April 27, 2015

City of North Vancouver
141 West 14th Street
North Vancouver, BC, V7L 2S4

Attention: Ken Tollstam, CAO

Re: Letter Dated February 18, 2015 and April 23, 2015

Dear Sir:

I confirm receipt of the above captioned communications.

In you letter of February 18th 2015, you state that; *"...any future enquiries you make of City staff are to be forwarded to Mr. Ken Tollstam directly, and a response will be issued from his office."*

As a resident, property owner and taxpayer of the City of North Vancouver, I am entitled to certain rights and privileges. These rights and privileges are conveyed not simply through the Local Government Act, but also form a component of the Canadian Constitution 1982 and the Constitution Act 1867.

As a taxpayer and resident I attend City Hall regularly for the purpose of interacting and making enquiry of various departments, and I speak with various City staff in those departments. I am also a frequent attendee of council, and often speak at those meetings. Your communication purposes to infringe upon my rights in this regard. Further, your communication provides no justifiable reason for the limitation you seek to impose.

The rights of a taxpayer to interact with a municipality were touched on by the Ontario Supreme Court in the matter of ***Chaperon v. Sault Ste. Marie (City)***, 1994 CanLII 7284 (ON SC). In that decision the court wrote:

> A municipal power must be exercised strictly according to the rules laid down by statute. Where a power is stipulated to be exercisable only by by-law, any resolution which purports to exercise that power is invalid. Section 101(1) of the Municipal Act provides that:
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> 101(1) Except where otherwise provided, the jurisdiction of every council is confined to the municipality that it represents and its powers shall be exercised by by-law.

To my knowledge there does not exist a bylaw which authorizes the withdraw or reduction of public services in relation to me as an individual taxpayer in a manner which differentiates me from all other taxpayers. If such a bylaw has been past, then I herein demand that a copy of that bylaw be provided to me, together with an explanation for its creation and application. In the event such a bylaw does exist, and is only now produced, then in accordance with the appeal allowed by the court, I herein

serve notice that it will be my intention to appeal that bylaw in accordance with s.265 of the *Local Government Act*.

Further on in the same same decision ***Chaperon v. Sault Ste. Marie (City)***, 1994 CanLII 7284 (ON SC) the court wrote:

> "The court held that in passing the resolution, the City was clearly purporting to exercise its statutory powers and this exercise was reviewable to determine whether the actions of the municipality were intra vires. A municipal authority is authorized to act only for municipal purposes. Municipal purposes include those that are compatible with the purpose and objects of the enabling statute. Any ambiguity or doubt is to be resolved in favour of the citizen.
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> At p. 275, Sopinka J., speaking for the majority, held that, generally, a municipal authority is authorized to act only for municipal purposes and relied on the decision of Iacobucci J. in R. v. Sharma, supra. He quoted with approval from Makuch, Canadian Municipal and Planning Law (1983), at p. 115, that statutory bodies are like municipalities:
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> . . . may exercise only those powers expressly conferred by statute, those powers necessarily or fairly implied by the expressed powers in the statute, and those indispensable powers essential and not merely convenient to the effectuation of the purposes of the corporation.
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> Sopinka J. held that the purposes of a corporation are determined by reference not only to those that are expressly stated but also those that are compatible with the purpose and objects of the enabling statute.
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> At pp. 276-77 he held:
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> In most cases, as here, the problem arises with respect to the exercise of a power that is not expressly conferred but is sought to be implied on the basis of a general grant of power. It is in these cases that the purposes of the enabling statute assume great importance. The approach in such circumstances is set out in the following excerpt in Rogers, The Law of Canadian Municipal Corporation, supra, ;st64.1, at p. 387, with which I agree:
>
> In approaching a problem of construing a municipal enactment a court should endeavour firstly to interpret it so that the powers sought to be exercised are in consonance with the purposes of the corporation. The provision at hand should be construed with reference to the object of the municipality: to render services to a group of persons in a locality with a view to advancing their health, welfare, safety and good government."

In my various attendance at City Hall, I speak respectfully, I do not threaten or act outside the standard of appropriate or legal conduct. I follow the rules. I follow the law. While it is true that on many occasions, the 'Slate' on council have not liked what I have had to say, and the same has many times been true for you, the manner in which I say it is lawful, appropriate, respectful and allowed.

I can recall being cutoff three times during oral presentation by the Mayor while speaking to council, but in all three instances the Mayor was compelled and did admit being in error in doing so, assuming incorrectly that I intended to stray over the line when in fact I neither had such an intention, nor did I stray over that line.

You now suggest in your letter that you have the authority to treat me in a different way than all other taxpayers, limiting my contact with municipal employees in a way which is different than all other members of the public. I am aware of only one other instance where you have applied such authority. I believe that instance involved Councillor Fearnley, as he then was, which limitation was allegedly brought as a direct result of a taped telephone call involving he and you, which tape I understand makes for some very interesting listening.

To apply this limitation on a taxpayer who has broken no law, nor been alleged to have done so is unlawful, and as the cases sited suggest, is also beyond the intended power and authority of a municipal CAO, or a municipality in general. On this point however, I am quite prepared to pursue a court position if such action becomes necessary.

It is a democratic principle that taxpayers have a right to question the conduct and governance practices of governments of all types and stripes. Where we fail to uphold these principles the very foundation of democracy is put at risk.

Accordingly, and until I receive copy of a bylaw which purports to treat me, as a member of the public, in a manner different than all other City taxpayers, I will simply assume that you have failed to fully appreciate the limitations of your office and I will operate as always within the limitations of the law and reasonable decorum for the circumstances.

Thank you for your letter.

Respectfully,

"Kerry Morris"

Kerry Morris

Cc Mayor and Council
Office of the Premier
Elections BC
RCMP, Superintended - North Vancouver Detachment
Office of the Attorney General of British Columbia

Attachment Page - See Following Page

Local Government Act

Right of action on illegal bylaw
265 (1) If

(a) all or part of a bylaw is illegal, and
(b) anything has been done under the bylaw that, because of the illegality, gives a person a right of action,
the action must not be brought until the end of the time period under subsection (2).
(2) An action referred to in subsection (1) must not be brought until
(a) one month after all or part of the bylaw has been set aside, and
(b) one month's notice has been given to the municipality.
(3) An action referred to in subsection (1) must be brought against the municipality only, and not against a person acting under the bylaw.