

INTEGRITY AND HONESTY AT CITY OF NORTH VANCOUVER QUESTIONED

Did The Mayor Know The CAO Was Being Untruthful? YES!

By: Kerry Morris - June 6, 2015

On July 31st 2014, I filled a 'Freedom-Of-Information' ('FOI') request on the City. I asked the City to provide copies of all documents pertaining to a water meter billing error involving Vancouver Coastal Health's ('VCH') Lions Gate Hospital water supply. The City Clerk delayed proper response and production of the documents past the lawful time limits. I believe this was done to ensure production moved beyond the election cycle. The City never produced any documents.

On March 11th 2015, I filled an 'FOI' request on VCH seeking production of all records pertaining to a water meter billing error by the City of North Vancouver in relation to Lions Gate Hospital. The initial document production was released by VCH on April 24th 2015. The initial document release (Phase-1) identified the City had potentially suffered a loss of \$692K, due to a meter reading and billing error. The City contested release of these documents, thus a further evaluation process was required. All Phase-I FOI documents are available at the following link (<http://kerrymorris.ca/wp-content/uploads/2015/04/VCH-Phase-1-FOY-Release.pdf>).

On April 27th 2015, I appeared before North Vancouver City council. I presented the materials disclosed by VCH in their April 24th 2015 FOI release. A copy of my presentation to council is available at the following link (<http://kerrymorris.ca/wp-content/uploads/2015/04/Money-Matters-at-the-City-Of-North-Vancouver2.pdf>).

In my presentation to council of April 27th 2015, I disclosed copies of several VCH FOI documents which identified a possible \$692K loss may have been suffered by the City. After completion of my presentation to council, Mayor Darrell Mussatto made the unusual decision to authorize the City's CAO Ken Tollstam to make oral answer and presentation in response to my presentation. CAO Tollstam's presentation was comprised of the following statement:

*"...Staff is, the policy and practice is, that we don't want to say anything, but speakers are here, but I want to assure the public, the citizens, **that the City in the water system has suffered no losses.** The auditors have looked at our statements, they have been privy to all of the documents, the documents that Mr. Morris has, he only has part of it, and by having part of the picture, your making assumptions which are wrong. So I want to assure the citizens here and to council, that everything is in order. **We have not suffered losses.** That is a fact. And the other thing is your worship, we don't comment on customer actual usage. We don't give out information on actual usage. Same thing with BC Hydro or BC Gas or things of that nature. So that is my final word on this issue..."*

A full and complete copy of the video recording can be viewed at the following link (<https://vimeo.com/126461858>).

On June 4th 2015, VCH released the balance of the 'Water Meter' FOI documents (Phase 2). The City was successfully able to cause redaction of certain account numbers and values, as well as causing VCH to withhold from release, the executed 'Letter-Of-Agreement' signed by both parties. Only an 'unsigned' copy of that settlement agreement, in the form which was eventually executed by both the City of North Vancouver and Vancouver Coastal Health, was provided in the Phase-2 FOI release. A full copy of these documents is available for viewing at the following link: (<http://kerrymorris.ca/wp-content/uploads/2015/06/FOI-Request-for-Records-Response-Phas-2.pdf>).

Upon receipt of the VCH Phase-2 FOI document release, I wrote to VCH seeking confirmation that the unsigned 'Letter-Of-Agreement' included in the FOI release, is a full, complete and accurate copy of the actual agreement. I was seeking confirmation that the agreement provided to me had in fact been executed in that form. VCH wrote back to me that same day and confirmed the Letter-Of-Agreement, in the form provided, had been executed by both parties. A full copy of that email string is available for viewing at the following link: (<http://kerrymorris.ca/wp-content/uploads/2015/06/Confirmation-of-Execution-of-Letter-of-Intent-Settlement-Agreement-Between-CNV-VCH.pdf>).

LETTER OF AGREEMENT

July 19, 2013

Isabel Gordon
 Director of Finance, City of North Vancouver
 141 West 14th Street
 North Vancouver, BC
 V7M 1H9

Re: Settlement and Release Concerning Under Billed Utility Fees

I am writing to you to confirm the settlement reached between the City of North Vancouver (the "City") and Vancouver Coastal Health Authority ("VCHA") concerning the under billing of metered account no: **S-151100** (the "Account"). This utilities account is held by Lions Gate Hospital ("LGH"), which is owned and operated by VCHA.

The City incorrectly measured LGH's water usage level from the period of May 2009 to May 2012. In 2011 VCHA notified the City about potential billing errors and the City replied in March, 2011, that the Account was being billed correctly. However, in May, 2012, the City determined that the water measurements for the Account had been read incorrectly and notified VCHA in a letter dated December 11, 2012, that VCHA had been overbilled in May 2009 by an amount of \$55,229.15 and under billed during the remainder of the period in question by an amount of \$692,499.16.

