



The Corporation of the Town of LaSalle

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<b>Date</b>	August 7, 2018	<b>Report No:</b>	CL-20-18
<b>Directed To:</b>	Mayor and Members of Council	<b>Attachments:</b>	2018 Terms of Reference
<b>Department:</b>	Department of Council Services	<b>Policy References:</b>	
<b>Prepared By:</b>	Kevin Miller, Acting Clerk Linda Jean, Deputy Clerk		
<b>Subject:</b>	Town of LaSalle 2018 Election Compliance Audit Committee		

**RECOMMENDATION:**

That the report of the Acting Clerk and Deputy Clerk dated August 7, 2018 (CL-20-18) regarding the establishment of a Compliance Audit Committee for the 2018 Municipal Election BE RECEIVED; that the 2018 Compliance Audit Committee Terms of Reference BE APPROVED; that approval BE GRANTED to the Clerk to appoint members of the committee; and that a corresponding bylaw BE ADOPTED during the bylaw stage of the agenda.

**REPORT:**

Under the *Municipal Elections Act (MEA)* (s.88.37(1)), "a Council or local board shall establish a compliance audit committee before October 1 of an election year for the purposes of the Act."

The Compliance Audit Committee responds to applications made under section 88 of the MEA. The MEA lays out the requirements for the establishment of the Committee along with the process for conducting a compliance audit.

A qualified elector who believes on reasonable grounds that a candidate or registered third party has contravened a provision of the MEA relating to election campaign finances may apply for a compliance audit of the candidate's or registered third party's election campaign finances. Any completed applications would be submitted to the Clerk and forward to the Compliance Audit Committee for review.


Legislative changes to the Act since the 2014 Municipal Election have established new statutory requirements for the Clerk to report on any contributor to a candidate or registered third party which has exceeded any of the contribution limits set out in the Act. The Clerk shall review all financial statements submitted by candidates and registered third parties within 30 days of the filing date or supplementary filing date, and prepare a report identifying such contributors who appear to have exceeded any contribution limits under the Act. The Clerk shall prepare a separate

report for each contributor whose contributions to a candidate (or candidates), or a registered third party (or registered third parties) appear to have contravened any of the contribution limits. Once completed, any report prepared by the Clerk shall be forwarded to the Committee who upon receiving the report(s), will have 30 days to consider it and decide whether to commence legal proceedings against any contributor for an apparent contravention.

A draft 2018 Election Compliance Audit Committee Terms of Reference is attached for review. Upon approval, recruitment of members will commence.


All applicants will be required to submit a completed application form outlining their qualifications and experience, The Clerk shall appoint members of the Committee. Although historically members of Council have participated in the selection process, it is recommended authority be delegated to the Clerk to avoid any conflict.

Respectfully submitted,

  
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L. Jean, Deputy Clerk

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K. Miller, Chief Administrative Officer

Reviewed by:							
CAO	Finance	Council Services	Public Works	DSI	Culture & Rec	Fire	





## **ELECTION COMPLIANCE AUDIT COMMITTEE TERMS OF REFERENCE**

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### **Enabling Legislation**

Section 88.37(1) of the *Municipal Elections Act*, 1996 S.O. 1996 c. 32, as amended, (MEA) requires that before October 1<sup>st</sup> in an election year, Council establish a compliance audit committee for the Town of LaSalle to consider compliance audit applications with regards to municipal candidates and Registered Third Party financial statements filed under Section 88.33 of the Act.

### **Mandate**

The mandate of the Committee is to carry out the functions of a Compliance Audit Committee as set out in the Act.

### **Membership Composition**

The committee shall be composed of no less than three (3) members appointed by Clerk and one (1) alternate and shall **not** include:

- a) employees or officers of the municipality or local board;
- b) members of the council or local board; or
- c) any persons who are candidates in the election for which the committee is established or family members of employees of Third Party Advertisers, or any person connected to a Third Party Advertiser through and employment, contractual, business or partnership relationship
- d) any persons registered as a third party in the municipal election in the Town of LaSalle or for a school board
- e) any persons who volunteer for, or contribute to, any candidate or registered third party, in any capacity in the municipal/school board election
- f) a current elected member of a municipal council or of a provincial or federal legislature

## **Term of Committee**

The Term of the appointment is concurrent with the term of Council. Upon the term's expiry, Committee members may reapply to the Selection Committee to serve additional terms.

