayor: George Smitherman

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With eight days left in the municipal election campaign, three main candidates remain standing in the race for the Toronto mayoralty: Rob Ford, Joe Pantalone and George Smitherman. Each has endured the rigours of a gruelling, months-long campaign in a bid to serve Toronto's 2.6 million people. Each deserves respect for his effort. But only one candidate has the proven political skill, government experience, commitment to change, negotiating ability, compassion, drive, determination and charisma that — taken together — would amount to an effective mayor. George Smitherman is that candidate.

The mayoral race has been portrayed in some quarters as a choice between the lesser of two evils, Smitherman and Ford. Mayor David Miller, who is backing Pantalone, says that Smitherman is only "slightly less awful" than Ford. This is arrant nonsense.

Unlike Ford, Smitherman is a progressive thinker who is respectful of the diversity of the city. And he has experience in government, including five years as provincial minister of health, where he managed a budget five times the city's. There he brought down wait times while simultaneously holding the line on costs. Then he moved to the energy portfolio where he was responsible for the introduction of the Green Energy Act, progressive legislation that has been applauded by environmentalists coast to coast.

Smitherman's sometimes pugilistic nature is often deplored by his opponents, who have nicknamed him "Furious George." But there is another side to that coin: he can be tough-minded when he has to be. While rebuilding the health-care system in the wake of the Harris years, he also leaned hard on hospitals to balance their budgets. Today the hospitals salute Smitherman for being tough but fair.

Besides experience, Smitherman would also bring a fresh perspective to city hall, and it is needed. While Toronto is still a great city, it is plagued with chronic problems, including budget shortfalls, crumbling infrastructure, gridlocked roads, under-built transit, a shortage of affordable housing, and disadvantaged neighbourhoods that foster crime and poverty. To tackle these problems, the city needs a change agent, one with a vision that extends beyond the next council meeting or even the next election. Smitherman has demonstrated in the past that he is capable of providing such vision and leadership.

To be sure, he has not run a perfect campaign, although he was handicapped by an early poll that showed him way in the lead (before Ford entered the race). In an odd way, with Miller not running, Smitherman became the incumbent in the race and Ford, who has served for 10 years on city council, the challenger.

Smitherman's platform also contains some ill-advised planks, including a promise to freeze property taxes in his first year, which would make balancing the budget that much more difficult.

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But as Smitherman himself says, "Compare me to the alternative, not the almighty."

That alternative is Ford, a one-trick pony with a line he repeats at every opportunity: "It's time to stop the gravy train." That may sound good, but Ford is consumed by the picayune, not the big picture. His campaign has emphasized councillors' expense accounts and the number of phone calls he has personally returned (more than 200,000). He has tapped into public anger over misspending at city hall, but he has not offered any real vision.

Ford has also exhibited boorish behaviour in the past. He has called one fellow councillor (a woman) "a waste of skin" and another (an Italian-Canadian) "Gino boy." He was visibly drunk

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and profane at a Leafs game. He threatened a reporter at a council meeting. He is, in short, not the sort of person who should be representing the city as its chief magistrate.

Finally, there is Pantalone, a 30-year veteran of council and currently the deputy mayor. He is a decent man, but he is running on a status quo platform, with Miller's backing. He sees very little wrong with the way the city has been run, nor does he see any need to apologize for past mistakes. "I don't regret anything that I've done," he told the *Star*'s editorial board.

Latterly, Pantalone has stooped to unfortunate ad hominem attacks on Smitherman, whom he has described as "more dangerous to Toronto" than Ford. The greater danger is that a vote for Pantalone could help elect Ford.

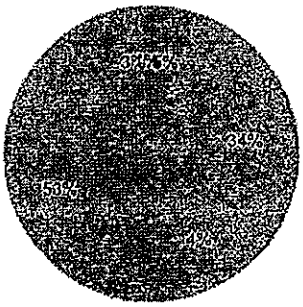
Toronto today needs a combination of a fresh perspective and an experienced hand at the helm. The candidate offering that combination is George Smitherman. He deserves your support on election day, Oct. 25.

• Endorsements for Toronto councillors, school trustees and GTA mayors will appear in the coming days.

Who do you want to see as Vaughan's mayor?

1,000 votes 19 web views 0 mobi views

This poll has ended!



- OPP top cop Julian Fantino [5% (49 votes)]
- Longtime MP Maurizio Bevilacqua [34% (344 votes)]
- Former mayor Michael DiBiase [4% (39 votes)]
- Former MPP Mario Racco [53% (525 votes)]
- Bring in brand new blood [3% (29 votes)]
- Let's give current mayor Linda Jackson another term [1% (14 votes)]

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Exhibit 7

Bank Reconciliation for Richard Lorello 2010 Campaign
Bank Acct #0607-5214317, TD Canada Trust

	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Total
Opening Balance	-	(4.96)	24,525.81	14,844.70	1,537.27	89.07	882.40	35.95	51.00	480.82	305.87	300.92	-
Bank Fees	-	4.95	4.95	-	-	-	-	-	-	-	-	7.50	17.40
Bell Canada (Refund)	-	-	-	-	-	-	-	-	64.77	-	-	-	64.77
Rbc ck Rt NSF	-	-	-	2,000.00	-	-	-	-	-	-	-	-	2,000.00
Rd Bank Bal Owing	-	-	-	200.00	-	-	-	-	-	-	-	-	200.00
Rogers Inc. (Dec 20, 2010) Credit	-	-	-	-	-	18.28	-	-	-	-	-	-	18.28
Replacement Contribution	-	-	-	-	-	(200.00)	-	-	-	-	-	-	200.00
Fundraiser Sapore Restaurant	-	300.00	3,000.00	-	-	-	-	-	-	-	-	-	3,300.00
Richard Lorello ck Rtn	-	25,000.00	-	-	-	-	-	-	-	-	-	-	25,000.00
Richard Lorello Cash	-	200.00	-	-	-	-	-	-	350.00	-	-	-	550.00
Richard Lorello Camp	-	-	-	-	-	-	-	-	750.00	-	-	-	750.00
Richard Lorello Loan	-	25,000.00	-	-	-	-	-	-	-	-	-	-	25,000.00
Contributions	-	600.00	4,600.00	5,400.00	700.00	400.00	-	-	-	300.00	-	-	12,200.00
	-	61,299.99	32,130.46	22,444.70	2,237.27	847.35	882.40	85.95	1,315.77	780.82	305.87	308.42	89,300.45
Expenses													
1714466 Ont Ltd (Over Contribution Refund)									750.00				750.00
Bank Fees	4.96	9.96	4.95	52.45	4.95	4.96	4.95	4.95	4.81	4.85	4.95		106.97
Bell Canada			(1,225.00)										1,225.00
Sarah Strength (Mail)				(6,213.52)									6,213.52
Cad Draft-Campaign BBQ Event				(210.00)									210.00
Cad Draft-Advertising in Vaughan Weekly				(1,243.00)									1,243.00
Cad Draft-Flyer Deliver in Woodbridge & Kleinburg				(847.60)									847.60
Cad Draft-Richard Lorello				[illegible]								308.42	308.42
Canvas Paint (Paint for office)			(183.00)										183.00
Cheque Order Charges				[redacted]									60.56
City Distributors (Flyer Delivery)													2,000.00
City of Vaughan (Voters List)			(94.50)										94.50
Corp. of the City of Vaughan (Sign permit)			(300.00)										300.00
Deposit Rtnd Ck Richard Lorello		(25,000.00)											25,000.00
Doaba Printing Inc (Door Hanger)				(1,700.00)									1,700.00
Doaba Printing Ltd (deposit cards)				[redacted]									2,235.00
C. Lorello (Overcontribution Refund)										150.00			150.00
Eglinton Music Ctr (Overcontribution Refund)										300.00			300.00
Jack Friedman Realestate (Campaign Office)			(1,665.00)	(1,665.00)									3,330.00
Lakefront Graphix (Election Sign)			(11,492.10)										11,492.10
Locksmith Services (Campaign Office Lock)			(192.10)										192.10
Multicom Media Service (Ad)				(515.28)									515.28
Orion Marketing Ltd. (Business cards/invoice)		[illegible]	(1,295.28)										1,462.50
Returned Cheque				(2,000.00)									2,000.00
Roger Cable Comm, Inc. (Cable for Camp Off)					(62.97)								62.97
Rd Full Pymt	[redacted]												
Espire Ristorante (Fund Raiser)		(1,587.28)											1,587.28
Signature Wear Inc. (T Shirts)				(282.50)									282.50
TCN Systems Group (Domain Reg)			(700.60)				[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	700.60
Tony Rossi (BBQ items)					(120.28)								120.28
Vaughan Citizen (election ad)			(1,912.75)	(2,262.50)	(2,000.00)								4,175.25
	4.96	26,774.48	17,296.76	20,887.43	2,158.20	4.96	826.45	4.95	754.95	454.91	4.95	308.42	89,300.45
	(4.96)	24,525.51	14,844.70	1,537.27	89.07	882.40	35.95	51.00	480.82	305.87	300.97	0.00	-

