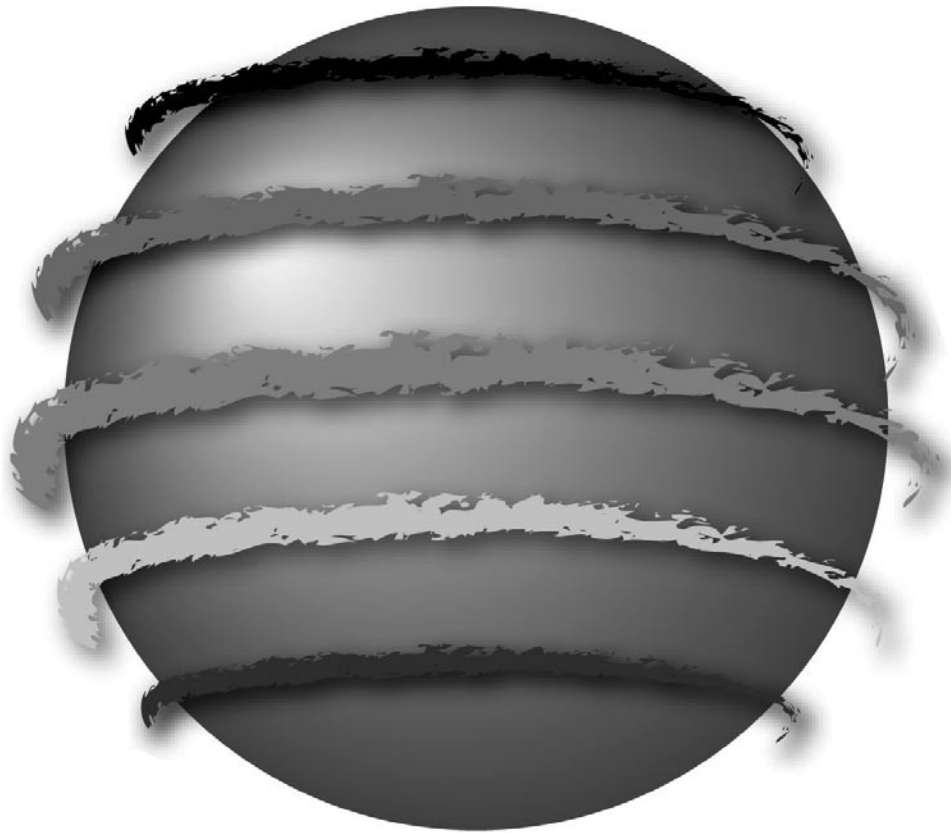


OLYMPIC OVERSIGHT INTERIM REPORT CARD 2010 Olympic Games

May 2007



Impact of the Olympics
on Community Coalition

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Electronic copies of this Report are available for free on the web on the IOCC homepage at www.olympicsforall.ca

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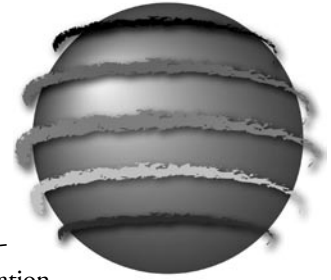
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Printed in Canada

May, 2007

About the IOCC

The Impact of the Olympics on Community Coalition (IOCC) is an independent organization dedicated to ensuring that environmental, social, transportation, housing, economic and civil rights issues associated with the Vancouver/Whistler 2010 Olympic Games are addressed from a community perspective.



Members of the IOCC

B.C. Persons With Aids Society (BCPWA)
Better Environmentally Sound Transportation (BEST)
British Columbia and Yukon Territory Building & Construction Trades Council
Civil Society Development Project
Institute of Health Promotion Research (IHDR)
Pivot Legal Society
Richmond Poverty Response Committee
Society Promoting Environmental Conservation (SPEC)
Southeast False Creek Working Group
Tenant Resource and Advisory Centre (TRAC)
Think City Society
Vancouver and District Labour Council (VDLC)

To join the IOCC

The IOCC is looking for additional organizations interested in contributing to the dialogue around the commitment statements and the Parties' adherence to those commitment statements. Assistance can range from volunteering to undertake research to reviewing and endorsing IOCC publications. Individuals are also invited to join the IOCC as volunteers to help increase our capacity to ensure the 2010 Games are as socially and environmentally sustainable as possible.

