

From: **"Mochrie, Paul"**
To: **"Direct to Mayor and Council - DL"**
Date: 2024-04-15 4:56:24 PM
Subject: FW: General Update and Financial Disclosure Q+A for Distribution to Council
Attachments: Financial Disclosure Q+A.pdf

Good afternoon Mayor and Council,

On behalf of the Integrity Commissioner, I am sharing the following message and the attached reference document for your information.

Best,
Paul

From: Integrity Commissioner <IntegrityCommissioner@vancouver.ca>
Sent: Monday, April 15, 2024 1:05 PM
To: Mochrie, Paul
Subject: General Update and Financial Disclosure Q+A for Distribution to Council

Hi Paul,

We are writing as a general check-in with some updates on the Office and ask that you share this email and attachment with Council.

We continue to be busy with files and remain interested in any feedback on specific training or further Q+A.s that Council may find helpful. On that note, we ask that you please see attached for a Q+A regarding financial disclosure obligations for Council. We are providing the document for circulation as part of our education mandate and because the subject matter arose as part of the feedback we received from the latest round of one-on-ones. Thank you to your staff who reviewed our draft and added valuable assistance in its contents.

In addition to the Q+A, the Webinar we have created for all Advisory Committee Members is near completion and will be rolled out this month. It will provide important training on Committee Members' obligations and allows for participants to take the training when convenient for them and in an accessible format. We will adapt the content of the course for use by Council and hope to have this ready prior to summer.

Finally, we are pleased to share that Michael Oland will be taking his paternity leave to spend quality time with Maud during May, June, and July. Debra Rusnak has joined our team to assist during Mike's absence. Debra is a seasoned municipal lawyer who, prior to joining Southern Butler Price, practiced at a leading firm in this area in B.C, Lidstone & Company. If you wish to learn more about Debra, her biography is [here](#).

We remain available to assist on any questions that Council may have and look forward to your feedback.

Sincerely,
Lisa Southern
Integrity Commissioner

Financial Disclosure – Q & A

This Q & A provides guidance to Council Members with respect to financial disclosure obligations.

Key Takeaways

From the Code of Conduct By-law No. 12886 and Vancouver Charter

A Council Member must not accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties, with narrow exceptions.

The key exception is that Council Members may accept gifts/personal benefits received as “an incident of the protocol of social obligations that normally accompany the responsibilities of office.” If such a gift or benefit is offered, the recipient Council Member must *make a decision* to accept it, return it, or to turn it over to the City for disposition.

If a Council Member (or someone close to them, e.g. staff member, spouse, parent, child etc.) accepts a gift or personal benefit, then that Council Member is required to submit a Disclosure Statement to the City Clerk within 30 days of receipt if:

- It is a one-time gift or benefit valued greater than \$50*; and/or
- The total value of gifts and benefits from one source exceeds \$100* in a given calendar year.

*The \$50 and \$100 thresholds are set out in the Code of Conduct By-Law. The Vancouver Charter has a \$250 threshold for both one-time gifts/benefits and for the total value of gifts and benefits from one source in a calendar year.

Importantly, a violation of the “restrictions on accepting gifts” and the “disclosure of gifts” requirements in the Vancouver Charter may result in disqualification from holding office (see section 145.7, 145.8, and 145.91)

From the Financial Disclosure Act

Between January 1 and 15 each year a Council Member holds office (and by the 15th of the month after they leave office), they are required to:

- Submit a Financial Disclosure Statement to the City Clerk, containing the information set out in section 3 of the *Financial Disclosure Act* and required by Form A of the *Financial Disclosure Act Regulations* (the details of which are set out below).

Questions and Answers

Q1: I was gifted concert tickets worth about \$250 by a close personal friend. Do I need to disclose them?

A: No. If the tickets were gifted to you purely in a personal capacity by a close personal friend, they are not “connected directly or indirectly with the performance” of your duties. However, if that friend also has business before the City (e.g., if they are an active participant in a rezoning application), it may change the answer. Factors like the timing of the re-zoning application and when you received the gift may become relevant in assessing whether the gift is connected with the performance of your duties.

