

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON FEBRUARY 20, 2018
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	2018 MUNICIPAL ELECTION COMPLIANCE AUDIT COMMITTEE

RECOMMENDATION

That, on the recommendation of the City Clerk, with the concurrence of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer and the Deputy City Clerk, the following actions be taken with respect to the 2018 Municipal Election Compliance Audit Committee:

- a) the attached proposed by-law (Appendix "A") BE INTRODUCED at the Municipal Council meeting to be held on March 6, 2018 to establish a Municipal Compliance Audit Committee for the 2018 Municipal Election in accordance with section 88.37 of the *Municipal Elections Act, 1996*, as amended;
- b) the attached proposed by-law (Appendix "C") BE INTRODUCED at the Municipal Council meeting to be held on March 6, 2018 to approve the appointments to the Municipal Election Compliance Audit Committee for the 2018 Municipal Election in accordance with section 88.37 of the *Municipal Elections Act, 1996*, as amended; and,
- c) the Elections Reserve BE APPROVED as the source of funding for the annual operating costs related to the Municipal Compliance Audit Committee for the 2018 Municipal Election.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
--

- Item #16 – Board of Control – March 24, 2010
Item #18 – Board of Control – June 9, 2010
Item #6 – Corporate Services Committee – February 4, 2014

BACKGROUND

Section 88.37 of *Municipal Elections Act, 1996 (MEA)*, pertaining to compliance audit applications, requires all municipalities and local boards to establish compliance audit committees. Excerpt from the *MEA* are attached as Appendix "B" to this report.

The following summarizes the requirements as set out in section 88.37 of the *MEA*:

- mandatory appointment by all municipalities;
- minimum of three, maximum of seven members;
- the committee shall not include members of Council or local board, employees or officers of the municipality or local board, any persons who are candidates in the election for which the committee is established; or any persons who are registered third parties in the municipality in the election for which the committee is established;
- appointed by October 1st of election year;
- serves a term concurrent with the term of office of the Council that takes office following the next regular election; and,
- Clerk has specific responsibility for the committee.

The powers and obligations of a compliance audit committee are as follows:

- consider a compliance audit application received from an elector that a candidate or a registered third party has contravened provisions of the *MEA* relating to election campaign finances and determine whether it should be granted or rejected;
- if the application is granted, the committee shall appoint an auditor to conduct a compliance audit;
- receive the auditor's report;
- consider the auditor's report and if the report concludes that the candidate or registered third party appears to have contravened a provision of the *MEA* relating to election campaign finances, the committee may commence legal proceedings against the candidate or third party for the apparent contravention; and,
- consider the report(s) of the clerk identifying each contributor to a candidate for office on a council or a registered third party who appears to have contravened any of the contribution limits under section 88.9 or 88.13 of the *MEA* and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

The Process

Candidates

All candidates are required to file provincially-prescribed financial statements with the clerk, detailing their campaign financing activities. An eligible elector who believes, on reasonable grounds, that a candidate has contravened the *MEA*, relating to campaign finances, may apply for a compliance audit of the candidate's election campaign finances. The application must be made in writing to the clerk, include the reasons for the elector's belief that the candidate has contravened the *MEA*, and must be made within 90 days after the latest of:

- (a) the filing date under section 88.30 of the *MEA*;
- (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 of the *MEA*;
- (c) the candidate's supplementary filing date, if any, under section 88.30 of the *MEA*; or
- (d) the date on which the candidate's extension, if any, under subsection 88.23(6) of the *MEA* expires.

Compliance Audit – Registered Third Party Advertisements

All registered third parties are required to file provincially-prescribed financial statements with the clerk, detailing their campaign financing activities. An eligible elector who believes, on reasonable grounds, that a registered third party who is registered in relation to the election in the municipality has contravened the *MEA*, relating to campaign finances, may apply for a compliance audit of the registered third party in relation to third party advertisements. The application must be made in writing to the clerk, include the reasons for the elector's belief that the registered third party has contravened the *MEA*, and must be made within 90 days after the latest of:

- (a) the filing date under section 88.30 of the *MEA*;
- (b) the date the registered third party filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30 of the *MEA*;
- (c) the supplementary filing date, if any, for the registered third party under section 88.30 of the *MEA*; or
- (d) the date on which the registered third party's extension, if any, under subsection 88.27(3) of the *MEA* expires.