In 2013 VCHA and the City mutually agreed via telephone and email correspondence that VCHA will pay the City an amount of \$357,518.89 as full repayment of the amount claimed by the City. This Letter of Agreement formally sets out the terms and conditions of the settlement and releases VCHA from any further claims relating to the under billing.

Please sign both copies of this Letter of Agreement, retain one copy for your records, and return the second copy to me within 30 days of the date of this Letter of Agreement.

Terms

- VCHA shall pay to the City the sum of \$357,518.89 as full repayment for the utilities that were under billed to the Account during the period May 2009 to May 2012 (the "Settlement Amount").
- VCHA shall pay the Settlement Amount by installment in accordance with the following schedule:

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The settlement agreement, in the form which has been admitted by VCH as the version executed, discloses several key facts which are in conflict with the statements of the City's CAO made April 27th.

- The City suffered an original loss of \$692,499.16 as a result of the water meter readers / billing error.
- The City and VCH eventually agreed to settle the dispute by having VCH pay to the City the sum of \$357,518.89.
- The settlement included repair, by way of offset credit, of the over-billing error made by the City on VCH in the amount of \$55,229.16.
- The net amount of the settlement payment made to the City, after deduction of the offset credit of \$55,229.16, was agreed at \$274,037.90.
- The City provided repayment terms to VCH that recognized the budget implication brought by an immediate payment. The payment terms allows VCH to pay the \$274,037.90 over two years in seven equal quarterly payments of \$39,148.27.
- The agreement did not constitute an admission of wrong doing on the part of VCH, but forms a full and final release, and does not require or compel confidentiality on the part of either organization.

Accounting:	Billing Error	\$692,499.16
	Over-Billing Credit	<u>(\$55,229.16)</u>
	Net Loss	\$637,270.00
	VCH Payments (Total Additional)	<u>(\$274,037.90)</u>
	<u>CNV Loss After VCH Payments</u>	\$363,232.10

It is evident from the data that before any consideration for interest income losses, the City in fact has suffered a loss of \$363,232.10. I estimate the loss of interest income at a 2.1% lost opportunity rate equals \$43,627.45, using a very basic declining balance formula in recognition of the repayment schedule, before allowing for compounding implications. Thus the net effect of this loss is \$406.9K, or slightly more than 1% of the City's annual taxation income (1% = \$400k). The fact of the loss now poses two significant management dilemmas.

- The CAO, in open council chamber, on a matter that no longer has any legal implication for the City, was untruthful in his statement to council, and to the public, in respect of a material loss suffered by City taxpayers.
 - The Mayor, who is responsible for the integrity of council, with full knowledge of the facts, allowed the CAO to make a knowingly untruthful statement in which CAO Tollstam stated: "...We have not suffered loss..."
- The actions of the CAO are now the subject of a 'Professional Conduct Inquiry' complaint, brought under S.205 (False or Misleading Documents and Oral Representations) of the Institute of Chartered Accountants of BC "Rules Of Professional Conduct".

CITY OF NORTH VANCOUVER WATER AND SEWER UTILITIES 3 YEAR PROPOSAL '09
 LIONS GATE HOSPITAL WATER AND SEWER UNDER-BILLED AMOUNT

Year	Invoice #	Invoice Date	Invoice Amount	Number of Underbilled Payments	Payment Due
2010	Invoice #1	5/1/09	\$ 95,000.00	3	\$ 30,000.00
	Invoice #2	5/1/09	\$ 95,000.00	3	\$ 30,000.00
2011	Invoice #1	5/1/10	\$ 95,000.00	3	\$ 30,000.00
	Invoice #2	5/1/10	\$ 95,000.00	3	\$ 30,000.00
2012	Invoice #1	5/1/11	\$ 95,000.00	3	\$ 30,000.00
	Invoice #2	5/1/11	\$ 95,000.00	3	\$ 30,000.00
			\$ 274,037.90		