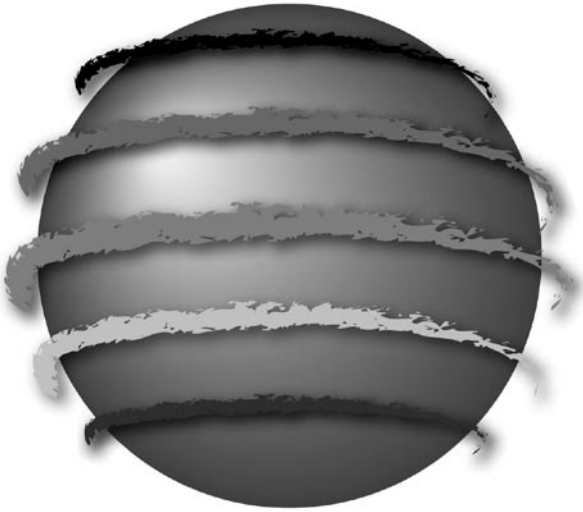
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Contact the IOCC at info@iocc.ca

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INTRODUCTION



This interim report card (“Report”) is produced by the Impact of the Olympics on Community Coalition. The Impact of the Olympics on Community Coalition is a broad-based independent community coalition whose mission is to mitigate the negative impacts of the 2010 Winter Olympic and Paralympic Games and to advocate for a rich post-Games, community-based legacy (“IOCC”). This Report is the product of consultation among the IOCC Board members and individuals representing key IOCC member organizations, and we hope it will be the central document in a community consultation process that will follow its release. Regular commitment progress reports will follow every six months, and more frequently if necessary.

The IOCC and the Commitment Statements

The IOCC is supportive of the commitments contained in the Inner-City Inclusive Agreement, the Olympic Bid Book, and the Multi-Party Agreement (“Commitments”), which the organizers of the 2010 Winter and Paralympic Games undertook to ensure that Vancouver’s inner-city residents, the environment, and all British Columbians benefit from the Games in Vancouver and Whistler. Relevant highlights from these documents are

found at Appendix A to this Report. For the first time in history, these Commitments include a pledge to ensure the benefits of the Olympics are available to all people, regardless of income or social position, and further, to ensure those most marginalized in society are not displaced or otherwise harmed by the Olympics.

The purpose of this document

This Report reviews the progress of the Vancouver Olympic Organizing Committee for the Olympic and Paralympic Games (“VANOC”) and the three Games partners – the City of Vancouver, the Province of British Columbia, and Canada – in meeting their Commitments. It is important to note that VANOC is a corporate entity established by the three government partners, who themselves comprise and fund VANOC. The three levels of government and VANOC will be collectively referred to as the “Parties” in this Report. Where increased specificity is required, and possible, individual partners will be identified.

The purpose of this review is to identify, both retrospectively and prospectively, which Commitments to date have not been substantially met by the Parties and which – if current policies prevail – are in danger of not being met by the Parties, in the hopes of encouraging greater and more concerted efforts to meet the Commitments and to ensure this Olympics has a lasting, positive impact for all British Columbians. The review offers the perspective of the watchdog group, the IOCC, and is intended to complement VANOC’s reporting on their own efforts. Readers are encouraged to read VANOC’s publications, most notably their forthcoming publication this spring, which will highlight the positive dimensions of their work.

For this iteration of the Report Card, we have labeled it “interim” simply because it is not the product of extensive community consultation. We welcome and encourage the Parties to provide evidence that our conclusions – based on what publicly available information we could obtain – need to be revised. Our intention is to take this document to the community and the Parties for discussion and revision, and to produce final report cards every

six months on these and other topics as they arise from these consultations with the Parties and the community.

