

**CITATION:** Karygiannis v. City of Toronto, 2019 ONSC 6821  
**COURT FILE NO.:** CV-19-00630879  
**DATE:** 20191125

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:** )  
)  
JAMES KARYGIANNIS ) *S. Dewart and A. Lei* for the Applicant  
)  
Applicant )  
)  
- and - )  
)  
CITY OF TORONTO and ULLI S. ) *M. Siboni*, for the Respondents  
WATKISS )  
)  
Respondents )  
)  
) *S. Aylward and K. Al-Khatib*, for the  
) Intervenor, Adam Chaleff  
)  
)  
) **HEARD:** November 21, 2019

**CHALMERS, J.**

**REASONS FOR JUDGMENT**

**OVERVIEW**

[1] On October 22, 2018, the Applicant, James Karygiannis was elected as the member of Toronto City Council for Ward 22 – Scarborough-Agincourt. He received 47% of the votes cast.

[2] Mr. Karygiannis was subject to two spending limits for the 2018 municipal elections. There was a general spending limit of \$61,207.80, and a separate spending limit of \$6,120.80 (10% of the general limit) for parties and expressions of appreciation.

[3] On March 27, 2019, Mr. Karygiannis filed a Form 4 Financial Statement with the City Clerk for his municipal election campaign. In the Financial Statement, he reported that he spent \$43,812.55 for his general election spending. No expenses were disclosed with respect to parties and expressions of appreciation.

[4] In the Financial Statement, Mr. Karygiannis reported that he incurred expenses that were not subject to the spending limits. He reported that he incurred the cost of fundraising events in the amount of \$47,259.86. This included the cost of a dinner at the Santorini Grill that took place on December 21, 2018. The expenses related to that event totaled \$27,083.50. Mr. Karygiannis also reported in the Financial Statement that the expenses which were not subject to spending limits included a victory party after voting day. This expense was reported to be \$5,000.00.

[5] The Financial Statement was audited by Mr. Karygiannis' accountant before it was filed. The accountant prepared a report verifying that he had conducted an audit in accordance with Generally Accepted Accounting Principles. The Financial Statement was reviewed and accepted by the City Clerk.

[6] Adam Chaleff resides in the City of Toronto and was an elector, as that term is defined in the *Municipal Elections Act, 1996*, S.O. 1996, c. 32 (the "MEA"). The MEA provides at s. 88.33 that an elector may file an application with the City Clerk for a compliance audit if the elector believes on reasonable grounds that a candidate has contravened a provision of the MEA.

[7] On June 4, 2019, Mr. Chaleff filed an application for a compliance audit. He alleged that there were reasonable grounds to believe that Mr. Karygiannis had exceeded the election spending limits. On June 25, 2019, Roland Lin, a candidate who ran against Mr. Karygiannis in Ward 22, filed a second application for a compliance audit.

[8] On July 2, 2019, the City of Toronto's Compliance Audit Committee (the "Committee") met to consider Mr. Chaleff's application for a compliance audit of the election finances of Mr. Karygiannis. Mr. Lin's application was considered at a meeting of the Committee which took place on July 24, 2019. The applications raised three main concerns with respect to Mr. Karygiannis' compliance with the MEA:

- a) The honoraria paid to the candidate's supporters in the amount of \$81,000.00;
- b) An allegation that the candidate misclassified the expenses for a mailing of promotional material;
- c) The candidate misclassified a voter appreciation event as a fundraising event.

[9] The third concern involves a dinner held at the Santorini Grill on December 27, 2018. For this dinner, the Committee concluded that there are "reasonable grounds" that Mr. Karygiannis "misclassified a voter appreciation event as a fundraising event, which if properly classified would have exceeded the voter appreciation spending limit of \$6,120.80".

[10] The Committee granted both applications. It then appointed an auditor to conduct a compliance audit of the election campaign finances of Mr. Karygiannis, in accordance with s. 88.33(10) of the MEA. Once the audit is completed, the Committee-appointed auditor is to provide a report outlining any apparent contravention by the candidate. After receiving the audit

report, the Committee must determine whether to commence legal proceedings against Mr. Karygiannis pursuant to the *MEA*: *MEA*, s.88.33(17).