	Richard Lorello cont	Adv	Signs	Brochures	Office rent	Contributions	Fundraiser Sapore	BC	Return Cheque	Return fees	Telephone	Replacement Contribution
Bank Fees								(17.40)				
Bell Canada (Refund)											(64.77)	
Rbc ck Rt NSF									(2,000.00)			
Rd Bank Bal Owing										(200.00)		
Rogers Inc. (Dec 20, 2010) Credit											(18.28)	
Replacement Contribution												(200.00)
Fundraiser Sapore Restaurant							(3,300.00)					
Richard Lorello ck Rtn	(25,000.00)											
Richard Lorello Cash	(550.00)											
Richard Lorello Camp		(750.00)										
Richard Lorello Loan	(25,000.00)											
Contributions						(12,200.00)						
1714466 Ont Ltd (Over Contribution Refund)						750.00						
Bank Fees								106.97				
Bell Canada											1,225.00	
Sarah Strength (Mail)				6,213.52								
Cad Draft-Campaign BBQ Event		210.00										
Cad Draft-Advertising in Vaughan Weekly		1,243.00										
Cad Draft-Flyer Deliver in Woodbridge & Kleinburg				847.60								
Cad Draft-Richard Lorello	308.42											
Canvas Paint (Paint for office)					183.00							
Cheque Order Charges								60.56				
City Distributors (Flyer Delivery)				2,000.00								
City of Vaughan (Voters List)		94.50										
Corp. of the City of Vaughan (Sign permit)		300.00										
Deposit Rtnd Ck Richard Lorello	25,000.00											
Doaba Printing Inc (Door Hanger)				1,700.00								
Doaba Printing Ltd (deposit cards)				2,235.00								
C. Lorello (Overcontribution Refund)						150.00						
Eglinton Music Ctr (Overcontribution Refund)						300.00						
Jack Friedman Realestate (Campaign Office)					3,330.00							
Lakefront Graphix (Election Sign)			11,492.10									
Locksmith Services (Campaign Office Lock)					192.10							
Multicom Media Service (Ad)		515.28										
Orion Marketing Ltd. (Business cards/invoice)		1,462.50										
Returned Cheque									2,000.00			200.00
Roger Cable Comm, Inc. (Cable for Camp Off)											62.97	
Rd Full Pymt										200.00		
Espire Ristorante (Fund Raiser)							1,587.28					
Signature Wear Inc. (T Shirts)		282.50										
TCN Systems Group (Domain Reg)		700.60										
Tony Rossi (BBQ items)		120.28										
Vaughan Citizen (election ad)		4,175.25										
	(25,241.58)	(750.00)	9,065.11	11,492.10	13,016.12	3,705.10	(11,000.00)	(1,702.72)	154.15	-	-	1,204.92
			8,115.47	7,232.39								

(0.00)