Candidate – Contributions

The clerk shall review the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.9 of the *MEA* and submit a report to the compliance audit committee identifying any contributor who appears to have contravened any of the contribution limits under section 88.9 of the *MEA*.

Within 30 days after receiving a report, the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

Third Party Advertisements – Contributions

The clerk shall review the contributions reported on the financial statements submitted by a registered third party under section 88.29 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.9 of the *MEA* and submit a report to the compliance audit committee identifying any contributor who appears to have contravened any of the contribution limits under section 88.13 of the *MEA*.

Within 30 days after receiving a report, the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

The Committee

The proposed terms of reference, attached as Schedule 1 to Appendix “A”, provide for a 2018 Municipal Election Compliance Audit Committee composed of three (3) members.

It is important that the 2018 Municipal Election Compliance Audit Committee members possess an in-depth knowledge of the campaign finance rules of the *MEA* so that they can make independent decisions on the merits of the applications. As the Committee will operate as a quasi-judicial committee, prior experience on a committee, task force or tribunal would be an asset. A Committee composed of professionals such as auditors, accountants, lawyers, academics and other individuals having a familiarity with municipal election campaign financing rules is recommended.

To avoid possible conflicts of interest, any member appointed to the 2018 Municipal Election Compliance Audit Committee must declare that they will not prepare the financial statements of any candidate running for office on Municipal Council for the term for which the Committee is established. Therefore, any member appointed to the Committee would have to agree to this in writing, prior to the appointment being made. Failure to adhere to this requirement shall result in the individual being removed from the Committee.

Appointments to the Committee

Municipal Council, at its meeting of February 11, 2014 appointed Tim Cobban, Andrew Wright and Christene Scrimgeour to the Municipal Elections Compliance Audit Committee established for the 2014 Municipal Election. The Civic Administration is recommending that Mr. Wright and Ms. Scrimgeour be appointed to the Municipal Elections Compliance Audit Committee (MECAC) being established for the 2018 Municipal Election. Dr. Cobban is not seeking reappointment. The Civic Administration is recommending that Dan Ross be appointed as the third member of the MECAC being established for the 2018 Municipal Election.

All three applicants meet the membership criteria identified in the terms of reference for the MECAC, which are as follows:

“The Committee will be composed of three (3) members, with membership drawn from the following stakeholder groups:

- (a) accounting and audit – accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;*

- (b) *academic – college or university professors with expertise in political science or local government administration;*
- (c) *legal profession with experience in municipal law, municipal election law or administrative law;*
- (d) *professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals; and*
- (e) *other individuals with knowledge of the campaign financing rules of the Municipal Elections Act, 1996.*

Members of Council, employees or officers of the municipality or local board, any person who are registered third parties in the municipality in the election for which the committee is established or any persons who are candidates in the election for which the committee is established are not eligible to be appointed to the Committee, pursuant to clause 88.37(2) of the Municipal Elections Act, 1996, as amended.

Further, an individual shall be deemed ineligible to be a member of the Committee if they prepare the financial statements of any candidate running for office on Municipal Council during the term for which the Committee has been established.”

All three individuals have expressed interest in being appointed to the MECAC for the 2018 Municipal Election. The applicants have submitted a summary of their qualifications which are attached as Appendix “D” to this report, for the information of Municipal Council.

