



OFFICE OF THE
INTEGRITY COMMISSIONER
FOR THE VANCOUVER PARK BOARD

VANCOUVER PARK BOARD REPORT
TO
VANCOUVER PARK BOARD, COMPLAINANT AND RESPONDENT

In this matter of

AN INTEGRITY COMMISSIONER INVESTIGATION
ALLEGATIONS, FINDINGS, AND DECISIONS

Submitted by Lisa Southern
Integrity Commissioner
Vancouver Park Board

May 24, 2024



Complaint and Process

On January 26, 2024, Commissioner Laura Christensen brought a complaint against Commissioner Jas Virdi for a statement he made at the public Park Board meeting held January 23, 2024 (the “Public Meeting”). She complained that Commissioner Virdi made “a slanderous and untrue comment during the public committee meeting” about her making a discriminatory comment about children with autism (the “Virdi Comment”) at an ABC Party pre-election meeting held on July 23, 2022 (the “Pre-Election Meeting”). Commissioner Christensen emphatically denied making any discriminatory comments about children with autism.

Commissioner Christensen noted her concern for reputational harm in having an allegedly discriminatory comment attributed to her, both in her role as an elected official and also in her capacity as a professional engineer.

Commissioner Christensen provided a link to a video recording of the Public Meeting where she said the Virdi Comment was made.

In addition to requesting a written response from Commissioner Virdi, we interviewed both him and Commissioner Christensen, and the other individuals who were identified as being in attendance during the Pre-Election Meeting. We also viewed the video recording of the Public Meeting and a copy of a group chat discussion provided by Commissioner Christensen.

Summary of Evidence

Meeting Transcript

The Public Meeting where the Virdi Comment was allegedly made can be viewed on YouTube at [Committee & Regular Board Meetings - January 23, 2024 \(Reconvened from January 22, 2024\) \(youtube.com\)](#). The Virdi Comment relates to an amendment that was being sought by Commissioner Christensen on a motion from Commissioner Virdi. Commissioner Virdi’s motion (the “Original Motion”) was:

THAT the Committee recommend to the Board:

A. THAT the Vancouver Board of Parks and Recreation commit to the planning, development, and construction of Vancouver's first inclusive and accessible sensory park, designed to accommodate the unique needs and preferences of neurodiverse children, those with Autism Spectrum Disorder, and those with mobility challenges.

B. THAT the sensory park's design shall accommodate and prioritize, but not be limited to, the following features in accordance with best design practices:

i. Sensory-rich play zones that stimulate various senses, including touch, sight, sound, and smell, while ensuring comfort and sensory-friendly experiences for children, particularly children with autism.

ii. Inclusive and accessible sensory equipment and elements designed to be usable by children of all abilities, including those in wheelchairs.

iii. Accessible pathways, ramps, and surfacing to ensure safe and easy mobility for children with mobility challenges.

C. THAT staff be directed to identify and recommend an optimal location for an inclusive and accessible sensory park, taking into account existing parks that may be up for renewal and/or new park development opportunities that may arise or be currently contemplated.

D. THAT staff be directed to explore a diversity of funding sources, including but not limited to the Park Board and City capital budgets, government grants, private donations, corporate partnerships, and community fundraising, in order to secure the necessary financial resources for this project.

E. THAT the Vancouver Board of Parks and Recreation and Park Board staff shall actively seek community and key stakeholder input on the vision outlined in this motion for an inclusive and accessible sensory park project, including feedback from parents, caregivers, and organizations that represent children with autism such as the Pacific Autism Family Network (PAFN), and those with mobility challenges, to ensure that the sensory park's design is inclusive and responsive to the community's needs;

FURTHER THAT staff be directed to engage with, and potentially partner with, relevant organizations that specialize in designing inclusive and accessible sensory experiences to facilitate the successful implementation of this flagship project.

F. THAT staff be directed to update the Board, the public, and all relevant stakeholders on the progress of the project on a regular basis and not less than once per year, to see their ongoing input and feedback throughout the project development process.

Commissioner Christensen's amendment read:

THAT the motion be struck and replaced with the following:

A. THAT the Vancouver Board of Parks and Recreation direct staff to report back on:

i. The progress of the July 4, 2022 motion, "Accessible and Inclusive Design Guidelines for Playgrounds," which directed staff to develop and implement accessible and inclusive design for new and renewed playgrounds for people with mobility, auditory, visual and sensory needs;

ii. The progress of VanPlay initiatives P.1.2 (audit the physical accessibility of all park amenities" and P.1.3 (design and build five additional fully-accessible destination play areas);

iii. The status of other current initiatives, policy, previous member motions and staff recommendations on the topic of inclusive and accessible parks; and,

iv. Capital and operating funding estimates to implement the motions and initiatives listed in items i & ii.