[illegible] Ties vouched to invoices

						Signs	BR	ADV	Campaign	Web hostir	Office	Campaign election night	Bell	Supplies	
	Expenses														
1	Campaign Business Cards		8852		$167.24		$167.24								$167.24
2	Campaign Posters	Staples			$124.10	$124.10		$124.10							$124.10
3	Campaign Booth @ Woodbridge Ribfest	Woodbridge Ribest (Rotary Club)			$150.00	$150.00		$150.00							$150.00
4	Envelopes	Shoppers Drug Mart			$10.14	$10.14					$10.14				$10.14
5	Campaign Kickoff Fund Raiser Deposit	Sapore by Zefferano			$100.00	$100.00		$100.00							$100.00
6	Campaign Kickoff Fund Raiser Balance	Sapore by Zefferano			$1,597.28		$1,597.28								$1,597.28
7	Campaign Office Rent for September	Jack Freedman Real Estate Dev			$1,695.00		$1,695.00								$1,695.00
8	Campaign Office Rent for October	Jack Freedman Real Estate Dev			$1,695.00		$1,695.00								$1,695.00
9	Campaign Election Signs	Lakefront Graphix			$11,492.00		$11,492.00								$11,492.00
10	Campaign Door Hanger and Artwork	Olivan Marketing Ltd	8870		$1,295.26		$1,295.26								$1,295.26
11	Domain Registration richardlorello.com	TCN Systems Group	30077		$79.10		$79.10								$79.10
12	Voters List CD	City of Vaughan	216738		$56.50		$56.50								$56.50
13	Paint For Campaign Office	Centro Paint	9198		$183.00		$183.00								$183.00
14	Paint For Campaign Office	Centro Paint	9252		$11.53	$11.53					$11.53				$11.53
15	Change Lock For Campaign Office	Locksmith Services	310		$192.10		$192.10								$192.10
16	Sign Permit	City of Vaughan	216847		$300.00		$300.00								$300.00
17	Vaughan Citzen Campaign Advertising	Vaughan Citizen	394943		$762.75		$762.75								$762.75
18	Campaign Door Hanger and Cards Deposit	DOABA Printing			$1,700.00		$1,700.00								$1,700.00
19	Vaughan Today Campaign Advertising	Multicom Media	91604		$515.28		$515.28								$515.28
20	Vaughan Citzen Campaign Advertising	Vaughan Citizen	396668		$706.25		$706.25								$706.25
21	Vaughan Citzen Campaign Advertising	Vaughan Citizen	396669		$706.25		$706.25								$706.25
22	Campaign Door Hanger and Cards Balance	DOABA Printing			$2,255.00		$2,255.00								$2,255.00
23	Campaign Door Hanger Distribution	Beech Strength Mail Distribution			$6,213.52		$6,213.52								$6,213.52
24	Campaign Door Hanger Distribution Deposit	City Distributors	2025		$2,000.00		$2,000.00								$2,000.00
25	Campaign Door Hanger Distribution Balance	City Distributors	2025		$847.60		$847.60								$847.60
26	Campaign T-Shirts	Signature Wear Inc	837856		$282.50		$282.50								$282.50
27	King Vaughan News Campaign Advertising	King Vaughan News	24523		$1,243.00		$1,243.00								$1,243.00
28	Vaughan Citzen Campaign Advertising	Vaughan Citizen			$2,000.00		$2,000.00								$2,000.00
29	Vaughan Citzen Campaign Advertising	Vaughan Citizen			$1,533.51	$1,533.51		$1,533.51							$1,533.51
30	King Vaughan News Campaign Advertising	King Vaughan News	24439		$1,322.10	$1,322.10		$1,322.10							$1,322.10
31	Stakes For Campaign Signs	Argo Lumber	32560		$2,040.78		$2,040.78				$2,040.78				$2,040.78
32	Stakes For Campaign Signs	Argo Lumber	32560		$291.54		$291.54				$291.54				$291.54
33	Campaign Door Hanger and Business Cards	Olivan Marketing Ltd	8696 & 8883		$2,246.85	$2,246.85		$2,246.85							$2,246.85
34	Subdivision Index	City of Vaughan	214760		$18.08	$18.08		$18.08							$18.08
35	BELL Canada Campaign Phones & Internet	Bell Canada			$1,225.00		$1,225.00								$1,225.00
36	Campaign Video Deposit October 5	Marc Buchmann			$200.00	$200.00		$200.00							$200.00
37	Campaign Video Balance Nov 6	Marc Buchmann			$300.00	$300.00		$300.00							$300.00
38	Campaign BBQ Event	Maple Lions Club		$210.00			$210.00								$210.00
39		Hot Dogs and Beef Patties		$231.43		$231.43									$0.00
40		Hot Dog and Ham Buns		$120.28		$120.28	$120.28	$231.43							$351.71
41		Water For BBQ		$49.25		$49.25									$0.00
42		Sausages For BBQ		$181.00		$181.00		$49.25							$49.25
43		Sausages For BBQ		$106.00		$106.00		$181.00							$181.00
44		Cake For BBQ		$100.00		$100.00		$106.00							$106.00
45		Hot Dog Buns		$44.05		$44.05		$100.00							$100.00
46		Band For BBQ		$200.00		$200.00		$44.05							$44.05
47		Coffee and Cookies For BBQ		$80.75		$80.75		$200.00							$200.00
48		Total For BBQ			$1,322.76			$80.75							$80.75
49															$0.00
50	Campaign Election Night Party	Cake For Election Night		$100.00		$100.00						$100.00			$100.00
51		Emily's Bakery		$31.00		$31.00						$31.00			$31.00
52		Price Chopper Items		$79.62		$79.62						$79.62			$79.62
53		Centro Bakery Items		$270.00		$270.00						$270.00			$270.00
54		Costco Items		$139.08		$139.08						$139.08			$139.08
55		Price Chopper Items		$10.93		$10.93						$10.93			$10.93
56		Longos Soft Drinks		$40.68		$40.68						$40.68			$40.68
57		Dollar Store Streamers		$7.91		$7.91						$7.91			$7.91
58		Dollar Store Streamers		$4.52		$4.52						$4.52			$4.52
59		Country Style Coffee		$65.00		$65.00						$65.00			$65.00
60		Canadian Tire Tape		$47.93		$47.93						$47.93			$47.93
61					$796.67										$0.00
62	Web Hosting for Richardlorello.ca	TCN Systems Group		$169.50		$169.50		$169.50							$169.50

63	Campaign Web Site	TCN Systems Group		$621.50			$621.50								$621.50
64					$791.00										$0.00
65	BELL Canada Sept & October Usage	Bell Canada			$244.08	$244.08							$244.08		$244.08
66	Rogers TV Usage for October	Rogers			$62.97		$62.97								$62.97
67	Lespecchio Advertising	Lespecchio			$791.00	$791.00		$791.00							$791.00
68	Balloons and Helium	Surprize Enterprize		$175.15		$175.15		$175.15							$175.15
69		Surprize Enterprize		$327.70		$327.70		$327.70							$327.70
70					$502.85										$0.00
71	Miscellaneous	Woodbridge Dollar Store Towels		$8.44		$8.44				$8.44					$8.44
72		Metro Water & Soft Drinks		$31.78		$31.78				$31.78					$31.78
73		Staples Scan of Documents		$7.80		$7.80				$7.80					$7.80
74		Shoppers Drug Mart Staple Set		$6.77		$6.77				$6.77					$6.77
75		Disposal of Garbage		$10.00		$10.00				$10.00					$10.00
76		Country Style Coffee & Donuts for Go Train		$91.99		$91.99		$91.99							$91.99
77		Home Depot Screws for Campaign Signs		$108.01		$108.01		$108.01							$108.01
78		Metro Bottled Water		$41.96		$41.96				$41.96					$41.96
79		Dolcini Cookies for Villa Giardino		$35.00		$35.00		$35.00							$35.00
80		Maple Bakery Cookies for Villa Giardino		$38.49		$38.49		$38.49							$38.49
81		Staples Toner Cartridge		$107.08		$107.08				$107.08					$107.08
82		Concord Hardware Stake Drivers		$148.35		$148.35				$148.35					$148.35
83		Metro Water & Soft Drinks		$29.59		$29.59				$29.59					$29.59
84		Lowes Screws for Campaign Signs		$22.58		$22.58				$22.58					$22.58
85		Home Depot Screws for Campaign Signs		$54.00		$54.00				$54.00					$54.00
86		Staples Calendar & Power Extensions		$63.80		$63.80				$63.80					$63.80
87		Home Depot Screws for Campaign Signs		$108.01		$108.01				$108.01					$108.01
88		Country Style Coffee & Donuts for Go Train		$91.51		$91.51		$91.51							$91.51
89		Staples Bristol Board		$51.90		$51.90				$51.90					$51.90
90		Kwik Copy Photocopy		$5.33		$5.33				$5.33					$5.33
91					$1,002.39										$0.00
92	Thanksgiving Pumpkins and Corn	Rock Garden Farms	149432		$300.00	$300.00		$300.00							$300.00
93															$0.00
	Total Expenses				$53,431.98	$36,195.66	$2,332.32	$40,224.38	$9,115.47	$0.00	$0.00	$3,051.38	$796.67	$244.08	$0.00
	Total Contributions Less Total Expenses							$40,224.38	$9,115.47	$0.00	$0.00	$3,051.38	$796.67	$244.08	$0.00