Financial Impact

The municipality is responsible for any costs resulting from the review of applications submitted to the MECAC. These costs include:

- Committee members’ honorarium, which is being recommended to be \$100.00 per member, per meeting
- auditor’s costs to perform an audit
- costs related to the Committee’s operations and activities
- legal costs related to an appeal to the Ontario Court of Justice with respect to a decision of the Committee
- legal costs to undertake legal action against the candidate for violations of the elections finance provisions of the *MEA*

Factors involved in determining MECAC costs include the number of compliance audit applications that are received, the number of meetings that are required to be held, and the complexity of the audits that need to be conducted. It is therefore difficult to pre-determine the costs that will result from the establishment of the MECAC process, as the number of applications to be submitted are unknown in advance. The Elections Reserve has been identified as the source of financing for the operational expenses of the MECAC.

Penalties

The following penalties are available to the courts upon conviction of violations under the *Municipal Elections Act, 1996*:

- Individual:
 - maximum fine of \$25,000
 - if convicted of a corrupt practice, automatic loss of seat and ineligible to run or be appointed to office
 - the Court has discretion to impose up to six months imprisonment for corrupt practice and for any other offence if the offence was committed knowingly
 - ineligible to be elected or appointed to any office until after the next general election if convicted of a corrupt practice
- Unions and Corporations:
 - maximum fine of \$50,000

Conclusion

The City Clerk recommends that the attached proposed by-law (Appendix "A") BE INTRODUCED at the Municipal Council meeting to be held on March 6, 2018 for the purpose of establishing the Municipal Election Compliance Audit Committee for the 2018 Municipal Election with the source of financing for the operational costs of the Committee being identified as the Elections Reserve.

The City Clerk also recommends that the attached proposed by-law (Appendix "C") BE INTRODUCED at the Municipal Council meeting to be held on March 6, 2018 to appoint Dan Ross, Andrew Wright and Christine Scrimgeour to the Municipal Election Compliance Audit Committee being established for the 2018 Municipal Election, in accordance with the *Municipal Elections Act, 2006*, as amended.

CONCURRED BY:	CONCURRED BY:
ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER/CHIEF FINANCIAL OFFICER	LINDA ROWE DEPUTY CITY CLERK
RECOMMENDED BY:	
CATHY SAUNDERS CITY CLERK	

APPENDIX A

Bill No.
2018

By-law No.

A by-law to establish the 2018 Municipal Election Compliance Audit Committee in accordance with Section 88.37 of the *Municipal Elections Act, 1996*, as amended.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001*, as amended, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 88.37 of the *Municipal Elections Act, 1996*, as amended, requires council to establish a compliance audit committee;

AND WHEREAS this by-law and the Terms of Reference attached hereto as Schedule 1 comply with Section 270 of the *Municipal Act, 2001*, as amended, and Council Policy By-law A.-6151-17, with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions and the manner in which the municipality will try to ensure that its actions are transparent to the public;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The attached Terms of Reference (Schedule 1) to establish the 2018 Municipal Election Compliance Audit Committee be adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 6, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First reading – March 6, 2018
Second reading – March 6, 2018
Third reading – March 6, 2018

Schedule 1

TERMS OF REFERENCE

2018 MUNICIPAL ELECTION COMPLIANCE AUDIT COMMITTEE

Name

The name of the Committee is the “2018 Municipal Election Compliance Audit Committee”.

Term of the Committee

The term of the Committee shall be from December 1, 2018 to November 15, 2022.

Meetings

The Committee will meet as needed, with meetings to be scheduled by the City Clerk or their designate when a compliance audit application is received.

Mandate

The Committee is required to act in accordance with the powers and obligations set out in the *Municipal Elections Act, 1996*, as amended (*MEA*). The Committee will be required to:

- consider a compliance audit application received from an elector that a candidate or a registered third party has contravened provisions of the *MEA* relating to election campaign finances and determine whether it should be granted or rejected;
- if the application is granted, the committee shall appoint an auditor to conduct a compliance audit;
- receive the auditor’s report;
- consider the auditor’s report and if the report concludes that the candidate or registered third party appear to have contravened a provision of the *MEA* relating to election campaign finances, the committee may commence legal proceedings against the candidate or third party for the apparent contravention; and,
- consider the report(s) of the clerk identifying each contributor to a candidate for office on a council or a registered third party who appears to have contravened any of the contribution limits under section 88.9 or 88.13 of the *MEA* and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

Composition

The Committee will be composed of three (3) members, with membership drawn from the following stakeholder groups:

- a) accounting and audit – accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;
- b) academic – college or university professors with expertise in political science or local government administration;
- c) legal profession with experience in municipal law, municipal election law or administrative law;
- d) professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals; and,
- e) other individuals with knowledge of the campaign financing rules of the *Municipal Elections Act, 1996*, as amended.