B. THAT the fundraising enveloped [sic] be opened at the Vancouver Parks Foundation for private donations towards sensory park equipment, and if sufficient, a dedicated sensory park.

C. THAT staff update the Vancouver ParkFinder website to include accessible and sensory features currently available at each Park Board playground. The Parks and Recreation website should be, ideally, updated to include a tool to search by playground feature.

During the Public Meeting, Commissioner Virdi stated:

*Commissioner Virdi: For people in the audience, the Pacific Autism Family Network, you can even look online. They even emailed us, and they told us this amendment is a slap in our face. This amendment is a slap in the face to all the parents and children that came and spoke today. We talk about the Park Board being a place where people can come and advocate. You didn't listen to any of them today. This is why this hundred year old park board needs to be abolished. Because of just that. It's hundred years old. And the thinking is a hundred years old. We need to move into the future. **And I remember when we were putting this on ABC's platform, um, this sensory park, um, Commissioner Christensen made a comment saying that, you know, we do parks well, and the children on the spectrum, they can just wear earmuffs. That, to me, was offensive.** And this strike and replace is not authentic coming from her. And I-I think you should listen to the people. This is exactly the reason why this Park Board needs to be abolished. Because we don't listen to the people. We think we know what we're doing. We think we're doing things right. We're not giving the people what they want and what they ask for.*

Commissioner Jensen: Thank you very much. I did extend your time for our conversation. And I will move on to Commissioner Christensen. You will have the same two minutes. Please just wait and you may begin.

Commissioner Christensen: Before I begin, I just want to clarify—I didn't say that and I'm not sure where that came from.

[Our emphasis]

Summary of Commissioner Virdi's Submission and Evidence

Commissioner Virdi was invited to provide a written response to the complaint and his legal counsel did so on his behalf.

He submitted that during the 2022 Vancouver municipal election, candidates affiliated with the ABC Party attended the Pre-Election Meeting to brainstorm ideas for their election platform. He said he and Commissioner Christensen were in attendance. He noted that during the Pre-Election Meeting he proposed the idea of Vancouver's first sensory park. Commissioner Virdi recalled that following this

proposition, he received general push-back from Commissioner Christensen and she made the discriminatory comment that "... we do parks well, and the children on the spectrum, they can just wear earmuffs" (the "Discriminatory Comment"). Commissioner Virdi specifically recalled her also stating that the Park Board did a good job at parks already and that there was no need for such parks. Commissioner Virdi submitted that in response, he said words to the effect of, "That's totally prejudiced, I am offended, this world isn't made for autistic children, they shouldn't have to wear earmuffs to enjoy a park." Following that, he said, "Everyone was silent because tensions were high."

Commissioner Virdi said he had a background and a history of advocating for children who were neurodiverse, specifically those with Autism Spectrum Disorder, and submitted he was particularly troubled by Commissioner Christensen's Discriminatory Comment. He said it upset him and impacted his sleep, and noted he "continues to struggle with the [Discriminatory Comment] to this day."

He confirmed that on December 11, 2023, in his role as Park Board Commissioner, he issued the Original Motion entitled "Creating Vancouver's First Inclusive and Accessible Sensory Park for Children" to be heard before the Park Board Committee. The Original Motion was put before the Park Board at the Public Meeting and Commissioner Virdi said it was during the second day of this the Public Meeting (January 23, 2024) that in advocating for the implementation of a sensory park, he expressed disappointment and frustration in the other Commissioners' lack of support, and reiterated the Discriminatory Comment from the Pre-Election Meeting.

In addition to his written submission, Commissioner Virdi was interviewed on March 26, 2024. He said he remembered the Pre-Election Meeting and said all the ABC Party candidates for the Park Board were present. He said the Pre-Election Meeting was mandatory, and he remembered one Commissioner made a face when Commissioner Christensen made the Discriminatory Comment. He named ABC Party staff who were present in addition to the ABC Party candidates.

Commissioner Virdi said there was a conversation about sensory parks that started with what the ABC Party thought the platform should be and what candidates wanted to add on. He said he told the group that he had a son on the autism spectrum and wanted to add that issue to the platform. He said he recalled that everyone responded that it was "a great idea." He said Commissioner Christensen said that all parks should be inclusive. Commissioner Virdi said he responded that he was not saying that parks should not be for everybody; rather, that aspects of parks should be for children on the autism spectrum and in wheelchairs as sensory parks were good for all children. He said he remembered giving an example of taking his child to the park and how other parents judged his child. Commissioner Virdi said Commissioner Christiansen responded with the Discriminatory Comment.

