11 Cross Street, 
Dundas, L9H 2R3 

February 14th, 2006

Hamilton City Councillors, 
City Hall, Hamilton.

Dear Councillor,

Larry Di Ianni’s 2003 election campaign for Mayor appears to have involved paid professionals, people with experience and expertise.

As a result of the LECG audit, we now know that Di Ianni’s campaign manager, Larry Russell, was paid $12,000 and Mario Joannette was paid $5,000. Mr. Russell was also previously the campaign manager for Bob Wade’s mayoralty campaign.

The LECG document of October 25th, 2005 sets out the auditor’s views on what should be reasonably expected of a candidate:

“Our compliance audit considered what reasonable expectations should be for candidates in conducting due diligence on campaign contributions. At the time contributions are received, a candidate can reasonably be expected to identify contributions that exceed the limits or are clearly from inappropriate sources, such as contributions from out-of-Providence businesses, charities, federal or provincial parties or similar sources.

“Prior to finalizing a financial statement, a candidate can also reasonably be expected to identify multiple contributions that result in an over-contribution, contributions from different individuals or corporations sharing a common address, or other commonalities that suggest a possible association resulting in an over-contribution. ....”

Over $25,000 of apparently illegal over-contributions has now been returned to contributors.
Included in the more than 60 over-contributions are:

- an out-of-province corporation;
- a charity (the YMCA!);
- multiple contributions from a dozen separate donors that exceeded the maximum allowable and thus resulted in over-contributions;
- contributions from at least half a dozen different individuals or corporations sharing a common address;
- and many examples of commonalities that suggest a possible association resulting in an over-contribution.

In many of these cases, the violation appears to be evident just from the cheques (the YMCA!) without any further information being required. However, the vast majority of these refunds were issued only after my letter to Council (June 2004).

If I could find these violations of the Municipal Elections Act, why were they not discovered by the Mayor’s campaign??? This question must be answered. With no expertise whatsoever, I identified many probable over-contributions long before the LECG audit. I did not need further information that was not available to the candidate. The auditor has now confirmed that the standards I used are the same ones that a candidate (especially one with a paid staff!) can be held to in almost every case.

The LECG reports were based on Larry Di Ianni’s final campaign statement, produced many months after my initial letter to Council. However, my original letter to Council was based on the first financial statement. Many of these alleged violations were reviewed, not by LECG, but by the firm Taylor Liebow. I have confirmed with LECG that its reports must be read in conjunction with the Taylor Liebow report.

The findings of the Taylor Liebow report, standing alone, led to the return of over $10,000 in over-contributions and confirmed most of the cases identified in my original letter.

Council is now being urged to accept that it must find these, and all other apparent contraventions by the Mayor, were “intentional” before commencing any legal proceedings. For reasons given herein, I strongly disagree. However, even if Council were to take this approach, the Taylor Liebow report does not state that the candidate accepted these contributions ‘unintentionally’. The findings of this
report have not been commented on in the LECG audits.

The Taylor Liebow report found or confirmed several dozen more violations. The only evidence Council appears to have, to show that these apparent contraventions were “unintentional”, is Larry Di Ianni saying they were. If a denial by the alleged wrongdoer was sufficient to say that a charge should not be laid, then there would never be a prosecution in almost every case that comes before the courts.

The Municipal Elections Act makes it clear that only a judge can determine guilt or innocence. The Act states the following:

“However, if the presiding judge finds that the candidate, acting in good faith, committed the offence inadvertently or because of error in judgement, the penalties described in paragraph 1 of subsection 80 do not apply.”

This power is not given to the auditor. It is not given to City Council. It is not given to me. It is given only to “the presiding judge”. Furthermore, even if the presiding judge finds that every single error was an “honest mistake” (which may be very difficult to imagine given the very large number), this simply avoids the candidate losing their office. It does not avoid other possible penalties such as fines.

Here is just one example of why I believe the matter should be placed before the courts. I could provide many more.

On June 24th, 2003 a cheque was written to the Larry Di Ianni campaign for $1,000 from the Village Green Denture Clinic. The cheque stated from ‘Paul Pacifi’. Larry Di Ianni’s first financial statement records this cheque as $250.00 from Paul Pacifi and $750.00 from the Village Green Denture Clinic. In my letter to Council in June 2004, I suggested that Village Green Denture Clinic was not a corporation. I was not aware that the cheque was actually written for $1,000 until after the release of the Taylor Liebow report. On August 13th, 2004 the Di Ianni campaign refunded $250.00 to Paul Pacifi. The final financial statement shows $750.00 from Paul Pacifi and records the $250.00 refund.

Here then, someone involved in the campaign appears to have decided not to return the $250.00 over-contribution until August 13th, when a cheque for $1,000.00 on its face was received June 24th. Instead, someone appears to have consciously decided to keep the money, and enter it in the books in a different
way. How could these changes have been made “inadvertently”? Further, at the time the cheque was written, dentists were not even permitted to incorporate.

This, and many other violations of the Municipal Elections Act raise serious questions about the Larry Di Ianni campaign, especially as the instructions issued by that campaign directed that all contributions “should be given to Larry Di Ianni or Larry Russell”. Only two people, both with considerable experience, one the candidate and the other paid appear to have been in charge of finances.

I recognize that Council is placed in a very uncomfortable position. However, I have raised many valid concerns and urge you to accept your responsibility under the Act and lay charges, so that the courts may make an impartial judgment.

I have already expressed the hope that Council will agree to refer the compliance audits to a Committee of the Whole meeting, where I hope to have the opportunity to speak to the committee.

Thank you for your attention,

Yours sincerely,

Joanna Chapman

*Sent by email. Signed original to be given to the Clerk.*