## **Role of the Clerk**

The clerk of the Municipality or the secretary of the local board, as the case may be, shall establish administrative practices and procedures for the committee and shall carry out any duties required under this Act to implement the committee's decisions.

## **Meetings**

The Clerk shall call a meeting of the Committee when he or she receives an application for a Compliance Audit and where he or she prepared a report under Section 88.34. The Applicant and the Candidate or their representative will be provided with an opportunity to address the Committee and provide written submissions.

Meeting dates, start times and locations shall be set by the Clerk.

Committee meetings will be open to the public but the Committee may deliberate in private, as noted in Section 88.33(5.1). No votes may be taken in private session.

## **Quorum**

A quorum shall be a majority of Committee members.

If a quorum is not present within fifteen (15) minutes of the time fixed for the commencement of the meeting, the Committee meeting will be rescheduled to a future date.

## **Procedures and Applicable Time Frames**

### Filing of an Application

An application for a compliance audit shall be made in writing to the Clerk of the municipality or the secretary of the local board for which the candidate was nominated for office; and it shall be in writing and shall set out the reasons for the elector's belief.

The application must be made within 90 days after the latest of the following dates:

- a) The filing date under section 88.30
- b) The date the candidate filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30

- c) The candidates' supplementary filing date, if any, under section 88.30;
- d) The date on which the candidate's extension, if any, under subsection 88.23 expires

#### Application to be forwarded to committee

Within 10 days after receiving the application, the Clerk of the municipality or secretary of the local board, as the case may be, shall forward the application to the committee and provide a copy to the council or local board.

#### Decision

Within 30 days after receiving the application, the committee shall consider the application and decide whether it should be granted or rejected.

#### Appeal

The decision of the committee 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 committee could have made.

#### Appointment of Auditor

If the committee decides to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. Only auditors licensed under the Public Accounting Act, 2004 or prescribed persons are eligible to be appointed.

#### Duty of Auditor

The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of the Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate.

#### Who receives the report?

The auditor shall submit the report to:

- a) The candidate
- b) The Clerk with whom the candidate filed his or her nomination
- c) The secretary of the local board, if applicable
- d) The applicant

### Report to be forwarded to committee

Within 10 days after receiving the report, the Clerk of the municipality or the secretary of the local board shall forward the report to the Election Compliance Audit Committee.

### Powers of auditor

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 powers set out in section 33 of the *Public Inquiries Act, 2009* and section 33 applies to the audit

### Powers of committee

The committee shall consider the report within 30 days after receiving it and may:

- a) if the report concludes that the candidate appears to have contravened a provision of this Act relating to election campaign finances, commence a legal proceeding against the candidate for apparent contraventions;
- b) if the report concludes that the candidate does not appear to have contravened a provision of this Act relating to election campaign finances, make a finding as to whether there were reasonable grounds for the application.

### Immunity

No action or other proceeding for damages shall be instituted against an auditor appointed by the committee for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith.

### Saving provision

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.

## **Budget and Resources**

Members of the committee shall receive a per diem of \$100.00 for attendance at each meeting.

The town is responsible to pay for any audit costs relating to decisions of the committee.

The following Town of LaSalle staff resources will be required for the successful operation of this committee:

Staff #1	Director of Council Services and Clerk
Staff #2	Administrative Assistant to the Clerk
Staff #3	Town Solicitor (as required)

The Clerk will co-ordinate and retain Committee records including agendas and minutes.

## **Code of Conduct**

Committee members will be guided by the Town of LaSalle's Accessible Customer Service Policy, Workplace Violence and Harassment Policies, *Municipal Freedom of Information and Protection of Privacy Act* and *Municipal Elections Act*.

## **Declaration of Pecuniary Interest**

Legislated requirements as set out in the *Municipal Conflict of Interest Act* shall apply to all Committee members. It is the responsibility of each member to disclose any pecuniary interest prior to discussion of a particular matter. Members are encouraged to seek independent legal advice if they are unsure of whether or not they have a pecuniary interest in a matter.

## **Selection of an Auditor**

Committee members will participate in the selection of an Auditor in response to a request for proposal prepared by staff. The Auditor as required by the legislation will be appointed by the Committee. The engagement letter will indicate that the Auditor has been engaged by the Committee and will be prepared and executed by the Clerk of the Municipality.