[11] On learning of the application for a compliance audit, Mr. Karygiannis re-opened his campaign for a one-week period in June 2019 for the purpose of raising funds to respond to the audit. The *MEA* provides that if a candidate incurs expenses with respect to a compliance audit, the election campaign period is deemed to have re-commenced: *MEA*, s. 88.24(1).

[12] As a result of re-opening the election campaign, Mr. Karygiannis was required to file a Supplementary Financial Statement. The Supplementary Financial Statement is to include the information on the initial Financial Statement along with the new financial information from the re-opened campaign.

[13] Mr. Karygiannis retained Ken Froese, an experienced forensic auditor, to advise him with respect to the compliance audit and to prepare the Supplementary Financial Statement.

[14] The Supplementary Financial Statement was to be filed by September 27, 2019. The City Clerk wrote to Mr. Karygiannis on several occasions to advise him of his obligation to file the Supplementary Financial Statement. He was advised that there was a 30-day grace period to file the Supplementary Financial Statement and the deadline was 2 p.m. on October 28, 2019.

[15] On October 28, 2019, the Applicant filed a signed Supplementary Financial Statement, along with the \$500 late filing fee. The Supplementary Financial Statement did not include the same information as the initial Financial Statement. The victory party expense of \$5,000.00 and the Santorini Grill dinner expense of \$27,083.50 were listed under the heading of expenses subject to a limit for parties and other expressions of appreciation. The total amount is \$32,083.50, which is in excess of the spending limit for expressions of appreciation of \$6,120.80.

[16] The Supplementary Financial Statement was reviewed by the City Clerk who is required to review financial statements to ensure that they comply with campaign spending limits. The City Clerk noted that the amount listed in the Supplementary Financial Statement under the expenses for parties and other expressions of appreciation exceeded the spending limit of \$6,120.80.

[17] Section 88.23(2) of the *MEA* imposes automatic penalties if a financial statement shows on its face that the candidate incurred expenses that exceed the expense limit. The automatic penalties are:

- (a) The candidate forfeits any office to which he or she had been elected; and
- (b) The candidate cannot run for office until the next election.

[18] The City Clerk has no discretion if the financial statement, on its face, lists expenses in excess of the spending limit. The *MEA* at s. 88.23(3) provides that the Clerk shall notify the

candidate in writing that the default occurred. In the case of a candidate who had been elected, the City Clerk is required to notify council of the default.

[19] In accordance with her obligations under the *MEA*, the City Clerk met with Mr. Karygiannis on November 6, 2019 to advise him of the default and that his office is forfeited and deemed vacant. She also advised the Mayor and members of Toronto City Council of the default and that she will provide further information at the next Council Meeting on November 26, 2019.

[20] On November 12, 2019, Mr. Karygiannis commenced this Application. He seeks an order for relief from the penalty of the forfeiture of office to which he was elected and, if required, an order allowing him to rectify the Supplementary Financial Statement. He takes the position that the expense related to the Santorini Grill dinner was incorrectly identified in the Supplementary Financial Statement as an expense for parties and other expressions of appreciation. The modifications to the Supplementary Financial Statement were made by the forensic accountant. Although Mr. Karygiannis reviewed the statement before he signed it, he “did not advert to this error when he submitted the supplementary statement.”: Affidavit of James Karygiannis at para. 33.

[21] By order of Archibald J., dated November 21, 2019, Mr. Chaleff was permitted to intervene in the Application. Mr. Chaleff takes the position that the *MEA* provides for a statutory penalty of forfeiture of office if a candidate files a financial statement which sets out expenses in excess of spending limits. He argues that relief from forfeiture is not available in the case of statutory penalties.

[22] For the reasons set out below, I allow the Application and grant the Applicant relief from the penalty of forfeiture of office. This Order does not affect the ongoing compliance audit, or the Committee’s discretion to determine whether to commence legal proceedings against Mr. Karygiannis following receipt of the auditor’s report.

### **THE ISSUES**

[23] Two issues are to be determined on this Application:

- (a) Whether this court has jurisdiction to grant relief from forfeiture; and
- (b) If relief from forfeiture is available, whether the discretion to grant the relief should be exercised.