Commissioner Virdi said he then responded by making a "big stink.". He explained that he looked around, put his hands on the desk and said, "That is so offensive, I have a child on the spectrum, he will never put earmuffs on, that is something he is sensitive to. Even if he could, the world is not made for children on

spectrum and the comment is disrespectful to me and my child. Other kids don't have to do that." He said there was an awkward silence and he looked at another Commissioner who had a facial expression that confirmed that the Discriminatory Comment was offensive, and that Commissioner was supportive of him, although he could not remember if she said anything.

Commissioner Virdi said he talked to an ABC Party staff member afterwards and said the Discriminatory Comment "really hurt me," it "made me feel uncomfortable and really upset" and that he wanted to make the sensory park "happen." He said he sent the ABC Party staff member communications on the Signal App about what had happened at the Pre-Election Meeting, which was set up to auto delete and therefore he did not have copies of these.

In response to us sharing with him Commissioner Christensen's evidence that she did not say anything at the Pre-Election Meeting about sensory parks and her only input about the parks came the next day in a text message, Commissioner Virdi added that in addition to making the Discriminatory Comment, Commissioner Christensen also made a comment in the Pre-Election Meeting about parks being inclusive and that building a park which only catered to autism and disabled people was segregation.

Commissioner Virdi said the Discriminatory Comment could not have been made by anyone else. He said it had a significant impact on him as it was on a topic dear to him and one he fought for every day. He said no one defended him and he was considering not being a part of the team. He said, "I know it was her, that really hurt."

Summary of Commissioner Christensen's Evidence

During Commissioner Christensen's interview, she recalled a meeting where sensory parks were discussed; it was the first meeting where the ABC Party Park Board candidates met face to face. She submitted documentation, including a July 23, 2022 copy of a calendar invitation for a "Park Board Platform and Launch Discussion." She recalled all ABC Party Commissioners being present, save for one Commissioner, who she could not recall being present, but admitted they may have been. She noted that Commissioner had declined the meeting invitation and travelled quite a bit, and for these reasons, she was unsure of whether they were present. She also identified a number of ABC Party staff members who were present.

Commissioner Christensen said she did not make the Discriminatory Comment and she thought it was an "incredibly offensive statement."

Commissioner Christensen said Commissioner Virdi brought up the idea of sensory parks at the Pre-Election Meeting and her recollection was that she did not say anything on the topic. She explained that when she was in a room with new people and not an expert in a topic (which was the case for sensory parks), her normal approach was to be quiet and listen. She said she did not recall anyone making the

Discriminatory Comment nor did she recall any conflict or a “big awkward silence.” She noted she would remember if these things had occurred.

Commissioner Christensen said the day following the Pre-Election Meeting, after thinking about the sensory park topic and discussing it with her husband (who is involved in education), she brought the topic up in a group chat. She provided screenshots of a group chat dated July 23, 2022 and July 24, 2022, titled “ABC Park Board,” with 11 members, including Commission Virdi. She summarized that she provided her thoughts on accessible playgrounds, and these were supportive of the initiative.

The group chat contains positive back and forth communications between Commissioner Virdi and ABC Party staff members on the sensory park topic, and includes comments from Commissioner Christensen about universal accessibility. She also noted that “the current parks strategy already includes having accessible features in all parks and 5 universally accessible parks by 2040 (see next message for screenshot). Do we want to be more ambitious about this goal? In what way (number, timeline)?” In short, the group chat contains no mention of conflict, and Commissioner Christensen’s communications were supportive of the initiative.

Summary of Other Attendees’ Evidence

We made every effort to speak to those identified as being present at the Pre-Election Meeting. We spoke to all the Commissioners who attended as candidates, and the evidence on a balance of probabilities supports the conclusion that all of the candidates were, in fact, in attendance that day. We also spoke to others identified as present. In total, we interviewed more than 10 attendees at the Pre-Election Meeting.

Most attendees gave evidence that supported a conclusion that Commissioner Christensen did not make the Discriminatory Comment; there was no dissension or opposition about Commissioner Virdi’s proposal; there was no conflict or controversy during the discussion; and the Pre-Election Meeting was a positive one. Of particular note were two attendees who each had a background and/or education in special needs education, and who gave evidence that had the Discriminatory Comment been made in their presence, they would have remembered it and reacted strongly to it. Other attendees said that if any proposed candidate had made a discriminatory statement, the ABC Party staff members present would have reacted to it, one describing that the Discriminatory Comment would have been viewed as a “show stopper” for a person’s suitability to run as a candidate.

