



**ELECTIONS BC**  
Province of British Columbia

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September 14, 2015

BY EMAIL: [kerry.morris@shaw.ca](mailto:kerry.morris@shaw.ca)

Kerry Morris  
784 15 St E  
North Vancouver, BC V7L 2S4

Dear Kerry Morris:

This letter will address the issues you have brought to the attention of Elections BC concerning the disclosure statements filed by Darrell Mussatto and other candidates in the City of North Vancouver 2014 General Local Elections. It will also respond to your written request for an investigation into alleged contraventions of the *Local Elections Campaign Financing Act* (LECFA), pursuant to s. 75 of the Act.

#### **K & T Properties Phone Bank**

The issue you have raised most frequently in your correspondence with our office has been regarding whether phone bank services were donated by Playtime Gaming Centres or by K & T Properties as was listed in the disclosure statements of candidates who received this contribution. We have confirmed that the in-kind contribution was from K & T Properties. Mr. Mussatto and the other candidates have correctly disclosed this on form 4224 – Significant Contributors (\$100 or more) of their disclosure statements, including the name of the company, the names of two directors of the company and the mailing address of the company. As such, these candidates have met the recording and disclosure requirements contained in sections 22, 27 and 29 of LECFA. These candidates are also not in contravention of s. 30 of LECFA as this section only requires the actual payment for election expenses to be authorized in advance by a candidate or financial agent and is silent on authorization where an election expense is incurred by way of an in-kind contribution.

Further, you have repeatedly stated your opinion that the law requires K & T Properties to have registered as a “third party elector organization” in order to have operated this phone bank. With respect, this is not the case for several reasons. First, under LECFA, there is no such entity as a “third party elector organization.” Rather, LECFA outlines rules for elector organizations and for third party sponsors. K & T Properties was not an elector organization as it did not endorse candidates as described in Division 6.1 of Part 3 of the *Local Government Act*.

K & T Properties was also not required to register as a third party sponsor. For your information, live person-to-person phone calls are not advertising and so do not meet the definition of election

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advertising under LECFA. Rather, K & T Properties made an in-kind contribution of staff time to the campaigns it supported by operating a phone bank, and the contributions have been properly disclosed by Darrell Mussatto and the other candidates. Similarly, the associated election expenses have been fully disclosed by each candidate, in reasonable proportions, under the "Research and polling" category on their forms 4229 – Summary of Election Expenses.

As previously advised by our office on May 12, 2015, concerns you have raised regarding WorkSafeBC legislation and Tom Nellis's presentation to North Vancouver City Council are outside the jurisdiction of this office to investigate. Similarly, allegations raised in your letter dated April 20, 2015, of conflict of interest are also not addressed by LECFA and thus are also outside of Elections BC's jurisdiction.

With regard to your assumption that Tom Nellis employed election lists provided to candidates, I can assure you that Elections BC does not provide the provincial voters list to municipal candidates and therefore we are unable to investigate this allegation.

#### **Burnaby Phone Bank**

Regarding the phone bank shared between Darrell Mussatto, Craig Keating and Kathy McGreenera, we have confirmed that this expense, valued at \$2,220.82, has been properly disclosed on form 4229 of Darrell Mussatto's disclosure statement under the "Research and polling" category. We previously confirmed this in our letter to you dated April 30, 2015.

#### **Election Signs**

You have raised concerns that Darrell Mussatto did not disclose the value of reused signs from a previous election in his disclosed expense of \$5,002.06 under the "Signs and billboards" category on form 4229. We have confirmed that Mr. Mussatto did reuse signs with a total value of \$186 and his disclosure statement will be amended to reflect this. Thank you for bringing this to our attention.

We are still reviewing the bicycle rack signs that you raise in your correspondence dated September 7, 2015. You can expect further correspondence from our office once this information has been clarified.

#### **\$7,639.10 Contribution from Craig Keating to Darrell Mussatto**

In your correspondence dated June 8, 2015, you questioned the campaign contribution from Craig Keating to Darrell Mussatto valued at \$7,639.10 and dated November 1, 2014. Elections

BC has determined that this amount was in fact not a campaign contribution but was a loan to cover Mr. Mussatto's portion of three shared expenses: Patok newspaper ad, design services and direct mail services (pages 4, 5 and 6 of form 4232 – Shared Election Expense in Mr. Mussatto's disclosure statement). Mr. Mussatto has confirmed his intention to repay this loan and there is no legislated deadline in LECFA for such repayment. Our office is working with Mr. Keating and Mr. Mussatto to ensure any payments are appropriately disclosed. We are satisfied that it was not a "laundered donation to Mayor Mussatto by the BCNDP" as you suggest in your email dated June 8, 2015.

### **Election Night Party**

Regarding Darrell Mussatto's election night party at the Pinnacle Hotel, raised in your correspondence dated June 8, 2015, he has disclosed this at a value of \$4,000 under "Other campaign related functions" on form 4229. Without further evidence to the contrary, our office believes this to be a reasonable amount. No contributions were received in relation to the event and thus all disclosure requirements under the Act have been satisfied.

### **Judicial Review Procedure**

In your email dated August 5, 2015, you asked "if a decision of Elections BC is appealable by statute within the Ministry before invoking Judicial Review." To clarify, there is no mechanism provided for ministerial review of the decisions of the BC Chief Electoral Officer in regards to how that officer administers the legislation, including whether or not to conduct a formal investigation of a complaint. As an independent officer of the Legislature, the Chief Electoral Officer is accountable directly to the Legislature for carrying out his legislated responsibilities. If you wish to appeal the decisions reached by that officer, you must apply for judicial review under the *Judicial Review Procedures Act*.

### **Other Issues**

Regarding your allegations of a City of North Vancouver employee distributing election advertising inside City Hall during advance voting, we have previously advised in writing on November 17, 2014, and on September 1, 2015, that this is outside of Elections BC's jurisdiction and as such we are unable to comment. This matter falls under the *Local Government Act* which is administered by local governments under the authority of the Ministry of Community, Sport and Cultural Development.

### **Response to Requests for Investigation**

Part 7 of LECFA grants the BC Chief Electoral Officer discretionary powers to deal with alleged contraventions of the Act and to conduct reviews and investigations in the manner that officer deems appropriate based on the circumstances of the case. Elections BC employs that discretion to promote education and to seek voluntary compliance before resorting to other enforcement mechanisms such as court orders or prosecution. This is especially true when administering newly legislated rules and is consistent with how Elections BC has administered the provisions of the *Election Act* for provincial elections since that Act was introduced in 1995.

We have reviewed all of the allegations contained in your letters carefully and are of the opinion that further investigation is not warranted. We will continue to work with all candidates to ensure full compliance with the disclosure requirements of LECFA.

Elections BC staff will ensure any necessary amendments to the disclosure statements filed by Darrell Mussatto and the City of North Vancouver candidates with whom he shared expenses are made. Amended versions will be made available publicly on our Financial Reports and Political Contributions site when these amendments are complete.

Elections BC recognizes and thanks you for your obvious commitment to ensuring the principles of accountability and transparency are upheld within the context of local government elections.

Sincerely,



M. Nola Western, CPA, CA  
Deputy Chief Electoral Officer, Funding & Disclosure