### **ANALYSIS**

#### ***(a) Jurisdiction to Grant Relief from Forfeiture***

[24] Mr. Karygiannis argues that this court has jurisdiction to grant relief from forfeiture pursuant to s. 98 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (“*CJA*”). In the alternative he argues that relief from forfeiture is available pursuant to s. 92(6) of the *MEA*. Mr. Chaleff argues

that s. 98 of the *CJA* does not provide jurisdiction to relieve against statutory penalties such as the automatic forfeiture of office set out in the *MEA*.

[25] Before considering the jurisdiction to grant relief from forfeiture, it is necessary to consider the statutory scheme in the *MEA* with respect to the enforcement of campaign expenses rules.

### ***The Statutory Scheme***

[26] Pursuant to s. 88.25 of the *MEA*, a candidate is required to file with the City Clerk a financial statement and auditor's report reflecting the candidate's election campaign finances. The financial statement must be filed by December 31 in the year of the election. If the campaign is re-opened the candidate is required to file a supplementary financial statement and auditor's report with the Clerk.

[27] Section 88.23 of the *MEA* provides that a candidate is subject to certain automatic penalties if the Financial Statement shows, on its face, that the candidate has incurred expenses in excess of the permitted spending limit. The section reads as follows:

#### **Effect of default by candidate**

(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,

.....

(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;

.....

#### **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. 2016, c. 15, s. 60.

#### **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.

[28] There is no discretion available to the City Clerk when a statement shows, on its face, that expenses were incurred in excess of the permitted spending limits.

[29] Financial statements filed by candidates may be subject to an application for an audit. Section 88.33 of the *MEA* provides that an elector may file an application with the City Clerk for a compliance audit if the elector believes on reasonable grounds that the candidate has contravened a provision in the *MEA* relating to election campaign finances. The application for an audit is considered by the Committee, which consists of three members of the public. The Committee is to consider the application and determine whether an audit will be conducted. The Committee is required to provide brief written reasons for its decision. The decision may be appealed to the Superior Court of Justice: *MEA*, ss. 88.33(8) and (9).

[30] If the Committee determines that an audit should be conducted, it appoints an auditor who is required to conduct an audit and provide a report to the Committee outlining any apparent contravention of the *MEA*. Following receipt of the auditor's report, the Committee is required to determine whether to commence legal proceedings against the candidate for the apparent contravention. The Committee is to provide brief written reasons for its decision with respect to a legal proceeding; *MEA*, ss. 88.33(17) and (18).

[31] Pursuant to s. 92 of the *MEA*, if a candidate is found guilty of an offence with respect to the filing of statements that shows that he or she incurred expenses exceeding the permitted limit, the candidate is subject to the same penalties as set out in s. 88.23(2). Namely, that the candidate forfeits the office to which he or she was elected and is ineligible for to be elected until the next regular election has taken place. Section 92 of the *MEA* provides as follows:

**Offences re campaign finances**

**Offences by candidate**

- (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.

[32] In the case of a penalty imposed following a conviction of an offence regarding campaign finances, the *MEA* provides that there is an exception if the candidate acting in good faith, committed the offence inadvertently or because of an error in judgment. Section 92(2) of the *MEA* provides as follows:

**Exception action in good faith**

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 the subsection 88.23(2) do not apply.

[33] In other words, the *MEA* provides for a possible penalty of forfeiture of office in two circumstances:

1. the financial statement shows, on its face, that campaign financing exceeds the permissible limit;
2. following a conviction for an offence regarding campaign finances.

[34] In the case of the automatic penalties imposed when a financial statement shows campaign expenses exceeding the permissible limit, the *MEA* does not provide for relief from forfeiture. However, in the case of a penalty imposed following conviction, the *MEA* provides for relief from forfeiture if the candidate was acting in good faith and committed the error inadvertently or because of an error in judgment.

[35] In this case, the Committee granted the Applications brought by Mr. Chaleff and Mr. Lin and appointed an auditor to conduct a compliance audit of Mr. Karygiannis' election campaign finances. Once the auditor provides the report, the Committee then be able to determine whether to commence legal proceedings against the candidate pursuant to the *MEA*. After the audit process was started, Mr. Karygiannis filed an inaccurate Supplementary Financial Statement that resulted in the automatic ouster from office. As a result, the same penalty that may be imposed following a conviction of an offence regarding campaign finances, was in fact, imposed before the Committee could decide whether to commence legal proceedings.

