



ADR
C H A M B E R S

L1-1

Integrity Commissioner Office
for the City of Brampton

BRAMPTON CITY COUNCIL

DATE: April 19, 2014

March 24, 2014

SENT BY EMAIL AND COURIER TO:

Mr. Peter Fay, City Clerk
The Corporation of the City of Brampton
2 Wellington Street West
Brampton, ON L6Y 4R2

peter.fay@brampton.ca

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REG. NO.:
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Dear Mr. Fay:

Please find attached the following report of the Integrity Commissioner:

BIC-59-0214 – Complaint re Councillor John Sanderson

Yours truly,
ADR CHAMBERS INC.

per The Honourable Donald R. Cameron, Q.C.
Integrity Commissioner

DRC/jar

Encl.



L1-2

Integrity Commissioner Office for the City of Brampton

March 24, 2014

Mr. Peter Fay, City Clerk
City of Brampton
2 Wellington Street West
Brampton, Ontario L6Y 4R2

Re: Brampton OIC Complaint BIC-59-0214

FACTS:

Ms. J. M. Redl (the "Complainant") complains that Councillor Sanderson (the "Councillor") breached the law and the Code of Conduct when he used municipal staff and IT devices to send her an email on February 5, 2014 announcing his intention to be nominated as a candidate for Mayor on February 12, 2014 and a "kick-off" event at Tubs on Tuesday, February 13, 2014.

The Councillor said the email was sent to a select group of people, not including the Complainant, and so is confidential. It was sent a week before he was nominated as a candidate for Mayor. Accordingly, he says he was not in breach of s. 68 of the *Municipal Elections Act* ("MEA") (which defines a candidate's election campaign period).

DISCUSSION:

The Code of Conduct ("Code"), s. 3.4, requires "Members to conduct themselves in accordance with the *Municipal Elections Act* ("MEA"), legislation and policies in place during the term of office and the Code. It is the personal responsibility of each Member, acting also as a candidate, to ensure that the election campaign is carried out in accordance with all applicable legislation.

"The Mayor's and Councillors' election campaign or campaign related activities are prohibited from using corporate resources, both real property and staff, to avoid the perception that the City has provided an advantage over other candidates."

The MEA, s. 1, defines "candidate" as a person who has been nominated

under s. 33. Section 33 provides for filing a nomination in the Clerk's office, in the prescribed form and accompanied by the prescribed fee, at any time after January 1, in an election year, and by 2 p.m. on nomination day, the second Friday in September of election year.

Section 3 of the MEA provides that the Act applies (*inter alia*) to an election for the council of a local municipality.

Section 66(1) of the MEA provides:

"For the purposes of this Act, money, goods and services given to and accepted by or on behalf of a person for his or her election campaign are contributions."

Section 68(1) of the MEA provides:

For the purposes of this Act, a candidate's election campaign period for office shall be determined:

- 1) to begin on the day he or she files a nomination for office under s. 33,
and
- 2) December 31.

Section 70(1) of the MEA provides that contributions shall not be made to or accepted by or on behalf of a person unless he or she is a candidate. Subsection (2) provides that no contribution may be made to or accepted by or on behalf of a candidate outside his or her election campaign period. Section 4(3) provides that a municipality shall not make a contribution.

I see no provision in the MEA or any other legislation limiting s. 66(1) to a "candidate" or a "campaign period". It applies to a "person", not just a candidate, for use of the contribution in his or her election campaign. In my opinion, an election campaign includes his "kick-off" event following his nomination.

Section 68 has no effect on s. 66. It deals with an election campaign, not contributions.

Section 70 provides that contributions can only be used by candidates in an election period and cannot be made by a municipality.

The Municipal Election Use of Corporate Resources Protocol (the "Protocol") applies to Members of Council ("Members"), candidates in a municipal election and staff during a campaign period. It defines: (1) "Candidate" as a person who has filed a Nomination Form as a candidate in the municipal election; (2) "Campaign Period" as the date on which the Nomination Form is filed until the candidate files the final

financial statements ending his/her campaign; and (3) "Nomination Day" as the 2nd Friday in September, as prescribed in the MEA.

The Protocol applies only during the campaign period. February 5, 2014 was prior to a campaign period.

CONCLUSION:

In my opinion, for the reason stated, Councillor John Sanderson was in breach of s. 66(1) of the MEA and s. 70(1), (2) and (4) of the MEA.

PENALTY:

I recommend, in all the circumstances, that Council reprimand the Councillor.

Yours very truly,



The Honourable Donald R. Cameron, Q.C.
Integrity Commissioner for the City of Brampton