$13,207.60

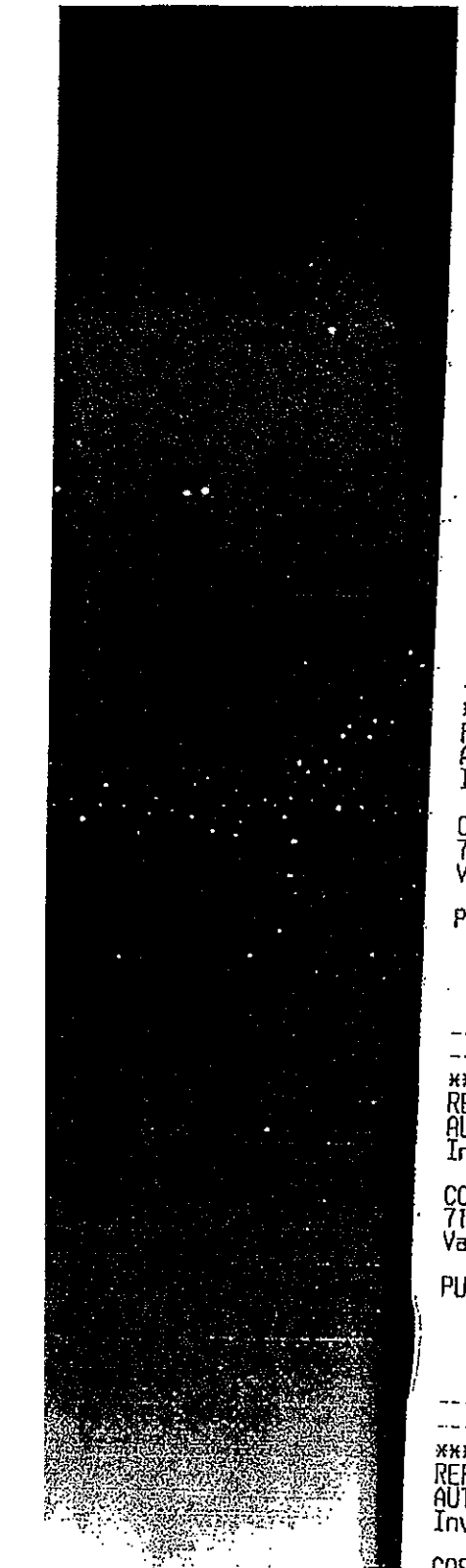
$4,028.62

$17,236.42

$53,431.98

$53,431.98

$40,224.38



COSTCO WHOLESALE

547

71 Colossus Drive
Vaughan, ON
L4L-9J8
MEMBER #831810749001

296549	SIRLOIN BEEF	15.99
296549	SIRLOIN BEEF	15.99
296549	SIRLOIN BEEF	15.99
296549	SIRLOIN BEEF	15.99
3538	DLXE HAM BUN	5.39
3538	DLXE HAM BUN	5.39
3539	DLXE HOT DOG	5.39
3539	DLXE HOT DOG	5.39
3538	DLXE HAM BUN	5.39
3538	DLXE HAM BUN	5.39
128910	WIENER 2X1KG	11.99
128910	WIENER 2X1KG	11.99

**********1805 ACCT: CHEQUING
REFERENCE#: 66098173-0010013580 S
AUTH#: 10/16/10 14:00:25
Invoice#: 26742

COSTCO # 547
71 Colossus Drive
Vaughan, ON L4L-9J8

PURCHASE - EFT/Debit
TRANSACTION NOT COMPLETED
AMOUNT: $120.28

0547 005 0000000027 0210

**********1805 ACCT: CHEQUING
REFERENCE#: 66098173-0010013590 S
AUTH#: 10/16/10 14:00:58
Invoice#: 26745

COSTCO # 547
71 Colossus Drive
Vaughan, ON L4L-9J8

PURCHASE - EFT/Debit
TRANSACTION NOT COMPLETED
AMOUNT: $120.28

0547 005 0000000027 0210

**********1805 ACCT: SAVING
REFERENCE#: 66098173-0010013590 S
AUTH#: 10/16/10 14:01:30
Invoice#: 26760

COSTCO # 547
71 Colossus Drive
Vaughan, ON L4L-9J8

PURCHASE - EFT/Debit
51 TRANSACTION NOT APPROVED 076
AMOUNT: $120.28

0547 005 0000000027 0210

TOTAL [redacted] 120.28
VF Cash 90.00
EFT/Debit 30.28

COSTCO WHOLESALE

39

RICHMOND HILL #592

35 John Birchall Road
Richmond Hill, ON L4S 0B2
(905)780-2100
MEMBER #111801027133

184662	2.9L MUSTARD	4.69
103128	1 PLY NAPKIN	10.79
253092	TPD/103128	2.10-
8 @ 5.39		
3539	DLXE HOT DOG	43.12
4 @ 5.69		
129700	SMART HT DOG	22.76
6 @ 5.39		
3538	DLXE HAM BUN	32.34
50846	BEEF PATTIES	13.79
50846	BEEF PATTIES	13.79
50846	BEEF PATTIES	13.79
50846	BEEF PATTIES	13.79
50846	BEEF PATTIES	13.79
123311	SHOPSY 3X675	10.99
50846	BEEF PATTIES	13.79
123311	SHOPSY 3X675	10.99
153042	KETCHUP	6.99
153042	KETCHUP	6.99
	SUBTOTAL	230.30
****	(H)HST 13%	1.13
	TOTAL	[redacted]
VF	American Express	231.43

**********2000
REFERENCE#: 66121632-0010017970 S
AUTH#: 546567 10/15/10 12:12:36
Invoice#: 00519

COSTCO WHOLESALE #592
35 John Birchall Road
Richmond Hill, ON L4S 0B2

PURCHASE - American Express
00 APPROVED - THANK YOU 025
AMOUNT: $231.43

0592 008 0000000060 0099

CHANGE .00
TOTAL DISCOUNT(S) 2.10

TOTAL NUMBER OF ITEMS SOLD = 30
CASHIER: LELANI REG# 8
[redacted] 12:12 0592 08 0099 60

GST/HST #121476329

THANK YOU - PLEASE COME AGAIN

10358 (0207)