[36] Counsel for the Applicant argues that this creates an absurdity in that relief from forfeiture is not available to a candidate who has neither been charged nor convicted of an offence under the *MEA*, but the same relief may be available by the exercise of judicial discretion following a conviction.

***Section 98 of the CJA and Section 92(2) of the MEA***

[37] Section 98 of the *CJA* provides as follows:

### Relief against penalties

A court may grant relief against penalties and forfeitures, on such terms as to compensation or otherwise as are considered just.

[38] Section 98 of the *CJA* was most recently considered by the Court of Appeal for Ontario in *Poplar Point First Nation Development Corporation v. Thunder Bay (City)*, 2016 ONCA 934, leave to appeal dismissed, 2017 CanLII 25788 (SCC) (“*Poplar Point*”). The case involved property owned by Poplar Point First Nation Development Corporation (“Poplar Point”), a not-for-profit corporation supporting Poplar Point First Nation Band and its members. The City of Thunder Bay seized and sold Poplar Point’s property to recover tax arrears and additional associated costs. The sale yielded a surplus. Pursuant to statute, the surplus is forfeited if unclaimed after one year. Poplar Point did not claim the surplus within a year and later sought to recover the surplus in an application for relief from forfeiture pursuant to s. 98 of the *CJA*. The issue in that case was whether the Superior Court of Justice had jurisdiction to grant relief.

[39] The Court of Appeal found that the Superior Court of Justice had jurisdiction to grant relief under the s. 98 of the *CJA*. The Court of Appeal rejected the general approach that s. 98 of the *CJA* is not available to relieve from a penalty or forfeiture imposed by statute. Instead, the Court stated that it is a matter of statutory interpretation to determine whether relief from forfeiture may be available. The Court stated at paras. 55 and 57:

The question is not whether there is a statutory scheme, but whether the language and scheme of the statute would exclude relief from forfeiture under s. 98.

.....

In my view, this is the approach that should govern in the present case. Section 98 is a statutory provision expressed in broad and general terms to be available in civil proceedings. Where a forfeiture occurs under a statutory scheme, the scheme should be examined in order to determine whether by necessary implication relief from forfeiture under s. 98 would be precluded.

[40] The Court of Appeal also noted that relief from forfeiture pursuant to s. 98 of the *CJA* is available in the context of civil proceedings but not criminal or statutory offences: para. 61.

[41] Mr. Karygiannis argues that the *MEA* does not exclude the application of s. 98 of the *CJA*, either expressly or by necessary implication. He argues that in this case, relief from forfeiture is being sought with respect to a civil proceeding and not with respect to a penalty imposed following a conviction for a statutory offence. Mr. Chaleff argues that the *MEA* provides for the penalty of the automatic forfeiture of office and is therefore a statutory penalty for which s. 98 of the *CJA* is not available.

[42] A line of cases in the municipal elections context suggest that a court may not have to resort to s. 98 of the *CJA* to grant relief from forfeiture.



[43] In *Niagara Falls (City) v. Diodati*, 2011 ONSC 2180, 106 O.R. (3d) 154 (“*Diodati*”) the elected mayor of the City filed a financial statement that showed on its face he had incurred expenses in excess of the prescribed limit. The mayor learned that an expense had been improperly allocated and that, in fact, the expenses were less than the limit. Based on the filing of the original statement, the city clerk was required to apply the forfeiture of office penalty set out in the *MEA*. Justice Henderson considered the cases that held that a court does not have the jurisdiction to grant relief in the case of penalties mandated by statute. He found that the analysis in those cases was “equivocal at best”. He stated, at para. 22:

In my view, s. 98 of the CJA gives the court a wide discretion to grant relief from forfeiture in order to bring fairness and justice to the parties. There is no limited term in s. 98 that prohibits the use of that section where the forfeiture is mandated by statute. In my opinion, s. 98 is remedial in nature, and therefore the court should exercise its discretion to apply s. 98 in circumstances in which relief from forfeiture would be a fit and just remedy.

