

Memorandum to the Council of Corporation of the Municipality of Temagami

Subject: Ontario Superior Court Ruling on Municipal Election Compliance Audits

Memo No: 2025-M-048

Date: March 13, 2025

Attachment: None

Prepared By: Laala Jahanshahloo - CAO/ Treasurer

Recommendation

BE IT RESOLVED THAT Council receives Memo 2025-M-048 as presented.

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Executive Summary

The Ontario Superior Court ruling in *Nanda v. Town of Oakville, 2024 ONSC 6742* clarifies that only voters eligible to vote in the ward where a candidate ran for office have standing to request a compliance audit of municipal election campaign finances. The decision, based on subsection 88.33(1) of the *Municipal Elections Act (MEA)*, overturned a decision by the Oakville

Joint Compliance Audit Committee. The ruling emphasizes that audits must be requested by electors eligible within the candidate's ward, reinforcing the need for municipalities to review and align compliance audit procedures with the law. This decision also highlights the necessity for clearer legislative provisions regarding campaign finance compliance.

Background

In the October 2022 municipal election, Nanda was elected as the Town and Regional Councillor for Oakville's Ward 7. A complaint regarding Nanda's campaign finances was filed on June 29, 2022, by an individual not eligible to vote in Ward 7. Despite Nanda's objection that the complainant was not an eligible elector under the MEA, the Oakville Joint Compliance Audit Committee proceeded with the audit. The issue was subsequently appealed to the Ontario Superior Court, which ruled in Nanda's favor.

Court Ruling Summary

- On December 5, 2024, Justice Kurz ruled that only electors eligible to vote in the ward where a candidate ran can request a compliance audit.
- The court found that the complaint filed by an individual not eligible to vote in Ward 7 was insufficient grounds for initiating an audit.
- As a result, the court determined that the Joint Compliance Audit Committee's decision to proceed with the audit was incorrect, and the audit would not proceed.

Legal Basis for the Ruling

- Subsection 88.33(1) of the MEA stipulates that only electors entitled to vote in an election may apply for a compliance audit.
- The court referred to sections 17(2) and (3) of the MEA, which define voter eligibility based on residence, ownership, citizenship, and age, as well as section 19(7), which restricts voters to casting ballots in their respective wards.

- The ruling underscores the need for compliance audits to be initiated based on valid complaints from eligible electors, ensuring election integrity and preventing misuse of the audit process.

Impact on Municipalities

- Compliance audit committees must verify that complainants are eligible electors within the ward where the candidate ran for office.
- Municipalities may need to revise their compliance audit application processes to reflect this ruling and provide clearer guidance to voters and candidates.
- This ruling establishes a precedent for future cases in Ontario and underscores the importance of adhering to the MEA's requirements to avoid legal challenges.

MEA Modernization Considerations

- The ruling highlights the need for legislative clarification and modernization of the MEA, particularly in areas such as defining elector eligibility for compliance audit applications, standardizing contribution limits, and enhancing transparency in third-party advertising rules.
- Municipalities have previously advocated for MEA amendments to allow any Ontario resident to submit a compliance audit application, similar to campaign contribution rules. This ruling reinforces the need for a balanced approach to ensure both transparency and fair enforcement of election finance regulations.

Conclusion

The Ontario Superior Court's decision offers critical clarification on the eligibility of electors for initiating compliance audits under the MEA. Municipalities should review their compliance audit processes and policies to ensure alignment with this ruling and ensure fair and efficient election finance oversight.

For more information, please visit: [AMCTO Policy Blog](#)