Members of Council, employees or officers of the municipality or local board, any persons who are registered third parties in the municipality in the election for which the committee is established or any persons who are candidates in the election for which the Committee is established are not eligible to be appointed to the Committee, pursuant to clause 88.37(2) of the *Municipal Elections Act, 1996*, as amended.

Further, an individual shall be deemed ineligible to be a member of the Committee if they prepare the financial statements of any candidate running for office on Municipal Council during the term for which the Committee has been established.

Appointment Process

All applicants will be required to submit a summary outlining their qualifications and experience. A Nomination Committee consisting of the Managing Director, Corporate Services and Chief Financial Officer/City Treasurer, the City Clerk and the Deputy City Clerk will submit a short list of candidates to Council through the Corporate Services Committee. Any vacancies which arise after December 1, 2018 shall be nominated by the Nomination Committee to Council, through the Corporate Services Committee.

Members will be selected on the basis of the following:

- a) demonstrated knowledge and understanding of municipal election campaign financing rules and knowledge of the MEA and related regulations;
- b) proven analytical and decision-making skills;
- c) experience working on a committee, administrative tribunal, task force or similar setting;
- d) availability and willingness to attend meetings; and,
- e) excellent oral and written communication skills;

Members will be appointed by Municipal Council.

Compensation

Members shall receive an honorarium of \$100.00 per meeting, to be funded from the Election Reserve. Administrative costs for such items as printing and mailing will be absorbed within the City Clerk's Operating Budget.

Staff Support

The City Clerk shall establish administrative practices and procedures for the Committee and shall carry out any other duties required under this *Act* to implement the Committee's decisions.

Funding

Costs related to the retention of an auditor will be funded from the Election Reserve.

Costs incurred as a result of a decision of the Committee being challenged to the Superior Court of Justice shall be funded from the Election Reserve.

APPENDIX "B"

EXCERPTS FROM THE *MUNICIPAL ELECTIONS ACT, 1996, AS AMENDED*

Compliance Audit - Candidate

Application by elector

88.33 (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, even if the candidate has not filed a financial statement under section 88.25. 2016, c. 15, s. 63, *part*.

Application - requirements

(2) An application for a compliance audit shall be made 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. 2016, c. 15, s. 63, *part*.

Application - deadline

- (3) The application must be made within 90 days after the latest of the following dates:
1. The filing date under section 88.30.
 2. 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.
 3. The candidate's supplementary filing date, if any, under section 88.30.
 4. The date on which the candidate's extension, if any, under subsection 88.23(6) expires. 2016, c. 15, s. 63, *part*.

Application – forwarding to committee

(4) Within 10 days after receiving the application, the clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the compliance audit committee. 2016, c.15, s. 63, *part*.

Committee – meetings - notice

(5) Reasonable notice of the meetings of the committee under this section shall be given to the candidate, the applicant and the public. 2017, c. 20, sch. 10, s. 1, *part*.

Committee meetings – open

(5.1) The meetings of the committee under this section shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sch. 10, s. 1, *part*.

Committee meetings – open – despite Education Act

(6) Subsection (5.1) applies despite sections 207 and 208.1 of the *Education Act*, 2017, c.20, Sch. 10, s. 1, *part*.

Committee – declaration – 30 days

(7) Within 30 days after the committee has received the application, the committee shall consider the application and decide whether it should be granted or rejected. 2016, c.15, s. 63, *part*.

