

Chianello: How Jim Watson left us with campaign-finance rules no one's willing to enforce



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When the Ontario government announced in October 2009 that it would reform the municipal election rules, the then-minister for municipal affairs and housing promised new contribution limits and strengthened enforcement measures.

The minister at the time? Our very own Mayor Jim Watson, who presided over these rule changes right before leaving his provincial cabinet position to run for mayor in 2010.

Watson did oversee some changes. A ceiling of \$750 that could be donated to a single candidate was already in place, but the 2009 rules added another limit: a single contributor could not donate more than a total of \$5,000 to multiple candidates in a local campaign, an improvement over the previous absence of any limit whatsoever.

But when it comes to enforcement of these rules, the Watson-era changes left us in the lurch. On a day when the Citizen discovered that Claridge Homes is the third development industry contributor to breach the \$5,000 donation limit in last fall's city election, the ministry confirmed that it "does not investigate matters under the Municipal Elections Act."

In fact, no one — not at the province, not at the city — is officially charged with looking into whether campaign donation rules were broken.

Claridge confirmed Monday that, together with its affiliated company Riverstone, the builder contributed \$6,500 in the 2014 campaign, or \$1,500 over the limit. On Friday, the Citizen reported that home builder DCR Phoenix gave a whopping \$10,000 — double the legal limit — while Taggart vice-president Ted Phillips personally donated \$6,750.

So what's the penalty, fine or other official punishment for breaking these rules? Er, nothing.

That's not quite true. The municipal elections act says that a company or union convicted of an offence under the act could be fined as much as \$50,000. It's just that it's virtually impossible to get a corporation or union convicted of an offence, even if everyone agrees the rules were broken.

A spokesman for the Ministry of Municipal Affairs confirms it is indeed "an offence for a contributor to exceed the contribution limit." But, as the ministry doesn't enforce the rules, it's not going to do anything about it. Instead, the ministry pointed out that "a person who believes that a contributor has contravened the act may commence a legal proceeding through the courts. This person may wish to contact legal counsel in regards to this."

Gee thanks, provincial government!

Not only is it up to members of the public and the media to investigate whether anyone exceeded the contribution limits, but we should then take it upon ourselves to engage rule-breakers in lengthy and expensive court battles. Because apparently municipal election laws are so important to democracy that

no one in government who passed those laws thought it important to mention any ways in which they might be enforced.

There are several ways this could be accomplished, although the easiest would be to expand the mandate of the election compliance audit committee (ECAC). A temporary committee that is struck each year following an election, ECAC is responsible for hearing applications from Ottawa electors who believe that a candidate might have contravened election rules. Applicants to ECAC even have to show there are reasonable grounds to suspect wrongdoing for the committee to order an independent audit of the candidate's campaign finances. If an audit concludes that campaign finance rules appear to have been broken, the committee can launch a legal proceeding against the candidate.

It's far from a perfect system. Again, the province leaves it to regular members of the public to investigate campaign irregularities. And, unlike at the provincial and federal levels, where complaints are confidential, the municipal system calls for individuals to openly charge a candidate with misbehaviour — which isn't a particularly easy thing to do for many people.

But at least when it comes to questions concerning candidates' campaign finances, there's a committee to hear these sorts of complaints. And in Ottawa, that committee is a high-pedigreed one chaired by Jean-Pierre Kingsley, who served as Canada's chief electoral officer for 17 years.

There is no reason why the elections compliance audit committee shouldn't be able to hear complaints about donors exceeding their limits. These three examples are slam dunks — the contributors don't deny they've exceeded the limits, all adding that they did so accidentally. The committee would ultimately decide whether to forge ahead with a court proceeding, which would be rightly paid for by government, not private citizens.

Later this spring, Minister of Municipal Affairs and Housing Ted McMeekin is reviewing the municipal elections act and promises public consultations on a number of issues. Surely one item on the agenda must be the enforcement — or lack thereof — of the contribution rules.

Because having no power to prosecute offences to the municipal contribution laws is tantamount to having no laws at all.

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Campaign contributors who've broken municipal election rules

Claridge Homes

Claridge Homes donated \$3,500 to five candidates in the 2014 municipal election campaign, well under the \$5,000 limit that any one contributor can donate to multiple candidates in a single election. And Riverstone — a company that builds retirement communities — gave four candidates \$3,000.

However, Claridge vice-president Neil Malhotra told the Citizen that Claridge and Riverstone are "affiliated" as defined under the Income Tax Act. That means the two firms must be considered as a single donor under the election rules — together, the combined contributions totalled \$6,500 — or \$1,500 over the legal limit.

"If we made an over-contribution, it was unintentional," said Malhotra. "We'll have to review our internal controls."

DCR Phoenix

As reported by the Citizen, home builder DCR Phoenix donated a total of \$10,000 to 17 candidates in last fall's election, fully double the \$5,000 limit allowed under the act. The company founder Cuckoo Kochar said his company would pay any fine applicable.

Ted Phillips

Also as reported by the Citizen, development executive Ted Phillips over-donated by \$1,750 in last fall's election campaign, for a total contribution of \$6,750. As vice-president with Taggart Realty, Phillips is well-known at City Hall, but it's important to note that his donations were all personal and not made on behalf of any company.