

# Discipline, Interpretation, and Enforcement (DIE) Board

## Ruling of the Board

### HEARING DETAILS

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**Style of Cause:** Dadani v C.R.O.

**Hearing Number:** 2011-06

**Hearing Date:** March 8, 2012

**DIE Board Panel Members:** Megan Mickalyk, Chief Tribune (Chair)  
Joanna Waldie, Associate Chief Tribune  
Rena Chen, Tribune

**Appearing for the Applicant:** Aliza Dadani, Aditya Rao

**Appearing for the Respondent:** Zach Fentiman, Chief Returning Officer

**Intervener(s):** Jessica Zvonkovic, James Eastham

### BACKGROUND:

Aliza Dadani, campaign manager for candidate Aditya Rao, alleged that a series of incidents occurred in Lister Hall, which contravened Bylaw 2200. Ms. Dadani claimed these alleged incidents were extremely prejudicial to candidate Rao. The specific facts are not relevant to the decision made by D.I.E. Board beyond the fact that the alleged events were potentially damaging and prejudicial to Rao's campaign, and, if proven, could have a serious impact on the integrity of the elections. The alleged contraventions occurred over a period of several days, beginning February 27<sup>th</sup>, 2012. Ms. Dadani was not made aware of these alleged incidents until March 7, 2012. S. 47(2) of Bylaw 2200 obligates the Chief Returning Officer to make a ruling on alleged contraventions when a complaint is "...received within 12 (twelve) working hours of the alleged contravention..." Ms. Dadani issued a complaint on March 7<sup>th</sup>, the same day she learned of the alleged contravention. However, this was outside of the timeframe that would obligate the Chief Returning Officer to issue a ruling.

### ISSUE

Is the CRO obligated to make a ruling on a complaint brought outside the 12-hour time frame from when an alleged contravention occurred, as prescribed by s. 47(2) of Bylaw 2200?

## **RELEVANT LEGISLATIVE PROVISIONS**

### **S. 47(2), Bylaw 2200**

Where a complaint is received within twelve (12) working hours of the alleged contravention, and where the original complaint form is provided to the C.R.O., the C.R.O. shall rule on that complaint.

### **S. 29, Bylaw 1500**

#### **General Powers of Enforcement**

If the Board finds an application for action or application for appeal requires action by the Board may make any order proscribing any remedy the Board considers appropriate and just in the circumstances.

## **DECISION**

Although the CRO maintains discretion to decide whether to make a ruling on a complaint brought outside of the 12-hour window prescribed by s. 47(2), when a matter is of a sufficiently serious nature, there is an obligation on the CRO to investigate and make a ruling on the alleged contravention as a matter of fairness.

## **THE FOLLOWING ARE THE REASONS OF MICKALYK, CHIEF TRIBUNE**

S. 47(2) requires the C.R.O. to make a ruling when a complaint is brought within 12 hours of the alleged contravention. Mr. Fentiman asserted and I agree that the appropriate interpretation of this section is that when matters are brought outside of the 12-hour window, the C.R.O. is not precluded from making a ruling. The provision gives the C.R.O. discretion to decide whether or not he ought to provide a ruling. However, when an alleged contravention is particularly egregious, there must be some onus on the C.R.O. to conduct a further investigation where necessary, and ultimately issue a ruling.

Section 29 of Bylaw 1500 provides D.I.E. Board with a general power of enforcement to prescribe any remedy it considers appropriate to the circumstances. Due to the serious nature of the complaint to the C.R.O. in this instance, there is an onus to conduct whatever further investigation is necessary, and ultimately come to a decision. This does not dictate what evidence he must consider, as that is within his discretion. The specific facts of the complaint to the C.R.O. are not relevant to our decision. The Board does not have the discretion to judge the accuracy of these facts based on the issues raised in the application. The only relevant consideration with respect to the facts is that the allegations made were of a serious nature, and therefore would warrant further investigation and a decision by the C.R.O.

**THE FOLLOWING ARE THE REASONS OF WALDIE, ASSOCIATE CHIEF TRIBUNE**

I concur.

**THE FOLLOWING ARE THE REASONS OF CHEN, TRIBUNE**

I concur.