Invoice #	Invoice Date	Invoice Amount	Total
Invoice #1	2010-05-01	\$ 95,000.00	\$ 95,000.00
Invoice #2	2010-05-01	\$ 95,000.00	\$ 190,000.00
Invoice #3	2010-05-01	\$ 95,000.00	\$ 285,000.00
Invoice #4	2010-05-01	\$ 95,000.00	\$ 380,000.00
Invoice #5	2010-05-01	\$ 95,000.00	\$ 475,000.00
Invoice #6	2010-05-01	\$ 95,000.00	\$ 570,000.00
Invoice #7	2010-05-01	\$ 95,000.00	\$ 665,000.00
Invoice #8	2010-05-01	\$ 95,000.00	\$ 760,000.00
Invoice #9	2010-05-01	\$ 95,000.00	\$ 855,000.00
Invoice #10	2010-05-01	\$ 95,000.00	\$ 950,000.00
Invoice #11	2010-05-01	\$ 95,000.00	\$ 1,045,000.00
Invoice #12	2010-05-01	\$ 95,000.00	\$ 1,140,000.00
Invoice #13	2010-05-01	\$ 95,000.00	\$ 1,235,000.00
Invoice #14	2010-05-01	\$ 95,000.00	\$ 1,330,000.00
Invoice #15	2010-05-01	\$ 95,000.00	\$ 1,425,000.00
Invoice #16	2010-05-01	\$ 95,000.00	\$ 1,520,000.00
Invoice #17	2010-05-01	\$ 95,000.00	\$ 1,615,000.00
Invoice #18	2010-05-01	\$ 95,000.00	\$ 1,710,000.00
Invoice #19	2010-05-01	\$ 95,000.00	\$ 1,805,000.00
Invoice #20	2010-05-01	\$ 95,000.00	\$ 1,900,000.00
Invoice #21	2010-05-01	\$ 95,000.00	\$ 1,995,000.00
Invoice #22	2010-05-01	\$ 95,000.00	\$ 2,090,000.00
Invoice #23	2010-05-01	\$ 95,000.00	\$ 2,185,000.00
Invoice #24	2010-05-01	\$ 95,000.00	\$ 2,280,000.00
Invoice #25	2010-05-01	\$ 95,000.00	\$ 2,375,000.00
Invoice #26	2010-05-01	\$ 95,000.00	\$ 2,470,000.00
Invoice #27	2010-05-01	\$ 95,000.00	\$ 2,565,000.00
Invoice #28	2010-05-01	\$ 95,000.00	\$ 2,660,000.00
Invoice #29	2010-05-01	\$ 95,000.00	\$ 2,755,000.00
Invoice #30	2010-05-01	\$ 95,000.00	\$ 2,850,000.00
Invoice #31	2010-05-01	\$ 95,000.00	\$ 2,945,000.00
Invoice #32	2010-05-01	\$ 95,000.00	\$ 3,040,000.00
Invoice #33	2010-05-01	\$ 95,000.00	\$ 3,135,000.00
Invoice #34	2010-05-01	\$ 95,000.00	\$ 3,230,000.00
Invoice #35	2010-05-01	\$ 95,000.00	\$ 3,325,000.00
Invoice #36	2010-05-01	\$ 95,000.00	\$ 3,420,000.00
Invoice #37	2010-05-01	\$ 95,000.00	\$ 3,515,000.00
Invoice #38	2010-05-01	\$ 95,000.00	\$ 3,610,000.00
Invoice #39	2010-05-01	\$ 95,000.00	\$ 3,705,000.00
Invoice #40	2010-05-01	\$ 95,000.00	\$ 3,800,000.00
Invoice #41	2010-05-01	\$ 95,000.00	\$ 3,895,000.00
Invoice #42	2010-05-01	\$ 95,000.00	\$ 3,990,000.00
Invoice #43	2010-05-01	\$ 95,000.00	\$ 4,085,000.00
Invoice #44	2010-05-01	\$ 95,000.00	\$ 4,180,000.00
Invoice #45	2010-05-01	\$ 95,000.00	\$ 4,275,000.00
Invoice #46	2010-05-01	\$ 95,000.00	\$ 4,370,000.00
Invoice #47	2010-05-01	\$ 95,000.00	\$ 4,465,000.00
Invoice #48	2010-05-01	\$ 95,000.00	\$ 4,560,000.00
Invoice #49	2010-05-01	\$ 95,000.00	\$ 4,655,000.00
Invoice #50	2010-05-01	\$ 95,000.00	\$ 4,750,000.00
Invoice #51	2010-05-01	\$ 95,000.00	\$ 4,845,000.00
Invoice #52	2010-05-01	\$ 95,000.00	\$ 4,940,000.00
Invoice #53	2010-05-01	\$ 95,000.00	\$ 5,035,000.00
Invoice #54	2010-05-01	\$ 95,000.00	\$ 5,130,000.00
Invoice #55	2010-05-01	\$ 95,000.00	\$ 5,225,000.00
Invoice #56	2010-05-01	\$ 95,000.00	\$ 5,320,000.00
Invoice #57	2010-05-01	\$ 95,000.00	\$ 5,415,000.00
Invoice #58	2010-05-01	\$ 95,000.00	\$ 5,510,000.00
Invoice #59	2010-05-01	\$ 95,000.00	\$ 5,605,000.00
Invoice #60	2010-05-01	\$ 95,000.00	\$ 5,700,000.00
Invoice #61	2010-05-01	\$ 95,000.00	\$ 5,795,000.00
Invoice #62	2010-05-01	\$ 95,000.00	\$ 5,890,000.00
Invoice #63	2010-05-01	\$ 95,000.00	\$ 5,985,000.00
Invoice #64	2010-05-01	\$ 95,000.00	\$ 6,080,000.00
Invoice #65	2010-05-01	\$ 95,000.00	\$ 6,175,000.00
Invoice #66	2010-05-01	\$ 95,000.00	\$ 6,270,000.00
Invoice #67	2010-05-01	\$ 95,000.00	\$ 6,365,000.00
Invoice #68	2010-05-01	\$ 95,000.00	\$ 6,460,000.00
Invoice #69	2010-05-01	\$ 95,000.00	\$ 6,555,000.00
Invoice #70	2010-05-01	\$ 95,000.00	\$ 6,650,000.00
Invoice #71	2010-05-01	\$ 95,000.00	\$ 6,745,000.00
Invoice #72	2010-05-01	\$ 95,000.00	\$ 6,840,000.00
Invoice #73	2010-05-01	\$ 95,000.00	\$ 6,935,000.00
Invoice #74	2010-05-01	\$ 95,000.00	\$ 7,030,000.00
Invoice #75	2010-05-01	\$ 95,000.00	\$ 7,125,000.00
Invoice #76	2010-05-01	\$ 95,000.00	\$ 7,220,000.00
Invoice #77	2010-05-01	\$ 95,000.00	\$ 7,315,000.00
Invoice #78	2010-05-01	\$ 95,000.00	\$ 7,410,000.00
Invoice #79	2010-05-01	\$ 95,000.00	\$ 7,505,000.00
Invoice #80	2010-05-01	\$ 95,000.00	\$ 7,600,000.00
Invoice #81	2010-05-01	\$ 95,000.00	\$ 7,695,000.00
Invoice #82	2010-05-01	\$ 95,000.00	\$ 7,790,000.00
Invoice #83	2010-05-01	\$ 95,000.00	\$ 7,885,000.00
Invoice #84	2010-05-01	\$ 95,000.00	\$ 7,980,000.00
Invoice #85	2010-05-01	\$ 95,000.00	\$ 8,075,000.00
Invoice #86	2010-05-01	\$ 95,000.00	\$ 8,170,000.00
Invoice #87	2010-05-01	\$ 95,000.00	\$ 8,265,000.00
Invoice #88	2010-05-01	\$ 95,000.00	\$ 8,360,000.00
Invoice #89	2010-05-01	\$ 95,000.00	\$ 8,455,000.00
Invoice #90	2010-05-01	\$ 95,000.00	\$ 8,550,000.00
Invoice #91	2010-05-01	\$ 95,000.00	\$ 8,645,000.00
Invoice #92	2010-05-01	\$ 95,000.00	\$ 8,740,000.00
Invoice #93	2010-05-01	\$ 95,000.00	\$ 8,835,000.00
Invoice #94	2010-05-01	\$ 95,000.00	\$ 8,930,000.00
Invoice #95	2010-05-01	\$ 95,000.00	\$ 9,025,000.00
Invoice #96	2010-05-01	\$ 95,000.00	\$ 9,120,000.00
Invoice #97	2010-05-01	\$ 95,000.00	\$ 9,215,000.00
Invoice #98	2010-05-01	\$ 95,000.00	\$ 9,310,000.00
Invoice #99	2010-05-01	\$ 95,000.00	\$ 9,405,000.00
Invoice #100	2010-05-01	\$ 95,000.00	\$ 9,500,000.00