If you sense the gift is in any way connected to your role as a Council Member and it does not fit within the exceptions set out in section 4.14 of the Code of Conduct By-law, you should decline it (see section 4.17 for details) or turn it over to the City Clerk and deem it property of the City (see section 4.18 for details).

Q2: The Board Chair for a not-for-profit that recently received funding from the City took me out for dinner and paid the bill. I did not see the bill, but guess my portion was around \$70. Do I disclose this?

A: Given the not-for-profit recently received funds from the city, the personal benefit of the dinner would likely be seen as connected to your duties. The starting point is that you must decline such gifts unless they fit within the exceptions set out in section 4.14 of the Code of Conduct. Such a dinner may, or may not, fall within the exception of section 4.14(a) as “an incident of the protocol of social obligations that normally accompany the responsibilities of office.” Factors like whether you were invited to the dinner in a ceremonial capacity or whether you spoke at the dinner in your capacity as a Member of Council would make it more likely to meet the criteria of section 4.14(a).

In any event, given the Board Chair picked up the tab (whether you were agreeable or because you had to head outside for a telephone call when the cheque came) since the one-time value exceeded \$50, section 4.16 requires you disclose the meal within 30 days of when it occurred. You would do so by filing a Disclosure Statement with the City Clerk. Section 4.16 requires the following information be included in the Disclosure Statement:

- a) *the name of the Council Member;*
- b) *the nature of the gift or personal benefit, by description, photograph, or both;*
- c) *the date the gift or personal benefit was received;*
- d) *the estimated value of the gift or personal benefit;*
- e) *the source of the gift or personal benefit, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation;*
- f) *the circumstances under which the gift or personal benefit was given; and*
- g) *the final disposition of the gift or personal benefit.*

Q3: Three weeks later, the same Board Chair invited me, through my assistant at the City, for a “coffee meeting” at a local coffee shop with the entire Board to discuss initiatives at the City that aligned with the Not-For-Profit’s work. We ended up having lunch. It cost \$25 and they paid while I was distracted talking to a constituent. Do I disclose this?

A: Like the answer in Q2, you should be careful about accepting any personal benefit that is connected to your work but is not an “incident of the protocol of social obligations that normally accompany the responsibilities of office” or otherwise captured by the exceptions in section 4.14.

Assuming this lunch met the exception set out in section 4.14(a), since the incident cost less than \$50, and the total amount of the personal benefit received by the Board Chair during the calendar year only add up to \$95, which is less than the allowable \$100, disclosure is not required. However, the next time the Board Chair picks up the bill (or offers you a gift), the value of the gifts and personal benefits would likely exceed \$100 and would trigger the obligation to file a Disclosure Statement in accordance with section 4.16.

Q3: All of my financial assets are invested in an index fund that mirrors the S&P500. I don’t own shares in any individual companies. Apple shares are held by the index fund. Do I need to disclose that I own shares in Apple via the index fund?

A: No. The *Financial Disclosure Act* does not require disclosure of shares held within a common ETF, index fund, mutual fund, etc.

However, if the fund is a vehicle for the ownership of corporate shares and/or interests in land located in the City of Vancouver, disclosure is likely required.

Q4: My family owns a plot of land near Hazelton, BC. Do I disclose this?

A: No. The *Financial Disclosure Act* does not require disclosure of land owned outside “*the municipality ... for which the official is elected or nominated.*”

Q5: I have a lot on my plate and submitting a Financial/Gift Disclosure Statement seems like a lot of work. Can I ask someone else to do it for me?

A: No. While staff may provide you with reminders to submit Disclosure Statements, the completion of such statements is ultimately your responsibility.

Q6: I was invited to speak at an event as Deputy Mayor. The event was ticketed for regular attendees and the cost of the ticket was over \$50. Because I had an official role at the event and did not receive a physical ticket (i.e. I was just granted entry), do I have to disclose the ticket as a gift?