The scope of this Report

Simply because the IOCC has not covered a particular topic in this Report does not mean that topic is unimportant to our organization, or that the IOCC has not identified a problem with that topic; rather, it is a reflection of the currently limited resources of the IOCC. The IOCC has no staff, and a very limited budget. As a result, critical topics like First Nations commitments, the “RAV” Line, the Convention Centre, inner-city employment and economic benefit commitments, impacts on small business and non-profits, and other pressing issues have not been covered. We anticipate covering these topics in future reports as the Games draw closer, and we encourage community members to get involved and assist us in researching these critical issues.

The IOCC’s mandate

The IOCC is justifiably proud of its significant contribution to the development of the various Commitments and we are dedicated to their realization. The IOCC also recognizes that previous bid committees have, unfortunately, made commitments that they did not keep.¹ This is the first Games in history that is poised to evolve community-based issues and concerns into legacies. With 1,000 days before the Games, we feel that many important opportunities to meet the Commitments are still possible.

The IOCC wishes to thank all of the individuals and organizations who have volunteered their time to prepare and comment on this Report.

Notes

- 1 Impact 2002 and Beyond – Salt Lake City Olympics. <http://www.xmission.com/~xrdsurb/Impact2002.htm>.

EXECUTIVE SUMMARY

This Report considers the performance of the Parties in the following areas: Housing and Displacement (ICI Commitments), the Environment, Civil Liberties, and Public Expenditure and Transparency. In each section, areas of concern or potential concern are identified by the authors through a review of the relevant facts. The background is then analyzed against the commitment statements and the obligations of the Parties. Where appropriate, recommendations are made by the authors for improvement.

Grade

The authors have assigned a grade of “D–” to the Parties for their work on realizing the commitment statements based on the findings to date. The authors assigned this grade to recognize that some steps have been taken in some commitment areas, making an “F” grade inappropriate; however, the authors did wish to bring to the attention of the Parties the failure in many areas to even initiate plans or strategies to realize many of the Commitments. The authors also wish to note that if the Parties continue at the current pace in their attempts to realize the Commitment statements, the ultimate grade given to the Parties will be a failing grade. Below is a brief synopsis of the findings and recommendations, forming the basis for the grade.

Housing and Displacement Commitments (ICI Commitments)

Vancouver is following historical patterns of Games-related evictions. With just two and a half years until the Games begin, little or no government construction of promised legacy social housing has commenced for low-income singles, suggesting that very little, if any, new legacy-related housing will be available prior to 2010 for this group, which is most at risk of displacement and homelessness. Significant numbers of low-income single rental

housing units have been lost in the Downtown Eastside, with at least one landlord identifying Olympic-related motives for evictions. The exact tally of lost units for this group is difficult to determine because of the absence of any formal mechanism established by any of the Parties to inventory low-income rental housing based on rent, and actual accessibility of units to low-income singles and those on social assistance. Four hotels have recently been closed and their residents displaced. There is insufficient funding in the Federal or Provincial budgets to replace lost housing and/or prevent displacement. Conditions in extant low-income housing are poor, causing closures for health and safety violations. The City is aware of these issues but is reluctant to enforce by-laws and order repairs, resulting in closures. Olympic legacy projects at the municipal level are putting increased pressure on low-income housing in the Downtown Eastside, the inner city of Vancouver. A report prepared by VANOC for the government partners on how to realize the commitment statements has been, to date, apparently ignored.

Recommendations

1. that the Parties immediately dedicate funding to replace the aging low-income rental housing for singles in the Downtown Eastside with proper social housing; and,
2. that the Parties adhere to the recommendations of the ICI housing sectoral table and provide, via a formal statement, a timeline for considering and implementing the recommendations of that table.

Environmental Commitments

The Parties have put insufficient resources into planning and meeting stated environmental sustainability Commitments, including the zero waste management strategy, green building design, and sustainable transportation. Some Commitments have yet to be addressed at all, including the liquid waste strategy, hydrogen fuel infrastructure installation plans, and greenhouse gas emission reduction strategies. Sufficient information on these initiatives does not exist for a comprehensive third-party audit. Preference appears to be given by the provincial Party to

less sustainable modes of transportation at significant environmental cost, best exemplified by the sea-to-sky highway expansion. The Cowichan Trails Legacy Project has had some environmental criticism to date, but evidence is insufficient for a comprehensive analysis at this point.

