

Staff Report 2023-0374

Meeting Date: July 10, 2023

Subject: Apparent Over-Contribution Pursuant to Section 88.9 of the Municipal Elections Act, 1996 – Gaetano Franco

Submitted By: Laura Hall, Director, Corporate Services / Town Clerk

REPORT HIGHLIGHTS

- In 2022, Council established the Town’s Municipal Compliance Audit Committee as required by the *Municipal Elections Act, 1996* (the ‘Act’).
- A key role of the Committee is to consider reports from the Town Clerk regarding apparent over-contributions made by individuals contributing to candidates during their campaigns.
- The Act requires the Town Clerk to review, Financial Statements of candidates to determine if over-contributions have occurred and provide reports to the Municipal Compliance Audit Committee for consideration.
- Pursuant to the Act, a contributor shall not make contributions exceeding a total of \$5,000 to two or more candidates for office on the same Council.
- Based on the Town Clerk’s review, an over-contribution may have occurred by Gaetano Franco.

DISCUSSION

Background

In 2022, the Municipal and School Board Election was conducted for the Town of Caledon. During the campaign period, candidates were permitted to receive contributions from individuals who are normally residents of Ontario. Contributions were required to be reported within a candidate’s Financial Statement filed with the Town by April 30, 2023.

In accordance with the Act, in April 2022 Council established a Municipal Election Compliance Audit Committee with recruitment of Members being finalized by September of that year. The role of the Municipal Election Compliance Audit Committee is to address requests for an audit of a candidate or third-party advertiser’s campaign finances. Further, the Committee considers reports from the Town Clerk of apparent over-contribution. Therefore, the purpose of this report is to carry out the requirements of the Act by bringing forward a report of apparent over-contribution by a contributor for consideration by the Committee.

Legislative Framework

As per Section 88.34 (1) of the *Municipal Elections Act, 1996*, the Town Clerk is required to review contributions reported on the Financial Statements of candidates to determine whether any contributors appear to have exceeded any of the contribution limits pursuant to Section 88.9.

Staff Report 2023-0374

Section 88.34 (2) of the Act requires the Town Clerk to prepare a report identifying each contributor to a candidate for an office on Council who appears to have contravened any of the contribution limits of Section 88.9. This Section sets the maximum contributions to candidates as follows:

- A contributor shall not make contributions exceeding a total of \$1,200 to any one candidate in an election; and
- 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.

If a contributor's total contributions to two or more candidates for office on the same Council appear to exceed the limit, the Act requires that the Town Clerk's report shall set out the contributions made by that contributor to all candidates for office on the same Council. This information is listed below as required.

The Town Clerk must forward each report to the Municipal Election Compliance Audit Committee. Within 30 days after receiving the report, the Municipal Election Compliance Audit Committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

Notice of Meeting

Reasonable notice of the meeting of the Municipal Compliance Audit committee is required to be given to the contributor and candidates to which their contributions relate as well as the public. Notices were sent by registered and regular mail to the contributor and related candidates on June 12, 2023. The Notice is attached to this Staff Report as Schedule A. Further, the meeting agenda was posted 22 days prior to this meeting on June 19, 2023 for consideration by members of the public.

Apparent Over-Contribution

Based on the review of contributions completed by the Town Clerk, the following individual appears to have exceeded the contribution limit by contributing to the listed candidates:

Contributor	Amount Contributed	Candidate
Gaetano Franco	\$1,000	Nick de Boer
	\$1,200	Annette Groves
	\$1,200	Jennifer Innis
	\$1,000	Angela Panacci
	\$1,000	Tony Rosa
	\$1,000	Dave Sheen
Total Contributions: \$6,400		

The total of all contributions to candidates for office on the same Council appears to exceed the limit of \$5,000.

NEXT STEPS

Pursuant to Section 88.34 (8) of the Municipal Elections Act, the Town's Election Compliance Audit Committee shall consider this report. The decision before the Committee is whether to commence a legal proceeding against the contributor for an apparent contravention.

Pursuant to Section 88.34 (11) of the Act, the decision of the Committee under subsection 88.34 (8) and brief written reasons for the decision, shall be given to the contributor and the Clerk of the municipality.

ATTACHMENTS

Schedule A – Meeting Notice for the Municipal Election Compliance Audit Committee -
Gaetano Franco