A: Yes. If an event is ticketed and the ticket is over \$50, the Councillor needs to disclose it whether the Councillor has an official role in the event or speaks as Deputy Mayor, and whether the Councillor receives a physical ticket or not. The key is the attendance at the event, the value of a regular ticket to attend the event, and that it is received as an incident of the protocol of social obligations that normally accompany the responsibilities of office.

References

The Code of Conduct By-law

- Part 2 sets out the Standards and Values required of Council Members, and includes:
 - f) *Responsibility: a member must respect and comply with the Acts of Parliament of Canada, the Legislature of British Columbia, including the Vancouver Charter, city by-laws, and applicable city policies, and avoid conduct that, reasonably, undermines, or has the potential to undermine public confidence in city governance, except members may participate in peaceful civil disobedience.*
 - g) *Transparency: a member must conduct their duties in an open and transparent manner, except where this conflicts with their duties to protect confidential information.*
- Part 4 sets out Conflicts of Interest, and in particular sections 4.13 to 4.19 set out parameters regarding Gifts or Personal Benefit. The following provisions should be top of mind:
 - 4.13 *A member must not accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless permitted by the exceptions listed in sections 4.14 and 4.15.*
 - 4.14 *A Council Member may accept a gift or personal benefit if it is:*
 - a. Received as an incident of the protocol of social obligations that normally accompany the responsibilities of office;
 - b. Compensation authorized by law; or
 - c. A lawful contribution made to a member who is a candidate for election conducted under the Vancouver Charter or Part 3 of the Local Government Act
 - 4.15 [Only applicable to Advisory Board Members]
 - 4.16 *If a Council Member accepts a gift or personal benefit pursuant to section 4.14(a), and if the total value of the gift or personal benefit exceeds \$50, or the total value of the gift or personal benefit received from one source during the calendar year exceeds \$100, the Council Member must within 30 days of receipt of the gift or personal benefit, or reaching the annual limit, file a disclosure statement with the City Clerk... [details about how to report the gift.]*
 - 4.17 [Details on what to do if the gift or personal benefit is not accepted]

- 4.18 [Details on what the City Clerk does with gifts or personal benefits that are not accepted]
- 4.19 *A gift or personal benefit provided to a member's spouse, child or parent, or the member's staff, that to the member's knowledge is connected directly or indirectly to the performance of the member's duties is deemed to be a gift or personal benefit to that member.*

The Vancouver Charter

- Restrictions on accepting gifts:

145.7 (1) A Council member must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of the duties of office.

(2) Subsection (1) does not apply to

(a) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,

(b) compensation authorized by law, or

(c) a lawful contribution made to a member who is a candidate for election conducted under this Act or Part 3 of the Local Government Act.

(3) A person who contravenes this section is disqualified from holding office as described in section 145.911 [disqualification for contravening conflict rules] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

- Disclosure of gifts:

145.8 (1) This section applies if

(a) member receives a gift or personal benefit referred to in section 145.7 (2) (a) that exceeds \$250 in value, or

(b) the total value of such gifts and benefits, received directly or indirectly from one source in any 12 month period, exceeds \$250.

(2) In the circumstances described in subsection (1), the Council member must file with the City Clerk, as soon as reasonably practicable, a disclosure statement indicating

(a) the nature of the gift or benefit,

(b) its source, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation,

(c) when it was received, and

(d) the circumstances under which it was given and accepted.

(3) A person who contravenes this section is disqualified from holding office as described in section 145.911 [disqualification for contravening conflict rules] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

- Disqualification from office for contravening conflict rules:

*145.911 A person disqualified from holding office under any of sections 145.3 to 145.91 is disqualified from holding office (*until the next election)*

(a) on Council or on the Park Board,

(b) on any other local government, or

(c) as a trustee under the Islands Trust Act

The Financial Disclosure Act

The *Financial Disclosure Act* requires that Council Members must file a written financial disclosure:

- With their nomination papers;
- Between January 1 and 15 in each year they hold office; and
- By the 15th of the month after they leave office.