Recommendations

1. that the Parties increase transparency in plans to achieve the environmental sustainability Commitments;
2. that the Parties set plans and funding in place immediately for the required third-party sustainability audit;
3. that the Parties analyze Games infrastructure plans that have yet to be commenced against sustainability goals to ensure compatibility; and,
4. that the Parties investigate the Cowichan Trails Legacy Project to ensure adequate environmental assessment and mitigation of impact.

Civil Liberties Commitments

Many civil liberties concerns have been identified in these early days leading to the Games, including:

1. the implicit and/or explicit encouragement of the use of civil injunctions and criminal contempt of court charges as a response to civil disobedience at Eagleridge Bluffs;
2. the illegal restriction of access to public space and restriction of the mobility and assembly rights of protesters in general at Games-related events in response to protest at two Games-related events;
3. an attempt to exclude a community representative from an Olympic sectoral table for partisan reasons by the City of Vancouver;
4. the criminalization of protesters and critics of the Olympic Games through allegations of criminal activity that are not supported by independent evidence through the DERA search warrant and allegations of criminal threats made by the DERA executive director;
5. the failure to protect criticism, satire, and independent media freedom of speech in Party initiated trademark legislation; and,

6. the introduction of proposed legislation and policies that would restrict inner-city residents' and homeless residents' use of public space, before, during, and after the Games through "Project Civil City."

Recommendations

1. that the Parties investigate less punitive measures to respond to non-violent civil disobedience at Games-related sites;
2. that the Parties immediately convene the public consultation on civil liberties promised in the Commitments;
3. that the Parties investigate and learn from the experiences at the Olympic clock unveiling and the Flag Illumination ceremony to identify opportunities for better communication and to ensure legitimate police action grounded in legal authority;
4. that the Parties avoid actions that could be seen as criminalizing, marginalizing or penalizing Games critics and inner-city advocates and review those incidents described in the report relating to DERA and Pivot Legal Society to ensure compliance with the Commitments;
5. that the Parties withdraw Bill C-47, the VANOC trademark legislation, until justification can be offered for special legal treatment for VANOC, and if VANOC is deserving of special treatment, introduce protections for legitimate political speech including satire, criticism, and independent media; and,
6. that the Parties withdraw "Project Civil City" and focus Party resources on achieving the goals set out in the ICI Housing Sectoral Table report to deal with street disorder.

Public expenditure and transparency

The authors are concerned by an absence of budgeting that reflects true costs to the taxpayer at the provincial and municipal levels. At the municipal level, these concerns are best illustrated by the downloading of Games expenses to municipalities as demonstrated in the Richmond Oval project. At the provincial level, the authors echo the concerns of the Provincial Auditor General

in his latest Olympic audit. The specific issue of ICBC's sponsorship of 4,500 Games vehicles at a cost of \$15 million is raised to encourage the Parties to account for this expense properly as a public expense and part of the public costs of hosting the Games. VANOC and 2010 Legacy Now's exemptions from most provincial accountability legislation are canvassed, and what few accountability mechanisms exist for VANOC are examined and are found wanting, particularly the requirements to post successful bidders on Games contracts, and to provide the public with a business plan and a fully costed budget in a timely manner.