Committee – decision – distribution - reasons

(8) The decision of the committee to grant or reject the application, and brief written reasons for the decision, shall be given to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c.15, s. 63, *part*.

Committee – decision - appeal

(9) The decision of the committee under subsection (7) may be appealed to the Superior Court of Justice within 15 days after the decision is made, and the court may make any decision the committee could have made. 2016, c. 15, s. 63, *part*.

Auditor - appointment

(10) If the committee decides under subsection (7) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2016, c. 15, s. 63, *part*.

Auditors - qualifications

(11) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (10). 2016, c. 15, s. 63, *part*.

Auditor - duty

(12) 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 this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate. 2016, c. 15, s. 63, *part*.

Auditor report - distribution

(13) The auditor shall submit the report to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, C. 15, s. 63, *part*.

Auditor report – forwarded to the committee

(14) 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 compliance audit committee. 2016, c. 15, s. 63, *part*.

Auditor - powers

- (15) 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. 2016, c.15, s. 63, *part*.

Audit - costs

(16) The municipality or local board shall pay the auditor's costs of performing the audit. 2016, c. 15, s. 63, *part*.

Auditor report – review by committee

(17) The committee shall consider the report within 30 days after receiving it and, if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, the committee shall decide whether to commence a legal proceeding against the candidate for the apparent contravention. 2016, c.15, s. 63, *part*.

Auditor report – committee decision - reasons

(18) The decision of the committee under subsection (17), and brief written reasons for the decision, shall be given to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c.15, s. 63, *part*.

Audit - immunity

(19) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (10) 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. 20-16, c. 15, s. 63, *part*.

Saving provision – alleged contravention – campaign finances

(20) 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. 2016, c. 15, s. 63, *part*.

Compliance Audit – Candidate – Contributions**Review of contributions to candidates – by clerk**

88.34 (1) The clerk shall review the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.9. 2016, c. 15, s. 64, *part*.

Compliance audit – contributions – candidates - council

(2) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30, the clerk shall prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under section 88.9 and,

(a) if the contributor's total contributions to a candidate for office on a council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to the candidate; and

(b) if the contributor's total contributions to two or more candidates for office on the same council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same council. 2016, c. 15, s. 64.

Date – Report – contributors in contravention – supplementary filing

(3) The clerk shall prepare a separate report under subsection (2) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9. 2016, c. 15, s. 64, *part*.

Clerk's report – council to compliance audit committee

(4) The clerk shall forward each report prepared under subsection (2) to the compliance audit committee. 2016, c. 15, s. 64, *part*.

Clerk's report – identifying contributors – local board

(5) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30, the clerk shall prepare a report identifying each contributor to a candidate for office on a local board who appears to have contravened any of the contribution limits under section 88.9 and,

(a) if the contributor's total contributions to a candidate for office on a local board appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to the candidate; and

(b) if the contributor's total contributions to two or more candidates for office on the same local board appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same local board. 2016, c. 15, s. 64, *part*.

Clerk's report – separate – over limit – local board

(6) The clerk shall prepare a separate report under subsection (5) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9. 2016, c. 15, s. 64, *part*.

Clerk's report – local board – who receives

(7) The clerk shall forward each report prepared under subsection (5) to the secretary of the local board for which the candidate was nominated for office and, within 10 days after receiving the report, the secretary of the local board shall forward it to the compliance audit committee. 2016, c. 15, s. 64, *part*.

Clerk's report – review by compliance audit committee

(8) Within 30 days after receiving a report under subsection (4) or (7), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention. 2016, c. 15, s. 64, *part*.

Clerk's report – committee meeting - notice

(9) Reasonable notice of the meetings of the committee under subsection (8) shall be given to the contributor, the applicable candidate and the public. 2017, c. 20, Sched. 10, s. 2, *part*.

Clerk's report – committee meeting open

(9.1) The meetings of the committee under subsection (8) shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 2, *part*.

