

File No.: 04-1000-20-2019-669

November 28, 2019

s.22(1)

Dear s.22(1)

Re: **Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")**

I am responding to your request of October 28, 2019 for:

Regarding the complaint about the mayoral campaign news conference held by Kennedy Stewart on Gutteridge Plaza on October 16, 2018 during advance polling hours at nearby city hall, a copy of the investigation report, briefing note and correspondence with the complainant and the Stewart campaign.

All responsive records are attached. Some information in the records has been severed, (blacked out), under s.22(1) of the Act. You can read or download this section here: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00.

Under section 52 of the Act you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your request. The Act allows you 30 business days from the date you receive this notice to request a review by writing to: Office of the Information & Privacy Commissioner, info@oipc.bc.ca or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number assigned to your request (#04-1000-20-2019-669); 2) a copy of this letter; 3) a copy of your original request for information sent to the City of Vancouver; and 4) detailed reasons or grounds on which you are seeking the review.

Please do not hesitate to contact the Freedom of Information Office at foi@vancouver.ca if you have any questions.

Yours truly,



Barbara J. Van Fraassen, BA
Director, Access to Information & Privacy

Barbara.vanfraassen@vancouver.ca
453 W. 12th Avenue Vancouver BC V5Y 1V4

*If you have any questions, please email us at foi@vancouver.ca and we will respond to you as soon as possible. Or you can call the FOI Case Manager at 604.871.6584.

Encl.

:kt

From: "Hagiwara, Rosemary" <rosemary.hagiwara@vancouver.ca>
To: s.22(1)
Date: 10/19/2018 1:24:08 PM
Subject: RE: Kennedy Stewart/OneCity Press Conference on City Hall Patio

The City is investigating the information you have provided.

Regards,

Rosemary Hagiwara
Chief Election Officer
Office of the City Clerk | City of Vancouver
t: 604.673.8301 | 604.873.7177
e: rosemary.hagiwara@vancouver.ca
w: Vancouver.ca/election

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From: s.22(1)
Sent: Friday, October 19, 2018 10:26 AM
To: Hagiwara, Rosemary
Subject: Re: Kennedy Stewart/OneCity Press Conference on City Hall Patio

Thank you. So, was Kennedy Stewart/OneCity press conference offside? If it is what action will you take?

On Fri, Oct 19, 2018, 10:14 AM Hagiwara, Rosemary, <rosemary.hagiwara@vancouver.ca> wrote:

Hello,

The reference you are looking for is section 125.(4) of the Vancouver Charter.

Other election offences

125. (1)In relation to nominations, a person must not do any of the following:

- (a)contravene section 44 (4) [*unqualified candidate consenting to nomination*];
- (b)before or after an election, purport to withdraw a candidate from an election without authority to do so or publish or cause to be published a false statement that a candidate has withdrawn;
- (c)before or after an election, purport to withdraw the endorsement of a candidate by an elector organization except as provided in section 45.6 (b) [*withdrawal of endorsement on ballot*].

(2)In relation to voting, a person must not do any of the following:

- (a)vote at an election when not entitled to do so;
- (b)contravene section 86 (1) regarding voting more than once in an election;
- (c)obtain a ballot in the name of another person, whether the name is of a living or dead person or of a fictitious person;
- (d)contravene section 85 (2) regarding the secrecy of the ballot.

(3) In relation to ballots and ballot boxes, a person must not do any of the following:

- (a) without authority supply a ballot to another person;
- (b) without authority print or reproduce a ballot or a paper that is capable of being used as a ballot;
- (c) without authority take a ballot out of a place where voting proceedings are being conducted;
- (d) put in a ballot box, or cause to be put in a ballot box, a paper other than a ballot that the person is authorized to deposit there;
- (e) interfere with voting under section 74 contrary to the applicable by-law and regulations;
- (f) without authority destroy, take, open or otherwise interfere with a ballot box or ballots.

(4) In relation to voting proceedings, a person must not do any of the following at or within 100 metres of a building, structure or other place where voting proceedings are being conducted at the time:

- (a) canvass or solicit votes or otherwise attempt to influence how an elector votes;
- (b) display, distribute, post or openly leave a representation of a ballot marked for a particular result in the voting;
- (c) post, display or disseminate
 - (i) election advertising, or
 - (ii) any material that identifies a candidate or elector organization, unless this is done with the authorization of the chief election officer;
- (d) carry, wear or supply a flag, badge or other thing indicating that the person using it is a supporter of a particular candidate, elector organization or result in the voting.

Regards,

Rosemary Hagiwara
Chief Election Officer
Office of the City Clerk | City of Vancouver
t: 604.673.8301 | 604.873.7177
e: rosemary.hagiwara@vancouver.ca
w: Vancouver.ca/election

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From: s.22(1)
Sent: Thursday, October 18, 2018 1:19 PM
To: Hagiwara, Rosemary
Subject: Re: Kennedy Stewart/OneCity Press Conference on City Hall Patio

They were at the Helena Gutteridge Plaza to be precise.

