

From: **"Mochrie, Paul"** <Paul.Mochrie@vancouver.ca>
To: **"Direct to Mayor and Council - DL"**
Date: 12/15/2023 2:16:07 PM
Subject: Integrity Commissioner investigation report
Attachments: COV-IC-007 Complaint against Mayor Sim et al.pdf

Good afternoon Mayor and Council,

In accordance with section 6.31(b) of the Code of Conduct, the Integrity Commissioner has shared the attached investigation report for distribution to Council.

The report pertains to an unsubstantiated complaint against Mayor Sim, Councillor Kirby-Yung, Councillor Klassen, and Councillor Meiszner. In accordance with section 6.31(b), they have also been provided a copy of the report today.

Best,
Paul

Paul Mochrie (he/him)
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City of Vancouver
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The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the x^wməθk^wəyəm (Musqueam), Skwxwú7mesh (Squamish), and səlilwətał (Tsleil-Waututh) Nations.



CITY OF VANCOUVER
REPORT TO
CITY OF VANCOUVER COUNCIL, COMPLAINANT AND RESPONDENT

In this matter of

AN INTEGRITY COMMISSIONER INVESTIGATION
ALLEGATIONS, FINDINGS, AND DECISIONS

Submitted by Lisa Southern,
Integrity Commissioner
City of Vancouver (the “Commissioner”)

December 15, 2023

Background

A member of the public (“Complainant”) submitted a complaint (“Complaint”) against Mayor Ken Sim and Council Members Sarah Kirby-Yung, Mike Klassen, and Peter Meiszner (collectively, the “Respondent Council Members”) to the Integrity Commissioner under [Code of Conduct By-Law No. 12886](#) (“Code of Conduct By-law”).

The Complainant alleged Mayor Sim and the Respondent Council Members breached section 4.5 of the Code of Conduct By-law by promoting a Rolling Stones concert being held in Vancouver.

I examined the Complaint and issue this report in accordance with section 6.32 of the Code of Conduct By-law. In this report, I summarize the investigation process, make findings of fact with respect to the allegations in the Complaint, consider the Complaint in relation to the Code of Conduct By-law and the applicable law, and conclude there was no breach of the Code of Conduct By-law.

Process

On November 24, 2023, I received the Complaint. I conducted a preliminary assessment of the Complaint and determined the allegations set out in it, if true, may constitute a violation of the Code of Conduct By-law.

On December 8, 2023, Mayor Sim provided a response to the Complaint.

In addition to Mayor Sim’s response, we gathered information by interviewing the City Manager about the Rolling Stones logo being displayed on City Hall on November 21, 2023. We determined that no response was needed from the Respondent Council Members.

Summary of Complaint

The Complaint alleged Mayor Sim and the Respondent Council Members breached section 4.5 of the Code of Conduct By-law on November 21, 2023 when the Rolling Stones logo was displayed on the outside of City Hall and Mayor Sim promoted the Rolling Stones Vancouver concert date on social media.

Summary of Complainant Submissions

On November 21, 2023, Mayor Sim and the Respondent Council Members promoted the Rolling Stones concert by having the band's logo displayed on the outside of City Hall and by posting about the concert and the light display on social media. The Complainant was concerned these activities were a potential conflict of interest and a misuse of influence for non-official purposes.

The Complainant stated the promotional activities were a possible violation of section 4.5 of the Code of Conduct By-law.

Section 4.5 states, in part, that Council Members must not use, or permit the use of, City land, facilities, or equipment for non-City business.

Summary of Respondent Submissions

Mayor Sim contended the promotional event was City business. Prior to the Rolling Stones logo being displayed on City Hall, he said he confirmed with the City Manager that the event had been approved. He noted the City did not incur any expense and did not waive any permit or other fees.

Findings and Decision

The facts giving rise to the Complaint are not contested. As noted above, on November 21, 2023, City Hall displayed the Rolling Stones logo using lights projected onto City Hall and Mayor Sim posted about the display and the Rolling Stones concert on social media. The Respondent Councillors attended and spoke at the event.

Based on the information from the City Manager and Mayor Sim's submission, I make the following findings.

The concert promoter or someone else affiliated with the Rolling Stones concert in Vancouver ("Promoter") approached the Mayor's office about using City Hall to promote the event. The Mayor's office then connected the Promoter with the City Manager.

While there is yet no City policy framework covering the use of City property or other resources to promote non-City events, the City sometimes allows private entities to access City facilities for a fee (for example, the Park Board has worked with for-profit concert promoters in the past). The current Council has directed City staff to explore these kinds of opportunities as another way to generate revenue and

this work is currently in progress (notably, the 2024 Draft Budget for the City¹ cites the monies expected from “sponsorships, advertising, naming rights and donations” as part of the 2024 Draft Operating Revenues of the City). Based on the direction from Council and past experience, City staff approved the Promoter’s proposal.

The Promoter paid \$500 for a licence to display the logo on the outside of City Hall, and covered all the costs associated with the light display, including the power required. The use of City administrative resources required to coordinate approval of the display was more than offset by the \$500 paid by the Promoter. While it was a small amount, there was a net revenue for the City.

Analysis

For the reasons below, I conclude Mayor Sim and the Respondent Councillors did not contravene the Code of Conduct By-law.

The relevant clause of the Code of Conduct By-law is section 4.5:

A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for activities other than the business of the city, except in accordance with city policies permitting reasonable personal use.

The key question in deciding this Complaint is whether the light display on City Hall constitutes “City business.”

I find the display of the Rolling Stones logo on City Hall was City business. The circumstances around the event resulted in net revenue for the City and the promotion did not involve personal use of City property by the Respondent Councillors or Mayor Sim.

Whether City Hall or other City property should be used for marketing purposes to generate revenue for the City is a policy question for Council and City staff, and one they are currently exploring. However, there is nothing in the Code of Conduct By-law that prevents this type of activity, and therefore, there was no breach.

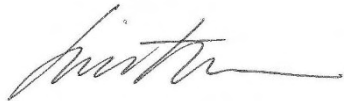
Regarding Mayor Sim’s social media posts about the event, he did not breach the Code of Conduct By-law. First, his posts did not use any City property or resources. Second, the posts were about a use of City property for City business.

¹ [City of Vancouver 2024 Draft Budget](#) at page B-33.

Conclusion

For these reasons, I find that neither Mayor Sim nor the Respondent Councillors breached the Code of Conduct By-law.

All of which is respectfully submitted.



Lisa Southern*, Barrister & Solicitor
Integrity Commissioner, City of Vancouver

Dated: December 15, 2023

*Lisa Southern Law Corporation