Customer's record of Draft purchased

54110301 36

The Toronto-Dominion Bank

1050 Wilson Avenue
Downsview, ON M3K 1G6

Campaign BBQ

DATE 2010-10-19
YYYYMMDD

Transit-Serial No. 1872-54110301

Pay to the Order of ~~MAPLE LIONS CLUB~~

$ *******210.00

TD CANADA TRUST 210.00

Canadian Dollars

Authorized signature required for amounts over CAD $5,000.00

Re Richard Lorello Campaign BBQ

The Toronto-Dominion Bank Oct 6/2010.
Toronto, Ontario
Canada M5K 1A2

Authorized Officer

Number

Countersigned

Receipt Only – Non Negotiable

Please retain for presentation in event Original lost

41

WHY PAY MORE?...SHOP AT
DEREK'S NO FRILLS

Lane 2 Transaction ID 7690

GROCERY
38741 RC SPR WTR H
25 @ $1.97 ea 49.25

SUBTOTAL 49.25

TOTAL 49.25

---------TRANSACTION RECORD------------
GLOBAL PAYMENTS MERCHANT #
Derek's No Frills #272
1631 Rutherford Road
Vaughan ON
STORE 00272 TERM L0027202
SLIP # 7590 REG 02
RETAIN THIS COPY FOR YOUR RECORDS
** DIRECT PAYMENT **
** Purchase **
CARD # ************3736 Savings
REF # AUTH # RESP 001
354001001014 500877 ISO 00
DATE TIME AMOUNT
10/15/2010 13:43:45 $ 49.25
APPROVED
Process amount to account shown

DEBIT TND 49.25

You could have earned 490
PC points with President's Choice
Financial MasterCard. Apply Today
Visit pcfinancial.ca

GST # 84809-2656 RT0001

VISIT US AT WWW.SHOPNOFRILLS.CA

THANK YOU, COME AGAIN!
Cashier Name: MEGAN P.
10/15/10 13:43 402 2 07690

43

****
* YOUR RECEIPT *
* THANK YOU *
*
****

01-09-2000 MC #:0000

DEPT 01 *106.00

TOTAL *106.00
CASH *106.00

AM 0-16 0001

HAVE A NICE DAY
PLEASE COME AGAIN

42

****
* YOUR RECEIPT *
* THANK YOU *
*
****

01-09-2000 MC #:0000

DEPT 01 *181.00

TOTAL *181.00
AMOUNT *190.00
CHANGE *9.00

AM 3-02 0001

HAVE A NICE DAY
PLEASE COME AGAIN

Leandra

Country Style Bistro

DATE Oct 16 2010

NOM / NAME

ADRESSE / ADDRESS

VENDU PAR / SOLD BY	C.R. / C.O.D.	CHARGE	REÇU A/C / ON ACCT.	MONT. REPORTÉ / ACCT. FWD.

1	3 Dozen cookies		
2		15	75
3	60 c coffee	65	00
4			
5			
6			
7			
8			
9			
10			
	TPS/GST	0	
NO.ENRG.TAXE / TAX REG.NO:	TVP/PST	0	
39	TOTAL	80	75

SIGNATURE

44

Connie 47

Sale

VISA

XXXXXXXXXXXX2234

Entry Method: Proximity

Acpr Code:

Batch#:

Total: $ 80.75

Customer Copy

45

Price Chopper

The smart choice for LOW FOOD PRICES!

MAPLE PRICE CHOPPER
2535 Major Mackenzie Drive
Maple, Ontario 905-832-2531
GST# 874419211RT0001

Served by: 115 4

COMMERCIAL BAKERY

Hot Dog Buns 340g		$1.97
Hot Dog Buns 340g		$1.97
Hot Dog Buns 340g		$1.97
Hot Dog Buns 340g		$1.97
Hot Dog Buns 340g		$1.97
Hot Dog Buns 340g		$1.97
Hot Dog Buns 340g	6872100803	$2.49
Hot Dog Buns	6872100803	$2.49
Hot Dog Buns	6872100803	$2.49
Hot Dog Buns	6872100803	$2.49
Hot Dog Buns	6872100803	$2.49
Hot Dog Buns	6872100803	$2.49
Hot Dog Bun	6872100257	$2.79
Hot Dog Bun	6872100257	$2.79
Hot Dog Bun	6872100257	$2.79
SUBTOTAL		$44.05
TOTAL TAX		$0.00
TOTAL		$44.05
Cash	TENDER	$44.05
Cash	CHANGE	$0.00

NUMBER OF ITEMS 19

Term	Tran	Store	Oper	
1	2450	7988	115	10/16/10 13:22:23

REFUND POLICY
Please retain receipt for refund
within 14 days of purchase.
NO REFUNDS OR RETURNS ON GIFT CARDS

OCT 16/2010

NO REPLY accepts $200.00 in payment of music/band services for The Richard Lorello Campaign at 9505 Keele Street, Maple, Ont.

BBQ
Cake

Lead Musician

Vincent Romvaldi

VAUGHAN CITIZEN

8611 Weston Road
Unit 29
Vaughan, ON L4L 9P1
Phone:(905) 264-8703 Fax:(905) 264-9453

INVOICE

ACCOUNT NUMBER	INVOICE DATE
123732	09/26/2010

PLEASE MAKE PAYABLE TO

INVOICE NUMBER	AMOUNT DUE
VD003562	706.25

To:

CAMPAIGN TO ELECT RICHARD LORELLO
235 TREE LAWN BLVD
P.O. BOX 927
KLIENBURG, ONT L0J 1C0

(647) 883-0606

AMOUNT PAID

ACCOUNT INQUIRIES CALL: (905) 264-8703

REMITTANCE PORTION: PLEASE CUT AND RETURN THIS PORTION WITH YOUR PAYMENT

8611 Weston Road
Unit 29
Vaughan, ON L4L 9P1
Phone:(905) 264-8703 Fax:(905) 264-9453

Phone: (905) 264-8703

Customer: CAMPAIGN TO ELECT RICHARD LORELLO

Account Number	Tearsheets	Terms	Invoice Date	Customer P.O. Number	Invoice Number
123732		DUE UPON RECEIPT	09/26/2010		VD003562

Publication Date: September 19, 2010
Publication: VAUGHAN CITIZEN DISPLAY
Ad Size: 10.0000 Col. x 30.000 = 300 Agates Lines
Ad Number: 394943
Page Number: 1
Product: RETAIL ADS

AD RATE 675.00
PROCESS COLOR

Publication Date: September 26, 2010
Publication: VAUGHAN CITIZEN DISPLAY
Ad Size: 10.0000 Col. x 30.000 = 300 Agates Lines
Ad Number: 396668
Page Number: 1
Product: RETAIL ADS

AD RATE 625.00
PROCESS COLOR

TOTAL:	1,300.00
HST / GST #137752424:	169.00
PST:	0.00
PRE-PAYMENTS:	-762.75
ADJUSTMENTS:	762.75
PAYMENTS:	-762.75
AMOUNT DUE:	**706.25**

CUSTOMER COPY: KEEP THIS COPY FOR YOUR RECORDS

VAUGHAN CITIZEN

8611 Weston Road
Unit 29
Vaughan, ON L4L 9P1
Phone:(905) 264-8703 Fax:(905) 264-9453

INVOICE

ACCOUNT NUMBER	INVOICE DATE
123732	10/31/2010

PLEASE MAKE PAYABLE TO

INVOICE NUMBER	AMOUNT DUE
VD003737	0.00

To:

CAMPAIGN TO ELECT RICHARD LORELLO
235 TREE LAWN BLVD
P.O. BOX 927
KLIENBURG, ONT L0J 1C0

(647) 883-0606

AMOUNT PAID

ACCOUNT INQUIRIES CALL: (905) 264-8703

REMITTANCE PORTION: PLEASE CUT AND RETURN THIS PORTION WITH YOUR PAYMENT

8611 Weston Road
Unit 29
Vaughan, ON L4L 9P1
Phone:(905) 264-8703 Fax:(905) 264-9453

Phone: (905) 264-8703

Customer: CAMPAIGN TO ELECT RICHARD LORELLO

Account Number	Tearsheets	Terms	Invoice Date	Customer P.O. Number	Invoice Number
123732		DUE UPON RECEIPT	10/31/2010		VD003737

Publication Date: October 03, 2010 Ad Number: 398469 Page Number: 1
Publication: VAUGHAN CITIZEN DISPLAY Product: RETAIL ADS
Ad Size: 10.0000 Col. x 30.000 = 300 Agates Lines

AD RATE 625.00
PROCESS COLOR

Publication Date: October 14, 2010 Ad Number: 402161 Page Number: 1
Publication: VAUGHAN CITIZEN DISPLAY Product: RETAIL ADS
Ad Size: 10.0000 Col. x 30.000 = 300 Agates Lines

AD RATE 625.00
PROCESS COLOR

Publication Date: October 17, 2010 Ad Number: 402640 Page Number: 1
Publication: VAUGHAN CITIZEN DISPLAY Product: RETAIL ADS
Ad Size: 10.0000 Col. x 30.000 = 300 Agates Lines

AD RATE 625.00
PROCESS COLOR

Publication Date: October 21, 2010 Ad Number: 404185 Page Number: 10
Publication: THORNHILL LIBERAL Product: RETAIL ADS
Ad Size: 10.0000 Col. x 88.000 = 880 Agates Lines

AD RATE 902.00
PROCESS COLOR 350.00

Publication Date: October 24, 2010 Ad Number: 404540 Page Number: 1
Publication: VAUGHAN CITIZEN DISPLAY Product: RETAIL ADS
Ad Size: 10.0000 Col. x 30.000 = 300 Agates Lines

AD RATE 625.00
PROCESS COLOR

Continued on next page...

CUSTOMER COPY: KEEP THIS COPY FOR YOUR RECORDS

VAUGHAN CITIZEN

8611 Weston Road
Unit 29
Vaughan, ON L4L 9P1
Phone:(905) 264-8703 Fax:(905) 264-9453

INVOICE

ACCOUNT NUMBER	INVOICE DATE
123732	10/31/2010

PLEASE MAKE PAYABLE TO

INVOICE NUMBER	AMOUNT DUE
VD003737	0.00

To:

CAMPAIGN TO ELECT RICHARD LORELLO
235 TREE LAWN BLVD
P.O. BOX 927
KLIENBURG, ONT L0J 1C0

(647) 883-0606

AMOUNT PAID

ACCOUNT INQUIRIES CALL: (905) 264-8703

REMITTANCE PORTION: PLEASE CUT AND RETURN THIS PORTION WITH YOUR PAYMENT

8611 Weston Road
Unit 29
Vaughan, ON L4L 9P1
Phone:(905) 264-8703 Fax:(905) 264-9453

Phone: (905) 264-8703

Customer: CAMPAIGN TO ELECT RICHARD LORELLO

		Is	Invoice Date	Customer P.O. Number	Invoice Number
123732		DUE UPON RECEIPT	10/31/2010		VD003737

TOTAL:	3,752.00
HST / GST #137752424:	487.76
PST:	0.00
PRE-PAYMENTS:	-4,239.76
ADJUSTMENTS:	4,239.76
PAYMENTS:	-4,239.76
AMOUNT DUE:	0.00

CUSTOMER COPY: KEEP THIS COPY FOR YOUR RECORDS

Exhibit 8

August 26 Fundraiser Sapore Restaurant				
Price $150/person				
Receipt #	Date Issued	Contributor		
7390	August 26, 2010	Broadcast Auditors Inc Anthony Borg	$150.00	
7391	August 26, 2010	Maria Simone	$300.00	
		Paul Simone		
7392	August 26, 2010	Richard Grosso	$300.00	
		Enza Grosso		
7393	August 23, 2010	Maria Grignano	$300.00	
		Vince Grignano		
7394	August 26, 2010	Joe Chimenti	$150.00	
7395	August 26, 2010	Frank Raphaels	$150.00	
7396	August 26, 2010	Raymond Plouffe	$150.00	
7397	August 26, 2010	Steve Rossi	$150.00	Cash
7398	August 26, 2010	Rob Craig	$150.00	Cash
7399	August 26, 2010	Mike Buffa	$300.00	
		Rita Buffa		
7400	August 27, 2010	Pat Lorello (Eglington Music Centre)	$300.00	
		Lucy Lorello (Eglinton Music Centre)		
*	March 22, 2011	Eglinton Music Centre Refund Over Contribution	-$300.00	Campaign Cheque # 8
7401	August 26, 2010	Elvira Lorello	$150.00	
*	March 22, 2011	Elvira Lorello Refund Over Contribution	-$150.00	Campaign Cheque # 7
7402	August 26, 2010	Stefano Pileggi Make it Canada	$150.00	
7403	August 26, 2010	Tracey Kent	$150.00	
7404	August 25, 2010	Brian O'connor	$300.00	
		Janine O'connor		
7405	September 1, 2010	Nunzio Grignano	$150.00	
			$2,850.00	
		Sapore Restaurant Fee	$1,597.00	
		Balloons		

