



P.O. Box 821, Str. B, Ottawa K1P 5P9
Tel: 613-241-5179 Fax: 613-241-4758
Email: info@democracywatch.ca Internet: <http://democracywatch.ca>

Transcript of Exchange of Emails between Duff Conacher, Co-founder of Democracy Watch and Kevin Thomas, Manager, Compliance Enforcement, Elections Ontario

(September 26, 2023 to October 5, 2023)

To: info@elections.on.ca <info@elections.on.ca>
From: DemocracyWatch.ca <info@democracywatch.ca>
26 Sep, 23 3:56:35 PM

Request for investigation of fundraising event notices

Greg Essensa, Chief Electoral Officer
Elections Ontario
51 Rolark Drive
Toronto, Ontario
M1R 3B1

Email: info@elections.on.ca

RE: Request for investigations of fundraising event notices

September 26, 2023

Dear Mr. Essensa:

Subsections 23(5) and (6) of the *Election Finances Act*, R.S.O. 1990, c. E.7 ("EFA"), state:

"Information re fund-raising events

(5) Every registered party to which section 25.1 applies shall post on its website the following information respecting every fund-raising event to be held by or on behalf of the party, its constituency associations and candidates:

1. The date of the fund-raising event.
2. The location of the fund-raising event.
3. The amount of the charge for attending the fund-raising event.
4. The identity of the recipient or recipients of the funds to be raised at the fund-raising event. 2016, c. 22, s. 18.

Timing

(6) The registered party shall post the information described in subsection (5) at least three days before the date of the fund-raising event. 2021, c. 5, Sched. 2, s. 8 (3)."

Democracy Watch requests that you investigate and rule on (by referring to the Attorney General and/or police) the following two Progressive Conservative Party fundraising events:

1. An Afternoon in Support of the Ontario PC Party

<https://ontariopc.ca/events/an-afternoon-in-support-of-the-ontario-pc-party-7/>

2. A Night at the Races

<https://ontariopc.ca/events/a-night-at-the-races/>

because the notices for both events do not state the actual location of the event as required by the *EFA*, they only list the city in which the events are being held.

The definition of "location" in the dictionary, for example the Cambridge Dictionary:

<https://dictionary.cambridge.org/dictionary/english/location>

and the Merriam-Webster dictionary:

<https://www.merriam-webster.com/dictionary/location>

and Black's Law Dictionary:

<https://thelawdictionary.org/location/>

all state that the word "location" means a specific property.

As a result, while your Election Finances CFO Handbook for Political Parties:

<https://www.elections.on.ca/content/dam/NGW/sitecontent/Compliance%20Documentation/English/Political%20Parties/CFO%20Handbook%20for%20Political%20Parties.pdf>

does not define "location" it is clear that subsection 23(5) and (6) of the *EFA* require that the website notice of a fundraising event state the address of property at which the event is being held.

Democracy Watch also requests that you investigate and rule on (by referring to the Attorney General and/or police) the following three Progressive Conservative Party fundraising events:

1. An Evening with MPP Graydon Smith

<https://ontariopc.ca/events/an-evening-with-mpp-graydon-smith-3/>

2. An Evening with MPPs Kinga Surma, Rudy Cuzzetto & David Piccini

<https://ontariopc.ca/events/an-evening-with-mpps-kinga-surma-rudy-cuzzetto-david-piccini/>

3. An Evening with MPP Todd McCarthy

<https://ontariopc.ca/events/an-evening-with-mpp-todd-mccarthy/>

because they also only state the city in which the event is located, and also because they do not specify, as required by the *EFA*, the "identity of the recipient or recipients of the funds to be raised at the fund-raising event."

As you can see from this archived PC Party events page from May 2019:

<https://web.archive.org/web/20190501004158/https://ontariopc.ca/events/>

at the time the party clearly acknowledged that the *EFA* clearly requires that fundraising event website notices state the actual property/address at which the event is being held, not just the city in which the event is being held. Although, as you can see on that page, there is one event on May 11, 2019 that lists the location as "Private Venue in Waterloo Region" -- which (assuming that the property/address was not listed on the linked webpage for the event, also violates the *EFA* (that specific event's webpage notice is not archived on the Internet as far as we can determine).