Clerk's report – meeting – open – despite Education Act

(10) Subsection (9.1) applies despite sections 207 and 208.1 of the *Education Act*. 2017, c. 20, Sched. 10, s. 2, *part*.

Clerk's report – decision – reasons

(11) The decision of the committee under subsection (8), and brief written reasons for the decision, shall be given to the contributor and to the clerk of the municipality or the secretary of the local board, as the case may be. 2016, c. 15, s. 64, *part*.

Saving provision – alleged contravention – contribution limits

(12) 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 contribution limits. 2016, c. 15, s. 64, *part*.

Compliance Audit – Registered Third Party Advertisements**Application – by elector**

88.35 (1) An elector who is entitled to vote in an election in a municipality and believes on reasonable grounds that a registered third party who is registered in relation to the election in the municipality has contravened a provision of this Act relating to campaign finances may apply for a compliance audit of the campaign finances of the registered third party in relation to third party advertisements, even if the registered third party has not filed a financial statement under section 88.29. 2016, c. 15, s. 65, *part*.

Application - requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality in which the registered third party was registered, and it shall be made in writing and shall set out the reasons for the elector's belief. 2016, c. 15, s. 65, *part*.

Application - deadline

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

1. The filing date under section 88.30.
2. The date the registered third party filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30.
3. The supplementary filing date, if any, for the registered third party under section 88.30.
4. The date on which the registered third party's extension, if any, under subsection 88.27 (3) expires. 2016, c. 15, s. 65, *part*.

Candidate provisions – application to registered third parties

(4) Subsections 88.33 (4) to (20) apply to a compliance audit under this section, with the following modifications:

1. A reference to a candidate shall be read as a reference to the registered third party.
2. A reference to the clerk with whom the candidate filed his or her nomination shall be read as a reference to the clerk of the municipality in which the registered third party is registered.
3. A reference to election campaign finances shall be read as a reference to the campaign finances of the registered third party in relation to third party advertisements that appear during an election in the municipality. 2016, c. 15, s. 65, *part*.

Compliance Audit – Registered Third Party Advertisements – Contributions

Review of contributions – by clerk

88.36 (1) The clerk shall review the contributions reported on the financial statements submitted by a registered third party under section 88.29 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.13. 2016, c. 15, s. 65, *part*.

Clerk's report – requirements

(2) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30 for a registered third party, the clerk shall prepare a report identifying each contributor to the registered third party who appears to have contravened any of the contribution limits under section 88.13 and,

(a) if the contributor's total contributions to a registered third party that is registered in the municipality appear to exceed the limit under section 88.13, the report shall set out the contributions made by that contributor to the registered third party in relation to third party advertisements; and

(b) if the contributor's total contributions to two or more registered third parties that are registered in the municipality appear to exceed the limit under section 88.13, the report shall set out the contributions made by that contributor to all registered third parties in the municipality in relation to third party advertisements. 2016, c. 15, s. 65, *part*.

Clerk's report – separate contributions – over limit

(3) The clerk shall prepare a separate report under subsection (2) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.13. 2016, c. 15, s. 65, *part*.

Clerk's report – to compliance audit committee

(4) The clerk shall forward each report prepared under subsection (2) to the compliance audit committee. 2016, c. 15, s. 65, *part*.

Clerk's report – review by compliance audit committee

(5) Within 30 days after receiving a report under subsection (4), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention. 2016, c. 15, s. 65, *part*.

Clerk's report – committee meeting - notice

(6) Reasonable notice of the meetings of the committee under subsection (5) shall be given to the contributor, the registered third party and the public. 2017, c. 20, Sched. 10, s. 3, *part*.

Clerk's report – committee meeting - open

(6.1) The meetings of the committee under subsection (5) shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 3, *part*.

Clerk's report – decision - reasons

(7) The decision of the committee under subsection (5), and brief written reasons for the decision, shall be given to the contributor and to the clerk of the municipality. 2016, c. 15, s. 65, *part*.

Saving provision – alleged contravention – contribution limits

(8) 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 contribution limits. 2016, c. 15, s. 65, *part*.

