

Notice of Penalties and Refund of Nomination Filing Fee

To: Candidate for Office - Haldimand County Municipal Election

As required under Section 33.1 of the Municipal Elections Act, take notice of:

- a) the penalties under subsections 88.23 (2) and 92 (1) related to election campaign finances; and
- b) the refund of the nomination filing fee that the candidate is entitled to receive in the circumstances described in section 34.

Effect of default by candidate

88.23 (1) A candidate is subject to the penalties listed in subsection (2), in addition to any other penalty that may be imposed under this Act,

- (a) if the candidate fails to file a document as required under section 88.25 or 88.32 by the relevant date;
- (b) if a document filed under section 88.25 shows on its face a surplus, as described in section 88.31, and the candidate fails to pay the amount required by subsection 88.31 (4) to the clerk by the relevant date;
- (c) if a document filed under section 88.25 shows on its face that the candidate has incurred expenses exceeding what is permitted under section 88.20; or
- (d) if a document filed under section 88.32 shows on its face a surplus and the candidate fails to pay the amount required by that section by the relevant date.

Penalties

(2) Subject to subsection (7), in the case of a default described in subsection (1),

- (a) the candidate forfeits any office to which he or she was elected and the office is deemed to be vacant; and
- (b) until the next regular election has taken place, the candidate is ineligible to be elected or appointed to any office to which this Act applies.

Notice of default

(3) In the case of a default described in subsection (1), the clerk shall,

- (a) notify the candidate in writing that the default has occurred;
- (b) if the candidate was elected, notify the council or board to which he or she was elected in writing that the default has occurred; and
- (c) make available to the public the name of the candidate and a description of the nature of the default.

Clerk's report re filing requirements

(4) The clerk shall make available to the public a report setting out all candidates in an election and indicating whether each candidate complied with section 88.25.

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Same

(5) The report mentioned in subsection (4) shall be made available on a website or in another electronic format as soon as possible after,

- (a) April 30 in the year following a regular election; and
- (b) 90 days after voting day in a by-election.

Application to court

(6) The candidate may, before the last day for filing a document under section 88.25 or 88.32, apply to the Superior Court of Justice to extend the time for filing the document under that section and, if the court is satisfied there are mitigating circumstances justifying a later date for filing the document, the court may grant an extension for the minimum period of time necessary to enable the candidate to file the document but the court shall not grant an extension of more than 90 days.

Notice to clerk

(7) If a candidate makes an application under subsection (6), the candidate shall notify the clerk in writing before 2 p.m. on the last day for filing a document under section 88.25 or 88.32 that the application has been made.

Effect of extension

(8) If the court grants an extension under subsection (6), the penalties set out in subsection (2) apply only if the candidate has not filed the document before the end of the extension.

Cessation of penalty

(9) The penalties set out in subsection (2) for a default described in clause (1) (a) do not take effect if, no later than 2 p.m. on the day that is 30 days after the applicable day for filing the document, the candidate files the relevant document as required under section 88.25 or 88.32 and pays the clerk a late filing fee of \$500.

Late filing fee

(10) The late filing fee is the property of the municipality.

Offences re campaign finances

Offences by candidate

92 (1) A candidate is guilty of an offence and, on conviction, in addition to any other penalty that may be imposed under this Act, is subject to the penalties described in subsection 88.23 (2),

- (a) if the candidate incurs expenses that exceed the amount determined for the office under section 88.20; or
- (b) if the candidate files a document under section 88.25 or 88.32 that is incorrect or otherwise does not comply with that section.

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Exception, action in good faith

(2) However, if the presiding judge finds that the candidate, acting in good faith, committed the offence inadvertently or because of an error in judgment, the penalties described in subsection 88.23 (2) do not apply.

Additional penalty, candidates

(3) If the expenses incurred by or under the direction of a candidate exceed the amount determined for the office under section 88.20, the candidate is liable to a fine equal to the excess, in addition to any other penalty provided for in the Act.

Refund

34 A candidate is entitled to receive a refund of the nomination filing fee if the documents required under subsection 88.25 (1) are filed on or before 2 p.m. on the filing date in accordance with that subsection.

Evelyn Eichenbaum

Returning Officer, Haldimand County

May 2, 2022