Dear Ms. Hagiwara,

I saw mayoral candidate Kennedy Stewart and OneCity council candidates conduct a press conference on the City Hall patio on Tuesday, while voting was still going on at the city hall. They had Kennedy Stewart /OneCity campaign material.

Can you please tell me if this is legal under division (17) Section 125(4) of the Vancouver Charter?

Thank you,

s.22(1)

From: "Hagiwara, Rosemary" <rosemary.hagiwara@vancouver.ca>
To: "Lowe, Janice" <janice.lowe@vancouver.ca>
Date: 10/29/2018 12:03:40 PM
Subject: RE: Oct 16 - Press Conference at City Hall

Measurement would be to the closest building structure, not what they indicated.

Rosemary Hagiwara
Chief Election Officer
Director of Business & Election Services | Deputy City Clerk
Office of the City Clerk | City of Vancouver
t: 604.873.7177 | 604.673.8301
e: rosemary.hagiwara@vancouver.ca



From: Lowe, Janice
Sent: Monday, October 29, 2018 12:02 PM
To: Hagiwara, Rosemary
Subject: FW: Oct 16 - Press Conference at City Hall

Yes. I will do that (measuring per photo attached).

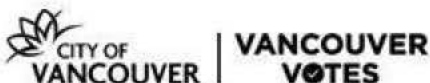
J.

From: Hagiwara, Rosemary
Sent: Monday, October 29, 2018 11:59 AM
To: Lowe, Janice
Subject: FW: Oct 16 - Press Conference at City Hall

On your way up tomorrow, can you please measure the distance? The measuring stick should be at the EO.

Thanks,

Rosemary Hagiwara
Chief Election Officer
Director of Business & Election Services | Deputy City Clerk
Office of the City Clerk | City of Vancouver
t: 604.873.7177 | 604.673.8301
e: rosemary.hagiwara@vancouver.ca



From: Neil Monckton [<mailto:neil@kennedystewart.ca>]
Sent: Friday, October 19, 2018 2:39 PM
To: Hagiwara, Rosemary
Cc: Deanna Ogle
Subject: Oct 16 - Press Conference at City Hall

Hi Rosemary,

Attached is an aerial image that shows the distance between the entrance to city hall and the press conference that Kennedy and OneCity held on Oct. 16. It is over 100 metres so we are in compliance with the act

Thanks,

Neil

----- Forwarded message -----

From: "Hagiwara, Rosemary" <rosemary.hagiwara@vancouver.ca>

Date: Fri, Oct 19, 2018 at 1:22 PM -0700

Subject: Oct 16 - OneCity Press Conference at City Hall

To: "kennedy.stewart s.22(1)" <[kennedy.stewart s.22\(1\)](mailto:kennedy.stewart s.22(1)@vancouver.ca)>

Cc: "jeanetteashe s.22(1)" <[jeanetteashe s.22\(1\)](mailto:jeanetteashe s.22(1)@vancouver.ca)>

Hello,

I have received a complaint that OneCity candidates and independent mayoral candidate Kennedy Stewart held a press conference or campaign event at the Helena Gutteridge Plaza at City Hall on October 16, 2018. City Hall was an active voting location on October 16. Section 125(4) of the Vancouver Charter generally prohibits campaigning within 100 meters of a building where voting proceedings are being conducted. Section 125(4) of the Vancouver Charter reads:

Other election offences

125. (4) In relation to voting proceedings, a person must not do any of the following at or within 100 metres of a building, structure or other place where voting proceedings are being conducted at the time:

- (a) canvass or solicit votes or otherwise attempt to influence how an elector votes;
- (b) display, distribute, post or openly leave a representation of a ballot marked for a particular result in the voting;
- (c) post, display or disseminate
 - (i) election advertising, or
 - (ii) any material that identifies a candidate or elector organization, unless this is done with the authorization of the chief election officer;
- (d) carry, wear or supply a flag, badge or other thing indicating that the person using it is a supporter of a particular candidate, elector organization or result in the voting.

We are currently investigating this complaint. If you have any information regarding this matter that you wish to provide me with, that would be appreciated. I recommend that you seek independent legal advice.

Regards,

Rosemary Hagiwara
Chief Election Officer
Office of the City Clerk | City of Vancouver
t: 604.673.8301 | 604.873.7177
e: rosemary.hagiwara@vancouver.ca
w: Vancouver.ca/election

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Neil Monckton
Campaign Manager
Kennedy for Vancouver | Mayor 2018

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e: neil@kennedystewart.ca

kennedystewart.ca

Campaign Office: 2751 Main St. at E. 12th Ave.

Hours:

Mon-Thurs - 10AM-9PM

Fri/Sat - 10AM - 6 PM

Sun - Noon - 8PM

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