



Written Opinions, Guidelines and Interpretation Notes

Interpretation Note: 2022-04

Disclosing the Location of a Regulated Fundraising Event

Comments made during the consultation period of November 29, 2022, to January 19, 2023

Comments received from the Conservative Party of Canada	Elections Canada response to the Conservative Party of Canada
<p><b>Page 4 – Meaning of “location”</b></p> <p>The disclosure of event venues for regulated events considerably increases the risk and security concerns for Members of Parliament, especially the leaders of registered parties. Over the past few years, there has been an increase in incidents and harassment against parliamentarians, leading to the issuance of panic buttons for Members’ offices only recently in Summer 2022.</p> <p>Given that all regulated events must be advertised publicly five days prior, it exponentially increases security risks and concerns of all those involved: parliamentarians, attendees, and event staff. The concern is the same regardless of public venue or private residences; the latter has greater risk of continuing harassment and security concerns following an event.</p>	<p>Elections Canada recognizes that the advance disclosure of events may increase security risks and concerns of various groups. This may require political entities to use existing security resources or take additional measures to enhance security. While the legislation as debated and enacted suggests that the venue must be specified, Parliament may wish to amend the legislation to address widely reported concerns expressed by multiple parties in this area.</p>
Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p><b>General Comments</b></p> <p>Everyone participating in our democratic process, whether casting their vote or supporting and attending a political fundraising event, should be able to do so without being intimidated or concerned about their safety. However, last spring, an event was cancelled to protect the safety and security of Canadians exercising their democratic freedoms, arising from a protest police expressed concern could escalate, as Elections Canada mentions in its OGI in footnote 4 on page 3. Allowing events to be disrupted in an escalated manner undermines the ability of individuals to support the democratic process, puts their safety at risk, and violates</p>	<p>Elections Canada notes your general comments. As mentioned above, we recognize the security concerns with advance disclosure that have been expressed by multiple parties.</p> <p>We wish to clarify at the outset that, under the <i>Canada Elections Act</i>, the requirement to publish a notice five days before an event rests with registered parties. Elections Canada’s role is to publish reports submitted by parties 30 days after an event or 60 days after a general election. The Regulated Fundraising Events Registry is our public repository for these reports. An event is listed in the registry in advance as a placeholder (which does not contain all the</p>

<p>their guaranteed right to freedom of association under Section 2(d) of the Charter of Rights and Freedoms. By withholding the venue name and address on the Elections Canada Regulated Fundraising Events Registry in the lead-up to a political fundraising event, it would remove the potential safety risk to those attending such fundraising events and prevent protesters from obstructing the rights of Canadians.</p> <p>A careful balance must be struck. Where there are credible threats or concerns, or where law enforcement has provided advice that requires an organization to question the safety of participating individuals, we must prioritize the safety and rights of those attending. There is a need that the physical safety of individuals participating in political events be the paramount objective, especially when other transparency measures are available. To support transparency around political fundraising events, there are numerous other compensating factors that could be taken, including advising media of the fundraising event location in advance of an event and continuing with the existing post-event reporting requirements disclosing the venue name and address, as well as the individuals attending the event.</p> <p>Together, we must continue to commit to the strongest standards for openness and transparency with political fundraising events, while at the same time ensuring all Canadians can freely and safely participate in the democratic process.</p>	<p>elements of the notice published by the party) so that the public knows the event exists and that a report will be published.</p> <p>We have addressed certain other elements of the party's general comments below in response to the specific comments.</p>
<p><b>Specific Comments</b></p> <p>We provide the following specific points for consideration:</p> <ol style="list-style-type: none"> <li>1. On page 3, the third paragraph discusses Elections Canada's interpretation of "location". We observe that the term "location" in the statutory provisions is not precise and is capable of multiple interpretations. We submit to Elections Canada that, where there is vagueness in the legislation and a bona fide safety issue created by the provision, it is appropriate for Elections Canada to apply an interpretation that provides maximum flexibility with respect to the safety of individuals. That is particularly the case where, as here, the policy objective of transparency can be and is accomplished through the more flexible interpretation of location, by virtue of (1) post-event reporting providing additional specificity as to location, and (2) provision of more detailed location information to all interested and accredited media. The more restrictive interpretation of the "location" suggested by Elections Canada does not materially</li> </ol>	<p>Elections Canada's interpretation of "location" in the OGI follows the general principles of statutory interpretation. Where the wording of a provision can support multiple meanings, its interpretation is to be made in accordance with the context and purpose of the provision. As noted in the OGI, the legislative intent of Bill C-50 at the time of its adoption included the disclosure of a precise location for transparency before the event, so that Canadians would know "exactly where and when a fundraiser is happening." As a further indicator, which has been added to the OGI, we note that the legislation requires parties to give notice not only of the event date and location but also the "time," pointing to the precise nature of the disclosure. The objective of advance transparency could not be met, as suggested in the comment, by post-event reporting or relying on parties to provide more detailed location information to media. While we trust that parties would provide a location when asked by journalists, media organizations and others with a legitimate interest, such a commitment would not have the strength of a legislative</p>

