



Report to: General Committee

Meeting Date: January 17, 2022

SUBJECT: Restricted Acts in a Municipal Election Year (2022)

PREPARED BY: Kimberley Kitteringham, City Clerk / Returning Officer
Martha Pettit, Deputy City Clerk / Assistant Returning Officer
Scott Chapman, Manager, Elections

RECOMMENDATION:

1. That the report titled ‘Restricted Acts in a Municipal Election Year (2022)’ dated January 17, 2022 be received for information.

PURPOSE:

To provide Council with information on the restricted acts under the *Municipal Act, 2001* ahead of the 2022 Municipal Election.

BACKGROUND:

The *Municipal Act, 2001* establishes the governing authority for municipalities and municipal councils in Ontario. Under Section 275 of the *Municipal Act*, a municipal council is prohibited from performing certain actions in a municipal election year where it is determined that there will be a material change in its membership during the next term of office. This is commonly referred to as the ‘restricted acts clause’ (or a ‘lame duck’ council).

The restricted acts clause may be triggered depending on the outcome of two key dates in an upcoming municipal election: Nomination Day (i.e., the final day to submit nominations for office) and Final Voting Day. If it is apparent that the incoming council will be comprised of less than three quarters (i.e., 75%) of its current membership, the council is required to refrain from certain acts until its next term begins.

The next municipal election in Markham is currently scheduled for October 24, 2022. As such, Markham City Council could be in a restricted acts situation during one or both of the following timeframes in 2022:

- From Nomination Day through to the end of the current term of Council (August 19, 2022 – November 14, 2022); or,
- From Final Voting Day in the 2022 Municipal Election through to the end of the current term of Council (October 24, 2022 – November 14, 2022)

OPTIONS / DISCUSSION:

As Markham City Council is comprised of thirteen (13) members, the restricted acts clause would apply if fewer than ten (10) incumbent Members of Council were to return for the 2022-2026 term. There are two scenarios in which Council would be subject to a restricted acts period in respect of the 2022 Municipal Election:

- If four (4) or more incumbent members of Council decide not to run for re-election (restricted acts period: August 19, 2022 – November 14, 2022); or,

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- If fewer than ten (10) incumbent members of Council are re-elected (restricted acts period: October 24, 2022 – November 14, 2022).

If neither of these situations occur, Council would not be subject to a restricted acts period in 2022. However, if either one occurs, Council would be precluded from making any decisions on the following matters until the end of the current term (November 14, 2022):

- a) Appointing or removing any officer of the City;
- b) Hiring or dismissing any employee of the City;
- c) Disposing of any real or personal property of the City with a value over \$50,000; and,
- d) Incurring any expenditures or liabilities exceeding \$50,000

Note: Restrictions do not apply to dispositions or liabilities included in the most recent budget approved by Council before Nomination Day in the 2022 Municipal Election (August 19, 2022).

Delegated Authority

Under *By-law 4-2000*, Council has delegated the following authority to the City's Chief Administrative Officer (CAO) during a restricted acts period in a municipal election year:

- To approve any expenditure or incur any liability over \$50,000;
- To approve the disposition of any real or personal property with a value of \$50,000 or more at the time it was acquired by the City; and,
- To hire and dismiss employees below the level of Commissioner.

Next Steps

The City Clerk / Returning Officer will advise Council following Nomination Day or Final Voting Day in the 2022 Municipal Election if it is determined that the restricted acts clause of the *Municipal Act* has been engaged.

FINANCIAL CONSIDERATIONS

None.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable.

BUSINESS UNITS CONSULTED AND AFFECTED:

Staff in the City's Legal Services Department were consulted in the preparation of this report.

RECOMMENDED BY:

Kimberley Kitteringham
City Clerk / Returning Officer

Trinela Cane
Commissioner, Corporate Services