[44] In the alternative, Henderson J. held that the relief set out in s. 92(2) of the *MEA* was available in the case of the automatic forfeiture provisions set out in s. 88.23 of the *MEA*. He stated that it would be an absurd result if the forfeiture provisions were available following conviction of an offence but not available if there was no conviction. He stated, at paras. 30 and 32:

In the alternative, if I am wrong in finding that I have the power to grant the aforementioned relief pursuant to the CJA, I find that the provisions of s. 92(6) [now s. 92(2)] of the *MEA* must also apply to circumstances in which a municipality chooses not to prosecute a candidate for an offence listed in s. 80 (1) [now s.88.23 (1)] if the judge found that “... the candidate, acting in good faith, committed the offence inadvertently or because of an error in judgment.

.....

It is a basic rule of statutory interpretation that a statute should not be interpreted in a manner that would create an absurd result. In my view, it would be an absurd result if the *MEA* were interpreted to mean that *Diodati* must encourage the City to prosecute and convict him of an election offence so that he could obtain relief from forfeiture from the presiding judge. Therefore, I find that the provisions of s. 92(6) [now s. 92(2)] must also apply by analogy to the list of circumstances set out in s. 80(1) (a), (b), (c) and (d) [now s. 88.23(1)(a), (b), (c), (d)].

[45] The alternative position set out by Henderson J. in *Diodati* has been applied in subsequent cases. In *Obina v. City of Ottawa*, 2014 ONSC 4614, an unsuccessful candidate in the municipal election failed to file an audited financial statement within the prescribed time limit. She was late in filing the statement by 3 minutes. The automatic penalty of the forfeiture of

office was imposed. Justice R. Smith agreed with the reasoning of Henderson J. in *Diodati* that the provisions of s. 92(2) of the *MEA* apply with respect to the automatic penalties:

I find that interpreting s. 80(2) and s. 92(6) [now ss. 88.23(2) ad 92(2), respectively] in the manner as proposed in *Diodati* is consistent with the intention of the legislature, and would avoid an absurd result which would not have been intended by the legislature.

.....

I find that the legislature intended that the relief from penalty provisions of s. 92(6) [now s. 92(2)] of the Act apply to the penalty imposed under s. 80(2)(b) [now s. 88.23(2)] of the Act in circumstances where no charge has been laid: at paras. 28 and 30.

[46] In *Shantz v. Township of Woolwich*, 2015 ONSC 4848, the mayor failed to file a financial statement with respect to her election campaign finances within the necessary time period. Her office was automatically forfeited. Justice Broad granted relief pursuant to s. 98 of the *CJA*, but he also endorsed the alternative reasoning of Henderson J. in *Diodati*:

I also endorse the reasoning of Henderson J. in *Niagara Falls* at paragraphs 30-32 that s. 92(6) [now s.92(2)] of the Act must be interpreted to permit the court to exercise the discretion to relieve a candidate, who is acted in good faith and who has failed to comply with a technical requirement of the Act, from the penalties described in subsection 80(2) [now s. 88.23] of the Act, even where the candidate has not been charged and convicted of an offence under the Act. This interpretation is necessary in order to avoid an absurdity whereby the applicant would be forced to encourage the Township to prosecute her for an offence under the Act, even where a charge is not warranted, in order to obtain relief from forfeiture from the presiding judge: at para. 15.

[47] Most recently, in *Giannini v. City of Toronto*, 2017 ONSC 1489, the unsuccessful candidate failed to file audited financial statements by the prescribed date. She sought relief from forfeiture to allow her to file the statements that she was required to file two years previously. Justice Dunphy stated that he had some doubts as to whether s. 98 of the *CJA* could be applied to provide relief of statutory penalties as determined by Henderson J. in *Diodati*. He noted however that it was not necessary for Henderson J. to rely on s. 98 of the *CJA*, when he had interpreted then s. 92(6) (now s.92(2)) of the *MEA* to provide jurisdiction:

... Henderson J. in *Diodati* was also able to interpret s. 92(6) [now s. 92(2)] of the *MEA* in a fashion to grant him relief from as well. He did not need to rely on s. 98 of the *CJA* to reach the conclusion he reached: at para. 26.

### ***Summary - Jurisdiction***

[48] Section 98 of the *CJA* provides broad relief in civil proceedings. There is an issue however as to whether s. 98 applies in the case of statutory penalties. I share Dunphy J.'s doubts as to whether the general provisions of the *CJA* can supersede the specific penalties set out in the

*MEA*. While s. 98 of the *CJA* may not be available, I am of the view that the issue can be determined by applying s. 92(2) of the *MEA*.