One attendee referenced that they heard at some later date that Commissioner Christiansen may have made a comment about children with autism, but did not hear it themselves. They also noted that anything that may have been said was not notable or out of step with the types of comments being made by other candidates, referencing that all the candidates were new to politics.

Another attendee said that Commissioner Christensen was generally quiet but could make statements that had an “edge.” They had no clear recollection of her making the Discriminatory Comment, had taken

notes of the discussions, and only noted “inclusive,” “spectrum park” and “not stigmatizing” as notes of what was discussed.

Only one attendee substantiated Commissioner Viridi’s account and said Commissioner Christensen “didn’t understand why we need to build parks specially for neuro diverse kids,” and she “made a comment [about] why don’t [children] just wear ear muffs.” This attendee also said that Commissioner Christensen laughed when she said it. However, this attendee did not corroborate Commissioner Viridi’s account that he became upset and was vocal in response, and that this was followed by an awkward silence. To the contrary, they provided evidence that “we were going around the table and presenting ideas. It wasn’t supposed to be a discussion on how to build a sensory park. We all moved on to the next idea. It was a brainstorming thing.” When it was put to them that Commissioner Viridi’s evidence was otherwise, their evidence changed and they said, “I don’t remember a scene but I’m sure [Commissioner Viridi] reacted. Now and that I know [Commissioner Viridi] I don’t know how he would stay quiet,” but then said although they remembered the Discriminatory Comment being made, they actually could not remember what happened after it was made, saying, “I don’t ‘remember how we moved out of it but didn’t spent a long time on it.”

Commissioner Viridi’s evidence that there were further communications about the Discriminatory Comment were also not substantiated by the attendees or other documentary evidence. The only text communications that were produced were those set out above in the group chat. There is nothing in them to indicate any conflict or opposition for the proposal of sensory parks.

Code of Conduct Policy and Law

The relevant provisions of the *Code of Conduct Policy* can be found in Section 2: Public Communications by a Commissioner:

2.4 Without limiting the ability of a Commissioner to hold a position on an issue and respectfully express their opinions, a Commissioner must:

- a) ensure that their communications accurately reflect the facts of Park Board decisions;*
- b) ensure that all communications relating to Park Board business are accurate and not issue any communication that the Commissioner knows, or ought to have known, to be false; and*
- c) ensure that all communications by, and on behalf of a Commissioner, including communications made via social media, are respectful and do not discriminate, harass, or defame any person, recognizing that free and open debate is guaranteed under the Charter of Rights and Freedoms.*

Elected officials have a wide latitude to express their opinions and engage in free speech. Political expression, including expressions captured by a municipal code of conduct, “should be interpreted in a

manner consistent with the *Canadian Charter of Rights and Freedoms*, including the right of freedom of expression” (see *Re VanLeeuwen*, 2021 ONMIC 13). The decision in *Monforts v Brown*, 2021 ONMIC 10 also supports this approach:

121. Before turning to the applicable sections of the Code, I wish to make general observations about communications by elected municipal officials. The role of a Council Member includes communicating with members of the public about local issues. This includes not just responding to residents but initiating communication with the public. In fact, the Courts have clearly stated that, as an elected representative of the public, a municipal councillor is entitled to take “an open leadership role” on an issue. As part of the political process, a Council Member has every right to form views, to hold views, to express views and, while in office, to give effect to those views.

*122. In a case involving the previous Mayor of Orangeville, I observed that a municipal elected official is not required to avoid communicating on controversial, high-profile issues. Quite the contrary. “Given the political and representational roles of a municipal councillor, controversial and/or highly visible topics are ones on which a Council Member would be expected to communicate and on which a Council Member is entitled to communicate.” See *Greatrix v. Williams*, 2018 ONMIC 6 (CanLII), at para. 204.*

The allegations in this complaint, however, are not an instance of the Commissioners expressing differing opinions. In frustration about the amendment to his Original Motion, Commissioner Virdi said publicly that Commissioner Christensen had made the Discriminatory Comment. His statement was not framed as opinion or interpretation or view; rather, he asserted publicly that she had made it, and in response to her complaint, maintained that it was true. Given this, he bears some onus to provide evidence to substantiate that what he claimed in public in fact occurred. The situation in this complaint is similar to cases where a defendant asserts a truth as justification for their defamatory statements about another. The defence of justification is available as a complete defence to a defamation action where the statement is true in substance and fact: *Tilbury v. Coulson*, [2023] BCJ No 231, citing *Mann v. International Association of Machinists and Aerospace Workers*, 2012 BCSC 181 at paras. 76-77. It is the defendant who bears the onus of establishing that a statement is true on a balance of probabilities: *Tilbury v. Coulson*, [2023] BCJ No 231, citing *Holden v. Hanlon*, 2019 BCSC 622. The defendant need not prove every word or literal truth of the statement; instead, the defendant need only prove that the gist of the statement is true or substantially true: *Casses v. Canadian Broadcasting Corporation*, 2015 BCSC 2150 at para. 550.