Recommendations

1. that the Parties immediately define the term "Olympic Costs" to facilitate true cost accounting by the Parties and third-party monitors;
2. that the Parties examine the practice of downloading expenses to municipalities in order to determine whether a more equitable resolution can be reached to ensure that taxpayers in one jurisdiction are not disproportionately penalized for the overruns involved at a particular venue;
3. that the Parties review and incorporate, immediately, the recommendations of the Provincial Auditor General into their accounting practices at all levels;
4. that the Parties require ICBC to withdraw its sponsorship commitment with respect to insuring Games-related vehicles, and that the Parties properly incur the insurance costs of the Games vehicle fleet as a Games-related expense;
5. that the Parties require VANOC and 2010 Legacies Now to adhere to the requirements of the *Freedom of Information and Protection of Privacy Act*, the *Financial Information Act*, the *Document Disposal Act*, and the *Financial Disclosure Act*;
6. that VANOC and 2010 Legacies Now open its board meetings to the public, save for matters reasonably requiring *in camera* sessions (e.g., human resources issues, ongoing or anticipated litigation, etc.);
7. that VANOC release its public budget and business plan immediately;
8. that VANOC update their successful bidder list on their website; and,
9. that VANOC and 2010 Legacies Now dedicate increased resources to ensuring and facilitating transparency.

HOUSING *and* DISPLACEMENT (ICI commitments)

The Vancouver 2010 Bid Corporation and its Member Partners have adopted the following goals and objectives to ensure that the interests of those living in Vancouver's inner-city neighbourhoods are addressed:

Housing

- a) *Protect rental housing stock*
- b) *Provide as many alternative forms of temporary accommodation for Winter Games visitors and workers*
- c) *Ensure people are not made homeless as a result of the Winter Games*
- d) *Ensure residents are not involuntarily displaced, evicted or face unreasonable increases in rent due to the Winter Games*
- e) *Provide an affordable housing legacy and start planning now.*²

The authors of this Report wish to notify the Parties of areas for potential improvement in achieving the five housing commitment statements, also known as the ICI Commitments. The authors are concerned that, to date, the Parties have failed to take the significant steps required to achieve the five housing commitment statements, in particular:

1. the Olympic-related erosion of low-income rental housing and the lack of government response; and,
2. the absence of a formal government response to the recommendations of the ICI Housing Sectoral Table on how to achieve the Housing Commitments.

The Olympic-related erosion of low-income rental housing and the lack of government response

Background

Historically, displacement of low-income individuals

is closely associated with the Olympic Games. For example, Human Rights Watch has documented over 100,000 evictions in the lead-up to the 2008 Beijing Olympics.³ In the Salt Lake City 2002 Games, rents rose from \$100 to \$200 a week to \$600 to \$700 a week. One entire building was emptied to make room for the FBI and other security-related tenants; dozens were evicted from that building alone. The government planned to create 2,500 new units of affordable housing; only 150 units were built. There was a 300 per cent rental increase in some residential hotels.⁴ In Atlanta, Project Home-ward Bound gave Atlanta's homeless a one-way ticket out of town before the Olympics began.⁵ Fear of this type of displacement is what led to the ICI Commitment Statements on housing and displacement.

Research by the Pivot Legal Society indicates that Vancouver is no exception to this trend. Over 800 SRO units have been lost in the Downtown Eastside since June 2003.⁶ Additionally, 541 units in 22 hotels have been placed at risk of redevelopment due to their purchase by identifiable developers, with 1 in 5 units sold or put up for sale in the last year.⁷ Further, a number of residents have been forcibly evicted or faced eviction attempts.⁸ These include residents of the Burns Block, who were evicted with one hour's notice,⁹ as well as residents of the Piccadilly Hotel, Pender Hotel,¹⁰ Carl Rooms, American Hotel, Golden Crown, Asia Hotel and Lucky Lodge.¹¹ At the Golden Crown Hotel, the owner told Global Television News that he was evicting tenants to make room for Olympics workers and other construction workers.¹²

Compounding these direct losses, there is a concern that SRO hotel owners will increase rents and seek to provide accommodation to labourers working on the Olympic construction projects.¹³ A widely observed phenomenon in the area is the failure of building owners to maintain their low-income rental buildings, causing the buildings to be condemned by the City for failing to meet standards. These buildings are then sold for redevelopment into market housing.

The Vancouver Agreement, an organization of the three levels of Government in Vancouver, notes that

funding has been put in place for the creation of 600 units of social housing.¹⁴ Unfortunately, only a very small proportion of this housing is available to low-income singles, and only 25 units at the Athletes' Village will be available to low-income singles. Low-income singles are the population most at risk of homelessness, and most impacted by displacement. In some cases, promised housing is being cut, as was seen in Southeast False Creek where dedicated middle-income housing at the Athletes' Village was eliminated by the municipal government.