<p>advance the policy objective of transparency, adds specificity that is not present in the text of the statutory provision, and creates a bona fide risk of harm to elected officials in attendance and event attendees.</p>	<p>requirement and could not be sanctioned if violated. Lastly, there is no statutory basis for giving a different meaning to “location” in the event notice on the party’s website and the post-event report to Elections Canada. A precise location would need to be provided in both places or in neither place. For the above reasons, while we recognize the security concerns of parties, we do not believe there is a reasonable basis to alter our interpretation of “location” as described in the OGI.</p>
<p>2. On page 3, fourth paragraph, third sentence, the draft interpretation states, “As part of its rapid pandemic response, Elections Canada instructed registered parties to enter ‘private residence’ as the venue name...” when events were held in a private residence. We have difficulty understanding why in the instance of a private residence there is no need to pre-disclose the civic address, yet in the instance of a private venue, such as a restaurant, there is a need to pre-disclose the civic address. The legislation doesn’t appear to differentiate between a residence and a venue, yet Elections Canada is putting forward different reporting requirements for each. On page 5, first paragraph, Elections Canada confirms that going forward, the current practice of entering “private residence” as the venue name would continue under this OGI.</p>	<p>The OGI states that, in fulfilling the <i>Canada Elections Act</i> requirement to disclose an event “location” in a notice and report, the party must disclose the venue name, municipality, province or territory and postal code. It is Elections Canada’s view that the use of the word “location” in the Act does not mean “address.” In provisions where Parliament has wanted an “address” reported, it has used that word. As Bill C-50 focuses on enhancing the transparency of certain fundraising events, it is likely that “location” was chosen because in most cases it will enhance transparency in comparison with an address. A well-known public or commercial building that is hosting an event will be recognized by its name; it is less likely to be recognized by its address. For a private residence, Elections Canada has stated that the phrase “private residence” may be used as the venue name since private residences are not generally named. For a public or commercial building, the name of the building must be used since that is the venue name. This has different effects depending on the venue chosen for the event (and one such effect aligns with the privacy of homeowners), but it is the same requirement for all events.</p>
<p>3. The Background section of page 3 fails to disclose that in June 2022, Elections Canada responded to the registered party’s spring 2022 inquiry that, on an interim basis, Elections Canada would suppress the publishing of the venue name and address on Elections Canada’s website from the information provided by the party until such time as an OGI was released to examine the question of the need to disclose the venue name and location. In conjunction with Elections Canada’s interim disclosure, the Party adjusted its own disclosure.</p>	<p>The OGI does not discuss Elections Canada’s online Regulated Fundraising Events Registry because it is not affected by the statutory interpretation of “location.” As noted in the Legal Framework section, under subsection 384.3(13) of the <i>Canada Elections Act</i>, “Elections Canada must publish reports on regulated fundraising events as soon as feasible after receiving them, in the manner that it considers appropriate.” There is no statutory requirement for Elections Canada to disclose the event location in advance. As a result, our decision to remove the venue name from the registry listing on request of the party had no legal implications for the agency. It was not meant to influence how parties met their own statutory requirement to publish the location of an event on</p>

	their website. Going forward, we will continue to publish the registry listing without the location since it is not a statutory requirement for the agency.
4. On page 4, first paragraph, last sentence in the Analysis and Discussion section, it states, “The registered party’s obligation to publish a notice of the event on its website (including the event ‘location’ and a contact person) aims, in part, to ‘give journalists the ability to determine when and where fundraisers are happening’ with enough time to decide on possible coverage.” Political parties currently publish a minimum notice on their website disclosing the date, municipality, and province of a regulated fundraising event, and additionally, the notice provided to Elections Canada includes the venue name and address. Additionally, prior to an event, the Liberal Party of Canada provides a media advisory for the event, and interested journalists are provided the venue name and address when requested. Elections Canada could also provide the venue name and address to journalists when so requested. Consequently, current practice provides journalists the ability to determine when and where a fundraiser is happening, thus meeting the overall transparency put forward by Bill C-50.	As mentioned in our response to the party’s first specific comment, while we trust that parties would provide a location when asked by journalists and media organizations with a legitimate interest, such a commitment would not have the strength of a legislative requirement and could not be sanctioned if violated. While practices such as issuing a media advisory may contribute to transparency, they cannot replace the legislative requirement for a party to publish a complete notice, including the venue name, on its website. Likewise, Elections Canada cannot fill the role of responding to media requests for an event location on behalf of all parties represented in the House of Commons. The requirement to provide a contact person to answer questions about the event rests with registered parties.
<b>Comments received from the Commissioner of Canada Elections</b>	<b>Elections Canada response to the Commissioner of Canada Elections</b>
We have no comments to provide on the content of the proposed interpretation note.	Elections Canada notes your statement.

The following parties did not submit comments to Elections Canada regarding OGI 2022-04:

- Animal Protection Party of Canada
- Bloc Québécois
- Centrist Party of Canada
- Christian Heritage Party of Canada
- Communist Party of Canada
- Direct Democracy Party of Canada
- Free Party Canada
- Green Party of Canada
- Libertarian Party of Canada
- Marijuana Party
- Marxist-Leninist Party of Canada
- Maverick Party
- National Citizens Alliance of Canada
- New Democratic Party
- Parti Rhinocéros Party
- People's Party of Canada