



March 6, 2018

Via Facsimile – 1-866-714-2089

Mr. Greg Essensa
Chief Electoral Officer of Ontario
51 Rolark Drive
Toronto, ON M1R 3B1

Dear Mr. Essensa:

**RE: Voters' Right to Decline Ballot – Advertising and Promotion
Application to Divisional Court**

We write as solicitors for Democracy Watch. On January 8, 2018 and January 12, 2018 Democracy Watch delivered correspondence to you requesting that you inform voters of their right to decline their ballot in the approximate 4.5 million dollars in advertising and voter communications from your office.

It is Democracy Watch's view that the right of a voter to formally decline a ballot is a crucial component of a voter's franchise. Yet it is a right and process that is not well known, nor understood by the public. Not only is it just that - a right, but it is also a right that if better known would increase voter turnout at election time.

Section 114.1(1) and (2) of the *Election Act* provides your authority to education the public about Ontario's electoral process. It is notable that this section specifically states "...particularly to those persons and groups most likely to experience difficulties in exercising their democratic rights". Your refusal to adequately educate voters about their right to vote and decline their ballot is unreasonable (especially giving the wording of the enabling section) and fails to encourage and educate voters, who are unhappy with the choices available, about their right to decline their ballot to indicate their discontent.

We note that despite our client's request, you have not implemented the suggestion and also not responded to the previous correspondence. It has been our advice to Democracy Watch that you have likely chosen not to respond so there is no clear decision which our client can judicially review. Frankly, this lack of transparency and directness is unprofessional.

We hereby request that you fully inform voters of their right, including their right to decline their ballot, in all advertising and voter education communications leading up to the election day.

Should you not respond to this request within ten calendar days, Democracy Watch will accept your lack of response as a refusal and will commence a judicial review application to the Divisional Court for an order of mandamus compelling your office to provide Ontarians with all of the information in a fair and reasonable manner.

While Democracy Watch wishes to resolve this matter amicably, without resort to litigation, should litigation become necessary, it wishes to commence that process expeditiously. As such, please respond within ten days from the date of this letter.

Yours Very Truly,

ROSS & McBRIDE LLP

Per:



Andrew Spurgeon
Partner

ROSS & McBRIDE LLP

Per:



Wade Poziomka
Partner

Enclosures