Compliance Audit Committee

Time for establishing

88.37(1) A council or local board shall, establish a compliance audit before October 1 of an election year for the purposes of this Act. 2016, c. 15, s. 66, *part*.

Composition

(2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,

- (a) employees or officers of the municipality or local board;
- (b) members of the council or local board;
- (c) any persons who are candidates in the election for which the committee is established; or
- (d) any persons who are registered third parties in the municipality in the election for which the committee is established. 2016, c. 15, s. 66, *part*.

Eligibility for appointment

(3) A person who has such qualifications and satisfies such eligibility requirements as may be prescribed is eligible for appointment to the committee. 2016, c.15, s. 66, *part*.

Eligibility criteria

(4) In appointing persons to the committee, the council or local board shall have regard to the prescribed eligibility criteria. 2016, c. 15, s. 66, *part*.

Term of Office

(5) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2016, c. 15, s. 66, *part*.

Role of clerk - secretary

(6) 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 other duties required under this Act to implement the committee's decisions. 2016, c. 15, s. 66, *part*.

Costs

(7) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2016, c. 15, s. 63, *part*.

APPENDIX “C”

Bill No.
2018

By-law No.

A by-law to approve the appointments to the Municipal Election Compliance Audit Committee for the 2018 Municipal Election in accordance with Sections 88.37 of the *Municipal Elections Act, 1996*, as amended.

WHEREAS section 88.37 of the *Municipal Elections Act, 1996*, as amended, requires Council to establish a Compliance Audit Committee;

AND WHEREAS the Council of The Corporation of the City of London wishes to appoint Dan Ross, Andrew Wright and Christene Scrimgeour to the Municipal Election Compliance Audit Committee for the 2018 Municipal Election;

AND WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Dan Ross, Andrew Wright and Christene Scrimgeour be hereby appointed to the Municipal Election Compliance Audit Committee for the 2018 Municipal Election for the term commencing December 1, 2018 and ending November 15, 2022.
2. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on March 6, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First reading - March 6, 2018
Second reading – March 6, 2018
Third reading – March 6, 2018

APPENDIX “D”

Andrew Wright

Andrew Wright is a London lawyer who has practiced municipal and environmental law since his call to the Bar in 1973. He is a partner with Siskinds LLP. Mr. Wright is an Acting Referee under the Drainage Act. He is also one of the City's Hearings Officers for appeals under a number of City by-laws. He is a member of a number Audit Compliance Committees in Middlesex and Elgin Counties.

Christene Scrimgeour

Christene Scrimgeour is managing partner of Scrimgeour & Company CPA, Professional Corporation. The firm was established in 1998 and currently audits thirteen municipalities in Southwestern Ontario, as well as many not-for-profit organizations, registered charities and foundations. In addition, the firm provides extensive tax, accounting and advisory services.

Christene's professional activities include teaching A.M.C.T.O. courses and delivering speeches at various municipal functions. She attends Municipal Finance Officers Association's (MFOA) annual conference and CPA Ontario PSAB courses.

Christene is a member of CPA Ontario's Practice Inspection Committee and past founding member of CPA Ontario's Small Practice Committee.

Dan Ross

Dan Ross is a retired London lawyer and local business owner who has served on many community organizations, including the London Health Sciences Foundation and the Richard Ivey School of Business. He continues to be strongly engaged in various local volunteer opportunities. Mr. Ross has also served as a Commissioner on Ontario's Health Services Restructuring Commission and as Chair of the Council Compensation Review Task Force.

In addition to his legal and business expertise, Mr. Ross has diverse skills covering such areas as Planned Giving, Stewardship, Fundraising, Annual Giving, Event Management, Philanthropy, Volunteer Management, Strategic Planning, Non-profits, Leadership, Coaching, Event Planning, Community Development, Community Outreach, Grant Writing, Strategic Communications, Media Relations, Leadership Development, Public Relations, Public Speaking, Board Development, Prospect Research, Corporate Communications and Marketing Communications.