- In consideration of the Settlement Amount, the City hereby releases and forever discharges VCHA, its officers, directors, employees and agents from any and all claims, demands or causes of action which the City may now have or in the future have in relation to the under billing of the Account during the period May, 2009 to May, 2012.
- The parties agree that settlement under this Letter of Agreement is the compromise of disputed claims or rights referred to herein, and neither VCHA's payment of the Settlement Amount nor any other terms of the settlement referenced herein are to be construed as an admission of liability of VCHA.
- The parties agree that this is a full and final settlement and release applying to all known, unknown or unanticipated claims, causes of action, damages or rights arising out of the claims or rights referred to herein, and that the terms of this release are contractual and not mere recital.
- This Agreement constitutes the entire agreement between the parties.
- This Letter of Agreement may be executed in counterparts and such counterparts together will constitute a single instrument.

By signing this Letter of Agreement, you agree that the City of Vancouver agrees to the terms and conditions set out in herein.

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VANCOUVER COASTAL HEALTH AUTHORITY

Name and Title

THE CITY OF NORTH VANCOUVER

On behalf of the City of North Vancouver, I hereby accept and agree to the terms of the settlement and release set forth in the above letter. I am authorized to bind the City of North Vancouver.

Name:

Date:

Title:

Given recent allegations of misconduct raised by the City's Mayor, he must now explain his own conduct in allowing the CAO to make these knowingly false statements. A Mayor cannot demand respect if he does not act with respect !