Section 3 of the *Financial Disclosure Act* specifies the types of information that must be disclosed, which include:

- a. the name of each corporation in which the person or a trustee for the person holds one or more shares;
 - o the name of each business situated or carrying on business in British Columbia and financially remunerating the nominee or public employee as an owner, part owner, trustee or partner;
 - o the name of each business located or carrying on business in British Columbia and financially remunerating the nominee or public employee for services performed by the person as an employee;

- the name of each organization located in British Columbia and financially remunerating the nominee or public employee for an office held by the person that is not disclosed under paragraph (b) or (c);
- the name of the creditor for each debt of the nominee or public employee;
- a description and location of land located in British Columbia in which the nominee or public employee, or a trustee for that person, owns an interest or has an agreement entitling the nominee, public employee or trustee to acquire an interest.

The disclosures by the *Financial Disclosure Act* must be filed with the City Clerk in the form prescribed by Schedule A of the *Financial Disclosure Act Regulations*, which sets out the requirements of section 3 of the *Financial Disclosure Act* in further details. More specifically, Form A requires that Council Members declare:

1. Assets and Liabilities

- Includes the names of individual corporations where you hold one or more shares, real property, and corporate assets
 - a. Does not include holdings in cash, mutual funds, ETFs, etc.
- Liabilities
- Includes all creditors to whom you owe a debt
 - b. Does not include residential property debt, money borrowed for household or personal living expense, or assets you hold in trust for another person
- Sources of Income
 - c. Includes each of the businesses and organizations from which you receive financial remuneration for your services
 - i. You are required to identify your association with those businesses/organizations (e.g. as owner, part owner, employee, trustee, partner or otherwise (e.g. director of a company or society))
 - d. Includes remuneration for work as a local government official ...
 - e. Does not include remuneration received from an organization outside of the City of Vancouver

2. Real Property

- a. Includes the legal description and address of all land in which you, or a trustee acting on your behalf, own an interest or have an agreement which entitles you to obtain interest
- b. Does not include your personal residence

- Does not include land owned outside of the City of Vancouver
3. Corporate Assets
- a. Includes shares in a corporation which total more than 30% of vote for electing directors, held by you individually, or together with your spouse, child, sibling or parent
 - i. If such shares are held, further disclosure is required including the name of each corporation and all of its subsidiaries, the type of business conducted, the land in which the business operates and whether the business owns or has an interest in that land, creditors of the business, and a list of other corporations in which the business owns one or more shares

The Vancouver Charter & Corporate Policy AE-003-01

Both the *Vancouver Charter* and the *City of Vancouver Corporate Policy – Financial Disclosure Act-Requirements* require compliance with the Code of Conduct By-law and the *Financial Disclosure Act* (and its regulations).

Further Q+A

The Ministry of Attorney General has made their own Q+A on the topic of financial disclosure for elected officials, which can be viewed here:

- [Ministry of Attorney General Fact Sheet/Q+A on the Financial Disclosure Act](#)

Helpful Links

- [Code of Conduct Bylaw No. 12886](#)
- [Financial Disclosure Act, R.S.B.C. 1996](#)
- [Financial Disclosure Act Form Regulation](#)
- [Vancouver Charter, SBC 1953](#)
- [City of Vancouver Corporate Policy – Financial Disclosure Act – Requirements \(Policy Number: AE-003-01\)](#)

Interpretation

This Q & A provides guidance to Council Members with respect to financial disclosure obligations. In the event of any inconsistency between this Q&A and the governing rules listed in *Helpful Links*, the requirements in the governing rules prevail.

This document is a “living” document and will be updated from time to time to reflect new questions brought forward by Council Members.

This document is not intended to supplant fact-specific advice from Rosemary Hagiwara, Chief Election Office (Rosemary.Hagiwara@Vancouver.ca), City of Vancouver legal counsel, independent legal counsel, or the Office of the Integrity Commissioner.

You are encouraged to send further inquiries relating to financial disclosures, or otherwise, to our office at IntegrityCommissioner@Vancouver.ca.