[49] As stated in *Diodati* there is an apparent absurdity in the *MEA* in that the relief set out in s. 92(2) is available if the candidate has been charged and convicted of an election offence but is not available for the same breach and same penalty if the candidate has not been charged. I follow the reasoning of Henderson J. and find that this result could not have been intended by the Legislature. I therefore find that the exception set out in s. 92(2) of the *MEA* applies in the case of the automatic penalties set out in s. 88.23 of the *MEA*.

**(b) Exercise of Discretion Pursuant to Section 92(2) of the MEA**

[50] Section 92(2) of the *MEA* provides that the penalties in s. 88.23 (2) which include forfeiture of office, do not apply if the candidate, acting in good faith committed the offence inadvertently or because of an error in judgment. Mr. Karygiannis has the onus to establish that the exception applies.

[51] I find that Mr. Karygiannis acted in good faith with respect to the filing of the financial statements. In the initial Financial Statement, he disclosed the post election party at the Santorini Grill. The amount spent was disclosed. The information with respect to the event was also disclosed in the Supplementary Financial Statement albeit in a different section. I find there was no attempt to hide the expense.

[52] I find that the error that set out the Santorini Grill expense in a different section in the Supplementary Financial Statement was made inadvertently. Mr. Karygiannis retained and relied on an experienced forensic accountant to prepare the statement. Mr. Karygiannis deposes in his affidavit that the accountant moved the expense to the different section of the form. Mr. Karygiannis confirms that he signed the form but he “did not advert to this error when he submitted the supplementary statement.” Mr. Karygiannis was not cross-examined on his affidavit.

[53] Mr. Karygiannis has satisfied the onus of establishing that the exception set out in s. 92(2) applies with respect to the filing of the Supplementary Financial Statement. I therefore grant relief from the forfeiture of office for filing a Supplementary Financial Statement that shows expenses were incurred in excess of the spending limit.

[54] This decision applies only to the penalty of forfeiture as it relates to the fact that in the Supplementary Financial Statement the expense related to the Santorini Grill dinner is under the heading of expenses related to parties and other expressions of appreciation. I have not made any determination as to whether this expense is a fundraising expense, or an expense relating to an expression of appreciation. I have not made any determination with respect to the substantive matters raised in the applications of Mr. Chaleff and Mr. Lin. Those issues are properly before the Committee and are the subject matter of the compliance audit. Following the auditor’s report, the Committee must determine whether to commence legal proceedings against Mr. Karygiannis

pursuant to the *MEA*. My decision does not have any effect on the Committee's obligation to continue with the compliance audit or its discretion as to whether to commence legal proceedings against Mr. Karygiannis.

[55] In my view it is appropriate to grant the relief sought by the Applicant while the audit is proceeding. At this point there has been no finding that Mr. Karygiannis incurred expenses in excess of the prescribed limits. Following the completion of the audit, the Committee may decide not to charge Mr. Karygiannis with an election offence, or if charged he may not be convicted. In those circumstances it would be unfair that Mr. Karygiannis be subject to the extreme punishment of forfeiture of office, when there was an inadvertent error made on the Supplementary Financial Statement. If, following a hearing on the merits, Mr. Karygiannis is convicted, the penalties set out in the *MEA*, including the penalty of forfeiture of office would be available at that time.

### **DISPOSITION**

[56] For the foregoing reasons, I grant the Application and order relief from the forfeiture of the office to which the Applicant was elected as a member of the Toronto City Council for Ward 22.

[57] This order does not affect the Committee's obligation to continue with the compliance audit, or the Committee's discretion to commence legal proceedings against Mr. Karygiannis following receipt of the auditor's report.

[58] If any party seeks costs of this Application, written submissions may be made to me, consisting of no more than 3 pages, excluding Bills of Costs or caselaw, within 21 days of the date of this order.



Chalmers, J.

**COURT FILE NO.:** CV-19-00630879  
**DATE:** 201911XX

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

JAMES KARYGIANNIS

Applicant

**– and –**

CITY OF TORONTO and ULLI S. WATKISS

Respondents

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**REASONS FOR JUDGMENT**

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Chalmers, J.

**Released:** November 22, 2019