Specific Olympic-related projects initiated by the municipal government are putting increasing pressure on the low-income rental stock in the inner city. The Carrall Street Greenway project is dividing the west end of the Downtown Eastside from the remainder of the inner city. The western end of this area includes the new Woodward's project, as well as a number of new developments, including a market housing development called the Paris Block. From the East, the City is rezoning the block from Heatley Avenue to Clark for "residential over commercial," which will cause that area to develop rapidly into a market housing area, putting increased pressure on nearby privately owned low-income rental buildings.

The City of Vancouver voted against placing a moratorium on converting low-income rental housing to other uses in March of 2007, and has declined to use or modify (if required) the Standards of Maintenance Bylaw to allow the city to ensure habitable standards in the Downtown Eastside lodging houses. The Auditor General has rejected a call by MLA Jenny Kwan to monitor the loss of Single Room Accommodation (Single Room Occupancy) housing in the inner city of Vancouver in the lead-up to the Games.

In April of 2007, the Provincial Government announced that it would be building over 300 housing spaces and purchasing 10 residential hotels in Vancouver's Downtown Eastside. The purchase was made with funds remaining in the budget at the government's year end.

Analysis

The authors submit that issues associated with the inflated housing market in Vancouver have been compounded by speculation related to the upcoming Games. Coupled with the policies of the government Parties, these factors have resulted in significant loss of low-income rental housing throughout Vancouver and the Lower Mainland. The absence of "rate of change" by-laws that restrict conversion of rental housing in Vancouver, while similar protections exist for commercial buildings, is inexcusable.

This loss of housing has undeniably resulted in displacement. In what was described as a "crisis situation," the City of Victoria noted a 30 percent increase in its homeless population, which it attributes to closures of Vancouver hotels and police crackdowns on the homeless in Vancouver.¹⁵ This rise in homelessness was so sharp that a major U.S. convention canceled its booking with a Victoria hotel, citing concerns about the presence of panhandlers.¹⁶ Similar results have been seen in Burnaby and the Tri-Cities area.¹⁷

The authors are pleased to recognize the purchase of 10 Downtown Eastside lodging houses as an important first step in protecting low-income rental housing in the lead-up to the Games. The authors are, however, concerned that the purchase of housing is done with "year-end" money, and without an operating plan, rather than as part of a concerted plan to improve and replace the aging lodging house stock in Vancouver's Downtown Eastside.

The authors wish to emphasize the importance of replacing this aging housing stock, which is subject to increasing gentrification pressures due to the Games, with proper social housing. The authors also urge the Parties to adhere to the recommendations of the ICI Housing Sectoral Table, and their recommendations on how to realize the Commitment statements. The authors finally wish to point out that the Games are less than two and a half years away, and that no major construction of low-income housing has commenced. Given the realities of government timelines and the construction market in Vancouver, the authors would like to suggest to the Parties that if they wish to open new affordable housing before 2010, they must start immediately.

Response to community recommendations on how to achieve the Parties' Commitments

Background

Over six months, from mid-2006 to early 2007, a group of not-for-profits, for profits, and representatives of all three levels of government met at the offices of B.C. Housing to draft a report recommending ways in which the Parties could achieve the Housing recommendations in a community-focused manner. The final report, released in March 2007, represented the consensus effort of all of the involved parties, offering over 20 unanimous recommendations for the Parties to aid the Parties in achieving their Housing Commitments.¹⁸ Since then, 83 prominent individuals, researchers and organizations have endorsed the report.¹⁹

Analysis

Despite the significance of the report, and remarkable cooperation between not-for-profit advocacy groups, government and for-profits, no press releases on the subject have been issued by any government member of the committee. VANOC has not posted a link to the report on their website, despite the fact that they are the body responsible for the report itself. No level of government has publicly commented on the report, nor have any political leaders indicated their position on the recommendations contained therein. The report has been posted on the City of Vancouver's housing website without fanfare, and without any indication that it will be seriously considered by the Parties.