		Contributions								
Receipt#	Date Issued	Contributor	Address	City	Prov	Post Code	Contribution	Type	President/Signatory	
3076	August 5, 2010	Mr.&Mrs.Dave/Karen Gordon	59 Verwood Ave	North York	Ontario	M3H 2K8	$100.00	Cheque		
3078	August 23, 2010	Vincenzo & Maria Grignano	186 Gracefield Ave	Toronto	Ontario	M6L 1L8	$200.00	Cheque		
3079	August 26, 2010	Maxine Povering	48 Ohr Menachem Way	Thornhill	Ontario	L4J 8X7	$100.00	Cheque		
3080	August 20, 2010	Dimitris & Linda Polygenis	128 Hawker Rd	Maple	Ontario	L6A 2J3	$200.00	Cheque		
3081	August 30, 2010	Joseph S Josephine Kelly	34 Worthington Cres	Toronto	Ontario	M6S 3P6	$200.00	Cheque		
3082	August 27, 2010	Marilyn Iafrate	55 Marwood Place	Maple	Ontario	L6A 1C5	$200.00	Cheque		
3083	August 27, 2010	Leny Iafrate	55 Marwood Place	Maple	Ontario	L6A 1C5	$200.00	Cheque		
3084	September 1, 2010	Giovanni Guglielmi	7855 Kipling Ave	Woodbridge	Ontario	L4L 1Z6	$200.00	Cheque		
3085	September 6, 2010	George & Susie Grignano	166 Burton Grove	King City	Ontario	L7B 1C7	$300.00	Cheque		
3087	September 13, 2010	Elvira Lorello	134 Tavistock Rd	Toronto	Ontario	M3M 2P4	$750.00	Cheque		
3090	September 2, 2010	Minley & Simon Lloyd	655 Napa Valley Ave	Woodbridge	Ontario	L4H 2J1	$200.00	Cheque		
3091	October 12, 2010	Michael Watson	11490 Bathurst St	Maple	Ontario	L6A 1S2	$750.00	Cheque		
3092	October 11, 2010	Tiziana Milani	11641 Dufferin St	Maple	Ontario	L6A 1S2	$750.00	Cheque		
3093	October 14, 2010	Pankaj Sandhu & Manjit Kaur	15 North Humber Dr	Woodbridge	Ontario	L4L 2G5	$200.00	Cheque		
3094	October 14, 2010	Pankaj Sandhu & Manjit Kaur	15 North Humber Dr	Woodbridge	Ontario	L4L 2G5	$200.00	Cheque		
3095	October 13, 2010	Maria & Anthony Artuso	77 Worthview Dr	Woodbridge	Ontario	L4H 0J1	$200.00	Cheque		
3096	October 13, 2010	Maria & Anthony Artuso	77 Worthview Dr	Woodbridge	Ontario	L4H 0J1	$200.00	Cheque		
3097	October 14, 2010	Anita Sohal	38 Broomlands Dr	Vaughan	Ontario	L6A 2K5	$200.00	Money Order		
3098	October 16, 2010	Joe Chimenti	25 Granary Rd PO 945	Kleinburg	Ontario	L0J 1C0	$200.00	Cheque		
3099	October 16, 2010	Rita Chimenti	25 Granary Rd PO 945	Kleinburg	Ontario	L0J 1C0	$200.00	Cheque		
7378	October 12, 2010	Carmela Greco	9560 Islington Ave	Woodbridge	Ontario	L4L 1A7	$200.00	Cheque		
3100	October 12, 2010	Andrea Greco	9560 Islington Ave	Woodbridge	Ontario	L4L 1A7	$200.00	Cheque		
7379	October 12, 2010	Fabio Alviani	9560 Islington Ave	Woodbridge	Ontario	L4L 1A7	$200.00	Cheque		
7380	October 12, 2010	Josie Alviani	9560 Islington Ave	Woodbridge	Ontario	L4L 1A7	-$200.00	NSF Cheque		
7380	December 9, 2010	Josie Alviani	9560 Islington Ave	Woodbridge	Ontario	L4L 1A7	$200.00	Replace NSF Cheque		
7381	October 18, 2010	Lisa Yeremian	39 Ridgeway Crt	Maple	Ontario	L6A 2R4	$200.00	Cheque		
7382	October 18, 2010	Ara Yeremian	39 Ridgeway Crt	Maple	Ontario	L6A 2R4	$200.00	Cheque		
7383	October 20, 2010	Richard Ferreira	28 Centro Park Dr	Woodbridge	Ontario	L4H 1M6	$200.00	Cheque		
7384	October 16, 2010	Irene & Carlo Marsili	32 Centro Park Dr	Woodbridge	Ontario	L4H 1M6	$200.00	Cheque		
7385	October 16, 2010	Irene & Carlo Marsili	32 Centro Park Dr	Woodbridge	Ontario	L4H 1M6	$200.00	Cheque		
7386	October 16, 2010	Giuseppina Marsili	16 Marevan Pl	Woodbridge	Ontario	L4L 3H8	$200.00	Cheque		
7387	October 18, 2010	L tuglio	RR 1	Caledon East	Ontario	L0N 1E0	$500.00	Cheque		
7388	October 24, 2010	Josie Berto	51 Milton Pl	Maple	Ontario	L6A 1L8	$200.00	Cheque		
7377	December 28, 2010	Carmy Domenichiello	88 Ayton Cres	Woodbridge	Ontario	L4L 7H8	$200.00	Cheque		
7376	December 28, 2010	Peter Domenichiello	88 Ayton Cres	Woodbridge	Ontario	L4L 7H8	$200.00	Cheque		
7408	March 22,2011	Lucy Lorello	142 Times Road	Toronto	Ontario		$300.00	Cheque		
	Corporations									
3077	August 17, 2010	Matera Carpentry Contractors Ltd.	2800 Langstaff Road, Bldg B	Concord	Ontario	L4K 4Y5	$500.00	Cheque	Frank Domenichiello	$8,750.00
3086	September 13, 2010	Eglinton Music Centre	1756 Eglinton Ave W	Toronto	Ontario	M6E 2H8	$750.00	Cheque	Pasquale Lorello	
3088	September 14, 2010	611428 Ontario Ltd	PO Box 633 11333 Dufferin St	Maple	Ontario	L6A 1S5	$750.00	Cheque	Lucia Milani	
3089	September 14, 2010	1714486 Ontario Ltd	PO Box 633 11333 Dufferin St	Maple	Ontario	L6A 1S5	$750.00	Cheque	Cam Milani	
	March 22, 2011	1714486 Ontario Ltd	PO Box 633 11333 Dufferin St	Maple	Ontario	L6A 1S5	-$750.00	Campaign Cheque # 9 Refund For Over Contribution		
7389	October 22, 2010	Percon Construction	1295 Shawson Dr	Mississauga	Ontario	L4W 1C4	$500.00	Cheque	Frank Peracone	
			Total Corp Contributions							$2,500.00
		Total Contributions								$11,250.00

Exhibit 9

Court File No. CV-09-388814

ONTARIO
SUPERIOR COURT OF JUSTICE

APPLICATION UNDER the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M. 50 as amended

BETWEEN:

RICHARD LORELLO

Plaintiff

- and -

PETER MEFFE

Defendant

THIS SATISFACTION DOCUMENT HAS BEEN NOTED AND ENTERED THIS February 8, 2011
CE CERTIFICAT DE PAIEMENT A ÉTÉ INSCRIT LE
(M. Brenton)
REGISTRAR SUPERIOR COURT OF JUSTICE
GREFFIER COUR SUPÉRIEURE DE JUSTICE

SATISFACTION PIECE

Satisfaction is acknowledged in respect of the June 23, 2010 order for costs of Justice Penny wherein the Plaintiff, Richard Lorello, was ordered to pay costs to the Defendant, Peter Meffe, in the amount of $108,318 plus interest.

And the said Peter Meffe expressly nominates and appoints his lawyer to witness and attest his acknowledgment of satisfaction.

Dated at Toronto this 25th day of January, 2011

PETER MEFFE

Signed by Martin Sclisizzi on this 25th day of January, 2011. And I declare myself to be lawyer for Peter Meffe expressly named by him and attending at his request to inform him of the nature and effect of the acknowledgment of satisfaction which I accordingly did before the same was executed by him.
In testimony whereof I subscribe my name as solicitor.