As you can see on the Ontario Liberal Party's event notices webpage at: <https://ontarioliberal.ca/events/> the Party lists the property/address for each fundraising event and the recipient of the funds raised.

As you can see on the Ontario NDP's event notices webpage at: <https://www.ontariondp.ca/events> the Party lists the property/address for each fundraising event and the recipient of the funds raised.

The Ontario Green Party's website does not have an events webpage, as far as we can determine, which means either that they don't hold such events or that they are also violating the *EFA* requirement concerning website notices for fundraising events. An investigation seems warranted also of whether the Green Party holds such events.

We have not determined when exactly the PC Party stopped listing the property/address at which its fundraising events are held, and we request, after you complete the investigation and rule on the above list five events, that you undertake a further investigation back through to at least January 1, 2018 to determine all of the times that the PC Party has violated the *EFA* by failing to disclose either the location of a fundraising event, or the recipient of the funds raised, or both.

As the above five PC Party fundraising event notices clearly violate the *EFA*, and completing an investigation only requires looking at the notices set out above, we hope to receive your rulings on these notices very soon.

Sincerely,
Duff Conacher, Board member of Democracy Watch
On behalf of the Board of Directors of Democracy Watch

Democracy Watch
P.O. Box 821, Stn. B
Ottawa, Ontario
K1P 5P9
Tel: 613-241-5179
Fax: 613-241-4758
Email: info@democracywatch.ca
Internet: <http://democracywatch.ca>
Twitter: @DemocracyWatchr
Facebook: <https://www.facebook.com/DemocracyWatch>

On Wed, 27 Sep 2023 15:38:38 +0000 Kevin Thomas wrote:

From: Kevin Thomas <Kevin.Thomas@elections.on.ca>
To: DemocracyWatch.ca <info@democracywatch.ca>
Cc: Elections Ontario <info@elections.on.ca> , Electfin - Elections Ontario <Electfin@elections.on.ca>

RE: Request for investigation of fundraising event notices

Good morning Mr. Conacher,

The term "location" is not defined by the *Election Finances Act*.

Elections Ontario's longstanding interpretation of the term "location" is that the town or city in which the fund-raising event is held is sufficient to satisfy the requirements of the Act.

Sincerely,
Kevin Thomas
Manager, Compliance Enforcement

Elections Ontario elections.on.ca Fax: 416.325.9466

From: DemocracyWatch.ca <info@democracywatch.ca>
Sent: Wednesday, September 27, 2023 1:18 PM
To: Kevin Thomas <Kevin.Thomas@elections.on.ca>
Cc: Elections Ontario <info@elections.on.ca>; Electfin - Elections Ontario <Electfin@elections.on.ca>

Subject: Re: Request for investigation of fundraising event notices

Dear Mr. Thomas,

Thank you for your email, and your quick response to my request.

It is very unfortunate that Elections Ontario chose to ignore the legal and normal definition of the word "location" and, thereby, has allowed political parties, constituency associations, nomination contestants, election candidates and party leadership contestants to hide who is hosting fundraising events for them.

Please let me know what "longstanding" means -- when did Elections Ontario make this decision? Please also send me the legal opinion that is the basis of this decision as I see no valid legal reason to make this decision.

As you likely know, it is a violation of section 3.4 of the *Lobbyists Registration Act*, 1998, S.O. 1998, c. 27, Sched. for a registered lobbyist to place a public office holder in a real or potential conflict of interest. Ontario's Integrity Commissioner has ruled that being involved in fundraising activities creates such a conflict of interest.

By letting parties etc. hide who is hosting fundraising events for them, Elections Ontario is allowing lobbyists to hide the fact that they have hosted a fundraising event, and hide the fact that they have been involved in fundraising activities that create a conflict of interest for the people who benefit from the fundraising.