The authors of this Report recommend that the Parties improve access to the Housing Sectoral Table report by posting links to the report on each of the Parties' websites. Further, the authors recommend that the Parties issue a formal statement and timeline outlining the consideration process for the report, and a timeline for the implementation of those recommendations, as is required by the various Commitments.

Notes

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ENVIRONMENTAL COMMITMENTS

“Construction and operation of the Games facilities will ensure that significant local features and sensitive environments are protected through landscape buffers and careful land development practices.”²⁰

The authors of this Report wish to bring to the Parties’ attention areas of potential improvement in achieving the environment commitment statement. The authors are concerned that, to date, the Parties have failed to take the significant steps required to ensure that the environmental commitment statement is met. In particular, the authors are concerned that:

1. the Parties are not putting sufficient resources or planning into meeting their sustainability Commitments;
2. the Parties are preferring less-sustainable methods of transportation despite bid promises to ensure sustainability; and,
3. the Parties are building environmental legacy projects that have the potential to degrade, rather than enhance, the environment.

Insufficient resources to meet sustainability Commitments

Background

The integration of environmentalism into the Olympic Movement is a surprisingly new concept. The IOC added environmental protection as its “third pillar” to Sport and Culture within the Olympic Charter as late as 1994.²¹

In 2003, Vancouver 2010 became the first Winter Games Host City to be formally bound to perform and report on environmental sustainability as outlined in the IOC’s Olympic Games Global Impact (OGGI) Project.²²

The three initiatives to date made public by VANOC include a zero waste management strategy, green build-

ing design efforts, and sustainable transportation initiatives.²³ Commitments yet to be addressed include a liquid waste strategy,²⁴ hydrogen fuel infrastructure installation plans,²⁵ and green house gas (GHG) emission reduction strategy.²⁶

Analysis

The world is watching Vancouver in its ability to set impressive environmental precedents for future host cities and Games. Thus far, information made available by VANOC on this novel component of the Olympic Games has been sorely lacking. Of the initiatives announced to date, not one has been accompanied by a detailed timeline or implementation strategy. With just two and a half years until the Games, a number of Bid Book Commitments have yet to be addressed at all, and access to information regarding those being acted upon is minimal. The authors wish to raise with VANOC that such lack of transparency not only results in controversy, but further exacerbates mistrust in VANOC processes, and compromises the ability of an independent third party to conduct a sustainability audit, leading to a potential breach of a Bid Book commitment.

Preferring less sustainable modes of transportation at significant environmental cost

Background

The Provincial Government, despite community opposition, chose to construct a 4-lane highway through the Eagleridge Bluffs area of West Vancouver,²⁷ resulting in the destruction of sensitive wetlands.²⁸ This infrastructure development is closely tied to 2010 and Games-related development taking place in Whistler.

The Federal and Provincial governments and independent consultants all indicated that the Eagleridge bluffs and Larson wetland are ecologically sensitive and contain numerous endangered and at-risk species,²⁹ and that development of the proposed highway would irreparably damage the ecosystem.³⁰

The Federal government requested that the Province not proceed with the proposal due to the ecological cost

and low probability of successfully relocating affected species.³¹ This request was echoed by the GVRD,³² the Councils of West Vancouver³³ and North Vancouver,³⁴ citizens, and the Province's own Ministry of Water, Land and Air protection.³⁵ The Province has chosen to proceed with a 4-lane highway expansion, despite the protest of all levels of government and many citizens, citing cost and safety concerns.³⁶

Analysis

The authors wish to protest that, given the ability of the Province to substantially eliminate many impacts via a tunnel, this environmental destruction is intolerable and contrary to basic concepts of sustainability. The authors recommend revisiting the sustainability commitment statements, and ensuring that all further infrastructure and Games-related developments in the lead-up to the Games include a meaningful commitment to environmental sustainability.