MARTIN SCLISIZZI

Court File No. 265/10

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

APPLICATION UNDER the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M. 50 as amended

BETWEEN:

RICHARD LORELLO

Applicant
(Appellant)

- and -

PETER MEFFE

Respondent
(Respondent)

SATISFACTION PIECE

Satisfaction is acknowledged in respect of the July 8, 2010 order of the Divisional Court of Ontario wherein the Appellant, Richard Lorello, was ordered to pay costs to the Respondent, Peter Meffe, in the amount of $10,000 plus interest.

And the said Peter Meffe expressly nominates and appoints his lawyer to witness and attest his acknowledgment of satisfaction.

Dated at Toronto this 27th day of January, 2011

PETER MEFFE

Signed by Martin Sclisizzi on this 25th day of January, 2011. And I declare myself to be lawyer for Peter Meffe expressly named by him and attending at his request to inform him of the nature and effect of the acknowledgment of satisfaction which I accordingly did before the same was executed by him.
In testimony whereof I subscribe my name as solicitor.

MARTIN SCLISIZZI

Richard Lorello
Plaintiff

v.

Peter Meffe
Defendant

Court File No. 265/10

ONTARIO
SUPERIOR COURT OF JUSTICE
(Divisional Court)

Proceeding commenced at Toronto

SATISFACTION PIECE

FRED TAYAR & ASSOCIATES
Professional Corporation
Barristers and Solicitors
20 Queen St., West, 9th Floor
Toronto, Ontario
M5H 3R3

Fred Tayar (23909N)
Tel: (416) 363-1800
Fax: (416) 363-3356

Lawyers for the plaintiff

RELEASE

KNOW ALL MEN BY THESE PRESENTS THAT PETER MEFFE, hereinafter referred to as the "Releasor" (which term includes his heirs, executors, administrators and personal trustees), in consideration of the payment of $109,000 and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, does hereby remise, release, and forever discharge **RICHARD LORELLO**, hereinafter referred to as the "Releasee" (which term includes his heirs, executors, administrators and personal trustees), of all claims, actions, damages, demands, manner of actions, causes of action, suits, which the Releasor ever had, now has or may hereafter have against the Releasee for, or by reason of, the orders for costs granted in the Ontario Superior Court of Justice in the proceeding bearing Court File No. CV-09-388814 and in the Divisional Court bearing Court File No. 265/10 or in respect of the subject matter of the said proceeding.

AND FOR THE SAID CONSIDERATION the Releasor covenants and agrees with the Releasee not to make claim or cross-claim or to take proceedings against any other person, firm, partnership, business, or corporation who or which might claim contribution from, or to be indemnified by, the Releasee, under the provisions of any statute or otherwise.

AND IT IS UNDERSTOOD that by making the above payment, the Releasee does not admit liability to the Releasor and that such liability is specifically and expressly denied.

IN WITNESS WHEROF the Releasor has executed these presents, this 24th day of January, 2011.

Witness

Peter Meffe

VOTE FOR RICHARD LORELLO AS LOCAL A...

Messages | Actic

Communication 3.

Natalie Lorello

ONLINE POLL: VOTE RICHARD LORELLO

PLEASE GO TO http://www.timeforchangevaughan.com/ AND VOTE FOR RICHARD LORELLO IN THE ONLINE POLL!! THANKS TO EVERYONE FOR THEIR SUPPORT !

You can't reply to updates from VOTE FOR RICHARD LORELLO AS LOCAL AND REGIONAL COUNCILLOR IN VAUGHAN.

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VOTE FOR RICHARD LORELLO AS LOCAL AND REGION COUNCILLOR IN VAUGHAN

Share · Public Event

Time Monday, October 25, 2010 · 12:00am - 9:00pm

Location VOTE FOR LORELLO ON OCT 25TH 2010 AT YOUR NEAREST VOTING S

Created By Natalie Lorello

More Info "BECAUSE VAUGHAN DESERVES A CHANGE!"
Richard T. Lorello
For Local and Regional Councillor

Meet Richard

•Happily married, father to three wonderful daughters, 8 year Vaughar
•An experienced 18 year manager in Information Technology
•Private fundraising Vaughan Healthcare, Tornado Victims and Women
•5 years, tenaciously fighting for good government, exposing corruptio
taxpayer money which necessitated investigations and policy review at
•5 years, private auditing and reporting of Vaughan's management pra

Why I am Running For Council

•To establish strong management practices, currently lacking in City of
•To establish responsible, sustainable development and control gridlock
•To establish safe, comprehensive roads for cars, buses, bicycles and p
•To establish fairer taxes and healthcare for Vaughan residents
•To end abuse, mismanagement, waste and corruption within City of V
•To restore our good name and integrity through sound policy and mar

My Vision For Vaughan Residents

•A city where the residents needs are brought back to the forefront
•A city where the volce of residents means something again
•A city that values the health and welfare of its residents
•A city that is known as a leader for its integrity and management

As a determined and persistent individual who thrives on big challenge
forward to the opportunity to represent Vaughan. I would be honoured
to continue to work in the interest of Vaughan residents.

This is a critical time to bring about structural change in our city. As an
see this as a time for hope, which can only be brought about with hard
your support.

Let's Take Our City Back!!!!!

****For further information on how you can help Richard bring about s
change, please visit http://www.richardlorello.ca/ or call 647-883-0606

WWW.RICHARDLORELLO.CA

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Alex Morris Comm. 4
Ali Caufin
Ben Cox
Beth Corbett
Bridget Benn
Carlo Raponi
Chandler Nicolucci
Craig Draeger
Evan Rankin
Geoff Pollock
Heather Lennon
Jacob Mantle
Jameson Holman
Jason Wiseman
Josh Zel
Kathleen Moxley
Kevin Wiener
Lauren Dauphinee
Louis Tsilivis
Luke Robertson
Madison Amanda
Maryanne Sheehy
Michael D'Amico
Murray Kay
Natalie Guerrera
Nick Caufin
Rohit Jha
Shane R L Coote
Stephanie Fusco

Michelle Lorello
http://www.timeforchangevaugha
n.com/

Time For Change Vaughan | 2010 Election, your vote counts!
www.timeforchangevaughan.com
City of Vaughan counsillors must be voted out of the upcoming election

Like · Comment · Share · September 26, 2010 at 8:53pm

Natalie Lorello



VOTE FOR RICHARD LORELLO AS LOCAL AND REGIONAL COUNCILL IN VAUGHAN

September 22, 2010 at 4:37pm


Alex Morris


Ali Caufin


Ben Cox


Beth Corbett


Bridget Benn


Carlo Raponi


Chandler Nicolucci


Craig Draeger


Evan Rankin


Geoff Pollock


Heather Lennon


Jacob Mantle


Jameson Holman


Jason Wiseman


Josh Zel


Kathleen Moxley


Kevin Wiener


Lauren Dauphinee


Louis Tsilivis


Luke Robertson


Madison Amanda


Maryanne Sheehy


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