In the written submission made on his behalf, Commissioner Virdi argued that in addition to being true, the Virdi Comment was not harmful to Commissioner Christensen’s reputation in the eyes of a reasonable person. He also submitted that the Discriminatory Comment was:

... also not inherently negative in the sense that it can be defamatory. Earmuffs, especially noise-canceling or noise-reducing headphones, are a practical and accessible tool that can help children with autism manage sensory overload in noisy environments. They are non-invasive, easily portable, and can be used as needed to provide immediate relief from overwhelming auditory input. By proposing earmuffs, the person might be suggesting a

simple and immediate strategy to support the child's well-being in situations where sensory overload is likely.

With respect, there was no dispute between any of the participants that the Discriminatory Comment, if it was made, would be objectively offensive. Further, this argument is entirely inconsistent with Commissioner Virdi's evidence that the alleged Discriminatory Comment was so offensive he reacted to it immediately and then had been plagued by it since.

Commissioner Virdi also claimed Virdi Comment did not defame Commissioner Christensen, and thus did not breach the *Code of Conduct Policy*, because what he said was true, so the defence of qualified privilege applied. We note that the defence of qualified privilege can be defeated when a speaker is reckless as to the truth of their words (see, for example, *Bent v Platnick*, 2020 SCC 23 at para. 121). Commissioner Virdi's qualified privilege argument fails on the evidence. The evidence shows Commissioner Christensen did not make the Discriminatory Comment. Thus, the Virdi Comment was not true. Commissioner Virdi has not provided any explanation as to how he was not reckless as to the truth of his words when he made the Virdi Comment.

All those who were interviewed agreed on one thing – if the Discriminatory Comment was said, it would have been problematic and offensive. Assessing it from the lens of a human rights analysis, it is clearly discriminatory. If, for instance, a Park Board Commissioner made these same comments as an elected member of the Park Board, and we were asked to review a complaint about them under the terms of the *Code of Conduct Policy*, we would find a breach of the elected member's obligations under the Policy.

In assessing the evidence of the participants, we have considered concerns of bias or allegiances that were raised by participants. We found all the participants to be generally forthcoming, and a number expressed their reluctance to be involved, particularly given the current dynamics involving the Park Board, but provided what information they could. We made efforts to speak to as many individuals as we could to get access to the broadest scope of evidence available, in part to address concerns of bias or allegiance. The balance of evidence, including the limited documents we were able to review, falls far short of establishing that Commissioner Christensen made the Discriminatory Comment. To the contrary, the balance of evidence supports that she did not. Given this, we find that in making the Virdi Comment about her in the Public Meeting, Commissioner Virdi violated section 2.4(c) of the *Code of Conduct Policy* by failing to ensure his communication was respectful and did not defame any person.

Conclusion

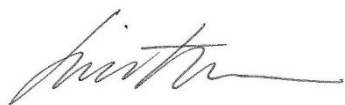
We recommend the public record be corrected by publication of this report consistent with the *Code of Conduct Policy*.

We make no specific recommendations with respect to Commissioner Virdi. We recognize that the Virdi Comment was made during a heated meeting, at a time of discord for the Park Board, and on a topic of

great importance for him. Commissioner Christensen sought a correction of the record publicly, and this report achieves the remedy she sought.

If Commissioner Virdi and Commissioner Christensen are willing to engage in facilitation to move forward from this dispute, our Office is more than willing to assist. In an effort to support the efficacy of the Park Board and the ability of the Commissioners to conduct their work with the civility required by the *Code of Conduct Policy*, even in times of disagreement and in the current unusual climate in which it exists, I recommend that all Commissioners attend mandatory training from the Office of the Integrity Commissioner prior to end of June 2024 on their obligations under the *Code of Conduct Policy* and on respectful communications generally.

All of which is respectfully submitted.



Lisa Southern, Barrister & Solicitor*
Integrity Commissioner, Vancouver Park Board

Dated: May 24, 2023

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