

**Submission
No 77**

INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

Organisation: Residents' Action Network
Name: Ms Sandy McClimont
Position: President
Telephone:
Date received: 12/02/2008



12th February 2008

The Director
Select Committee on Electoral & Political Party Funding
Legislative Council
Parliament House
Macquarie Street
SYDNEY 2000

Email: fundinginquiry@parliament.nsw.gov.au

Dear Sir/Madam

INVITATION TO MAKE SUBMISSION TO THE INQUIRY INTO ELECTORAL AND POLITICAL PARTY FUNDING

In response to the invitation to make submissions to the Public Inquiry into Electoral and Political Party Funding, I make the following submission on behalf of the Residents' Action Network (RAN).

RAN is a community based organisation made up of volunteers from diverse backgrounds. Our membership is spread across the whole of the Port Macquarie/Hastings local government area. We share common concerns about the quality and integrity of government in our local area. At the 2004 local government election RAN put forward a group of four independent candidates.

This submission is confined to addressing issues affecting local government elections only.

SUBMISSION

In this submission RAN argues that:

- Public funding should be introduced for Local Government elections.
- If public funding is rejected as an option then
 - (i) there should be a cap set for electoral donations;
 - (ii) the amount of all donations (including in-kind assistance) should be revealed at least five days prior to elections; and
 - (iii) candidates should be banned from receiving donations for 12 months after the poll.
- The Electoral Funding Authority (the EFA) should be fully funded, adequately resourced and given the power to investigate complaints made about abuses of the system. The EFA should report to Parliament after each election on its investigations.

Public Funding

RAN's preferred option is that local government elections be publicly funded. It may be that public moneys are only used to purchase broadcast time (see the New Zealand system); or could take the form of a refund of moneys expended to a stated limit. The limit would be based on the current system as it applies to public funding in State and Federal elections, i.e on the candidate achieving a nominated percentage of votes.

Public funding, together with a ban on private funding, would ensure that all candidates are on an equal footing. It would give the electorate the opportunity to be more fully informed on what each candidate or group stands for. As it is, the current situation clearly favours those with access to political party or developer funding.

The reform of the electoral funding system is of particular importance in regional areas where there is limited scrutiny by the media of real estate and development interests and their relationship with local government candidates. This is clearly a failure of the role of the fourth estate in the democratic system to protect the public interest. Of course, it must be acknowledged, the commercial reality is the extent to which regional newspapers, and the commercial electronic media, rely on real estate and development advertising for revenue. A particular problem in the Port Macquarie/Hastings (PMHC) area is the fact that free magazines (we have two) play an important role in protecting real estate interests as this is their main source of income.

Alternatively, if public funding is not an option RAN would like to see the following reforms.

Political donations – amounts

The situation that the RAN group experienced in the PMHC area 2004 local government election illustrates one of the problems with the current situation regarding expenditure on donations.

In total, four groups stood at the 2004 election together with five individuals standing as independents. The four groups consisted of the RAN group (all Independents) and a "team" of three groups who combined and called themselves the YES team. The YES team was led by the incumbent Mayor Rob Drew (a National Party member) who was, at the time also seeking re-election as a Mayoral candidate. The second position in his group was taken by Councillor Rob Nardella also a National Party member working for Mark Vaile the Federal Member for Lyne. The remaining two groups in the YES team were led by well known incumbent Councillors who, whilst not necessarily members, were nevertheless widely perceived to be National Party supporters.

The YES team was successful in electing 5 candidates. To achieve this outcome they spent \$80,000.00 on their campaign. The RAN group and other Independent candidates could not possibly equal this spending and so the outcome was inevitable.

RAN contends that there should be a cap on the amount candidates/groups/parties can spend and receive. This would dramatically reduce the potential for corruption of the electoral system.

Political donations – sources

RAN submits that the current policy regarding compulsory disclosure of the source of political donations requires urgent reform as it is clearly flawed.

In 2004, during a *Meet the Candidates* evening, Mayor Rob Drew acknowledged there might be developers giving him money, but he declined to name them or say how much they contributed (Port News 19/3/07).

The current situation is that Groups that are supported by developers have huge amounts of money to spend on their campaign. The sum of \$80,000 spent by the YES team gave them a tremendous advantage over other candidates. This was the 2004 situation not only in the Port Macquarie/Hastings area but also in the Tweed, Ballina, Richmond Valley and Coffs Harbour local government areas.

Disclosure

It is imperative that there be openness and transparency in the local government electoral funding system. There are clearly loopholes in the current system that allow full disclosure to be avoided. The following is a concrete example illustrating the problem.

After the election RAN became concerned when it was reported in the local media that there was a shortfall of \$43,361.00 in the Mayoral candidate's group electoral funding declaration (see Port News 17 September 2004). RAN complained to the EFA. In his response to public outcry about this failure to disclose the source of funding Mayor Rob Drew said:

"With regard to my group I have ensured, with the assistance of legal advice and with the Electoral Funding Authority, that we have met all the guidelines outlined by them. The donations and contributions **which did not make this declaration** will be revealed after the next Council election in 2008. Group C received huge support during its campaign with 200-300 people helping on election day **and Paul McCarthy Advertising allowed a flexible account which is still being paid off** (emphasis added)." (Port News 27 October 2004).

Thus it transpired that the YES team by using credit facilities made available to them by an advertising agency that was also their campaign manager, effectively manipulated the requirements of the legislation to their advantage.

The ability for candidates or groups to have funding channeled to them through credit arrangements made by third parties such as printers or advertising agencies must be curtailed.

It follows that full disclosure must be made by candidates/groups/parties both pre and post election. We note that Professor Maurice Daly in his Tweed Heads Council report recommended that the amount of all donations (including the value of in-kind assistance) should be declared five days prior to council elections and candidates should be banned from receiving donations for 12 months after a poll. This would address the problem of candidates/groups using credit facilities or debt write-offs to avoid disclosure.

Failure to make full disclosure leaves the current system wide open to corruption.

Efficacy of the Electoral Funding Authority (the EFA)

The failure of the EFA to deal with the complaints made about the 2004 election in relation to disclosure of the source of donations referred to above illustrates the problems confronting it under the present legislative regime. This was acknowledged by the EFA in its initial response to complaints by RAN about abuse of the system. We were told that whilst "it may have been advisable" for the YES team to disclose details of its electoral funding within the statutory period "full disclosure has now been achieved".

The point was that full disclosure was only achieved because of public outcry. In a further letter the EFA stated: "Whilst the Election Funding Act provides some inspectorial role it is very limited in its scope. There are no broad investigative powers held by the Authority pursuant to the legislation." (letter from EFA reference EFL71/4 dated 11 February 2005). This is clearly a situation that requires rectification.

The EFA, or some other body with powers of investigation, should be provided with investigative powers and be adequately resourced to follow through on any complaints regarding abuse of whatever electoral funding system is decided upon by the Government. What must be achieved is transparency and accountability in the system.

Yours faithfully

Sandy McClimont
President
Residents' Action Network