As a result, I hope that Elections Ontario will immediately change its interpretation of the word "location" -- especially given that the Liberal Party and the NDP are already complying with the proper legal and normal definition of the word "location" and the PC Party formerly also complied with the proper legal and normal definition.

I look forward to hearing back from you, hopefully including a decision that Elections Ontario will be changing its interpretation of the word "location" to the normal and legal definition of the word.

Sincerely,
Duff Conacher, Co-founder
Democracy Watch

On Wed, 27 Sep 2023 17:40:25 +0000 Kevin Thomas wrote:

From: Kevin Thomas <Kevin.Thomas@elections.on.ca>
To: DemocracyWatch.ca <info@democracywatch.ca>
Cc: Elections Ontario <info@elections.on.ca>, Electfin - Elections Ontario <Electfin@elections.on.ca>

Re: Request for investigation of fundraising event notices

Dear Mr. Conacher,

Elections Ontario will not be reconsidering its interpretation.

Sincerely,
Kevin Thomas
Manager, Compliance Enforcement

Elections Ontario elections.on.ca Fax: 416.325.9466

From: DemocracyWatch.ca <info@democracywatch.ca>
Sent: Wednesday, September 27, 2023 2:14 PM
To: Kevin Thomas <Kevin.Thomas@elections.on.ca>
Cc: Elections Ontario <info@elections.on.ca>; Electfin - Elections Ontario <Electfin@elections.on.ca>

Subject: Re: Request for investigation of fundraising event notices

Thank you again Mr. Thomas for your quick response to my email. Can you please let me know whether it is your decision, or Chief Electoral Officer Greg Essensa's decision, not to change Elections Ontario's interpretation of the word "location"?

Also, as I requested in my previous email, can you please also send me the legal opinion that is the basis of Elections Ontario's position that the word "location" means only "town or city", again because as I see no valid legal reason for this position.

Sincerely,
Duff Conacher, Co-founder
Democracy Watch
P.O. Box 821, Stn. B
Ottawa, Ontario
K1P 5P9
Tel: 613-241-5179
Fax: 613-241-4758
Email: info@democracywatch.ca
Internet: <http://democracywatch.ca>
Twitter: @DemocracyWatchr
Facebook: <https://www.facebook.com/DemocracyWatch>

On Thu, 28 Sep 2023 17:15:21 +0000 Kevin Thomas wrote:

From: Kevin Thomas <Kevin.Thomas@elections.on.ca>
To: DemocracyWatch.ca <info@democracywatch.ca>
Cc: Elections Ontario <info@elections.on.ca> , Electfin - Elections Ontario <Electfin@elections.on.ca>

Re: Request for investigation of fundraising event notices

Good afternoon Mr. Conacher,

Clause 2(1)(j) of the *Election Finances Act* empowers the Chief Electoral Officer to provide such guidelines for the proper administration of the Act as he or she considers necessary for the guidance of auditors, political parties, constituency associations, candidates, leadership contestants and third parties and any of their officers. The Chief Electoral Officer has directed that the publishing of the name of the town or city in which a fundraising event is to be held is sufficient to satisfy the requirements of subsection 23(5) of the Act.

Any legal advice obtained by the Chief Electoral Officer is privileged.

Sincerely,

Kevin Thomas

Manager, Compliance Enforcement

Elections Ontario elections.on.ca Fax: 416.325.9466

From: DemocracyWatch.ca <info@democracywatch.ca>

Sent: Tuesday, October 3, 2023 4:42 PM

To: Kevin Thomas <Kevin.Thomas@elections.on.ca>

Cc: Elections Ontario <info@elections.on.ca>; Electfin - Elections Ontario <Electfin@elections.on.ca>

Subject: Re: Request for investigation of fundraising event notices

Thank you for your response Mr. Thomas,

You wrote that, under the *Elections Finances Act (EFA)* clause 2(1)(j) powers of the Chief Electoral Officer (CEO) to "provide such guidelines for the proper administration of the Act as he or she considers necessary for the guidance of auditors, political parties, constituency associations, candidates, leadership contestants and third parties and any of their officers":

"The Chief Electoral Officer has directed that the publishing of the name of the town or city in which a fundraising event is to be held is sufficient to satisfy the requirements of subsection 23(5) of the Act."

Given *EFA* clause 2(1)(k) requires the CEO to publish the guidelines the CEO provides under clause 2(1)(j) both "in both the Ontario Gazette" and "on a website on the Internet" can you please send me the link to the edition of the Ontario Gazette, and the website, that contains that directive?

I have read through and searched the Elections Finances CFO Handbook for Political Parties 2023 at:

<https://www.elections.on.ca/content/dam/NGW/sitecontent/Compliance%20Documentation/English/Political%20Parties/CFO%20Handbook%20for%20Political%20Parties.pdf>

and have not found such a guideline, and I have also searched Elections Ontario's website:

<https://www.elections.on.ca>

and have not found such a guideline.

Thank you, and take care,
Duff Conacher, Co-founder
Democracy Watch

On Thu, 5 Oct 2023 14:15:17 +0000 Kevin Thomas wrote:

From: Kevin Thomas <Kevin.Thomas@elections.on.ca>
To: DemocracyWatch.ca <info@democracywatch.ca>
Cc: Elections Ontario <info@elections.on.ca> , Electfin - Elections Ontario <Electfin@elections.on.ca>

Re: Request for investigation of fundraising event notices

Good morning Mr. Conacher,

The Chief Electoral Officer's direction on the interpretation of the term "location" with regards to the posting of information on fundraising events is not iterated in the current versions of our guidelines and handbooks. However, this will be added to the guidelines and handbooks when they are next updated. We are in the process of updating the *Election Finances Act* Guidelines and these will be published in the *Ontario Gazette* in November 2023. Updates to our handbooks for CFOs will be available in January 2024.

Sincerely,
Kevin Thomas
Manager, Compliance Enforcement

Elections Ontario [elections.on.ca](https://www.elections.on.ca)
Fax: 416.325.9466

From: DemocracyWatch.ca <info@democracywatch.ca>
Sent: Thursday, October 5, 2023 12:27 PM
To: Kevin Thomas <Kevin.Thomas@elections.on.ca>
Cc: Elections Ontario <info@elections.on.ca>; Electfin - Elections Ontario <Electfin@elections.on.ca>
Subject: Re: Request for investigation of fundraising event notices

Thank you for your email Mr. Thomas,

Your email of September 27th stated that:
"Elections Ontario's longstanding interpretation of the term "location" is that the town or city in which the fund-raising event is held is sufficient to satisfy the requirements of the Act."

Your email of September 28th states that:
"The Chief Electoral Officer has directed that the publishing of the name of the town or city in which a fundraising event is to be held is sufficient to satisfy the requirements of subsection 23(5) of the Act."

Can you please send me a copy of that directive, and please also include the date on which that directive was first issued?

Thank you, and take care,
Duff Conacher, Co-founder
Democracy Watch

05 Oct, 23 2:06:59 PM
From: Kevin Thomas <Kevin.Thomas@elections.on.ca>
To: DemocracyWatch.ca <info@democracywatch.ca>
Cc: Elections Ontario <info@elections.on.ca>, Electfin - Elections Ontario <Electfin@elections.on.ca>

RE: Request for investigation of fundraising event notices

You are most welcome Mr. Conacher,

The directive is not, nor is it required to be, publicly available since it relates to Elections Ontario's internal processes. The Chief Electoral Officer's direction dates back to the amendment of the *Election Finances Act* to include the requirement for registered political parties to post certain information regarding fund-raising events on their websites, which was introduced in 2016.

Sincerely,
Kevin Thomas
Manager, Compliance Enforcement
Elections Ontario elections.on.ca
Fax: 416.325.9466