Environmental legacy projects that risk degradation of the environment

Background

The Parties are developing a series of Nordic ski trails in the Callaghan Valley, a previously pristine wilderness area, for the cross country ski events. 16 kilometres of trails are intended for competition, and 20 to 25 kilometres are intended for family and recreational use following the Games as a legacy.

Recently, an organization called AWARE, the Association of Whistler Area Residents for the Environment, expressed concerns about the plan.³⁷ AWARE appears concerned about such elements as: the effect of the plan on grizzly habitat in the area, the level of environmental assessment done for the trails, and the proposed width of trails, which are being reported at anywhere between 4 metres and 20 metres wide.³⁸

Analysis

Given the limited capacity of the IOCC, the authors have been unable to determine the extent of the con-

cerns of AWARE and how these concerns may be alleviated. The authors wish simply, at this point, to raise the matter with the Parties, in the hopes that the Parties will investigate these concerns, and further to give the Parties notice that the authors will investigate this issue more comprehensively in the following report.

Notes

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CIVIL LIBERTIES COMMITMENTS

VANOC will

a) *Provide for lawful, democratic protest that is protected by the Canadian Charter of Rights and Freedoms*
b) *Ensure all inner-city residents' continued access to public spaces before, during and after the Games and provide adequate notice of any restrictions of the use of public space/facilities and prominently display alternate routes and facilities*

d) *Commit to a timely public consultation that is accessible to inner-city neighbourhoods, before any security legislation or regulations are finalized, subject to lawful and legitimate confidentiality requirements*³⁹

[. . .]

*Human rights are guaranteed through a modern Constitution that includes a Charter of Rights and Freedoms.*⁴⁰

The authors of this Report wish to suggest to the Parties areas for potential improvement in protecting and preserving the civil liberties of those protesting, or impacted by, the Games. The authors are concerned that, to date, the practices of the Parties have markedly departed from civil liberties bid Commitments in several regards, including:

1. the implicit and/or explicit encouragement of the use of civil injunctions and criminal contempt of court charges;
2. the illegal restriction of access to public space and restriction of the mobility and assembly rights of protesters in general at Games-related events;
3. an attempt to exclude a community representative from an Olympic sectoral table for partisan reasons;
4. the criminalization of protesters and critics of the Olympic Games;
5. the failure to protect criticism, satire, and independent media freedom of speech; and,
6. the introduction of proposed legislation and policies that would restrict inner-city residents' and homeless

residents' use of public space, before, during, and after the Games.

Implicit/Explicit encouragement of civil injunctions and criminal contempt of court charges

Background

The proposed development of a 4-lane highway through the Eagleridge Bluffs area of West Vancouver was a point of significant contention between residents and the Provincial government.⁴¹ The development is closely tied to increasing transportation capacity to Olympic venues located at Whistler, British Columbia, in time for the Games. At first, it appeared the Province was willing to hear community input on the project, and to seek mutually agreeable solutions.⁴² However, it became apparent that the Province would proceed with development despite community opposition.⁴³

Initial community consultations were trivial. Public input was limited to “design features” of the proposed highway, such as shrubbery features and the placement of noise-reducing barricades.⁴⁴ The public had no chance to directly indicate preference for a tunnel or a road.

The Province, through its representative, Transportation Minister Kevin Falcon, repeatedly stated that the highway was the “only option” and that requests from residents for a tunnel, or modes of transportation with a lower environmental impact, would not be considered.⁴⁵

The Province did not produce any reasonable cost estimate for a tunnel option or any detailed evaluation of the safety impacts of the tunnel option, despite repeated requests from the District of West Vancouver and from individual citizens,⁴⁶ and despite serious concerns raised by independent engineers about the accuracy of information being released by the Province.⁴⁷

The District of West Vancouver indicated to the Province that between 58–70% of residents opposed the highway expansion,⁴⁸ and undertook a lawsuit to stop the expansion.⁴⁹

Ultimately, protesters occupied the site of the proposed development in an encampment and refused to move.⁵⁰ At this point, bid partner British Columbia's

Minister of Transportation, Kevin Falcon, warned protesters that he would use all legal means to remove them, and informed them that they would be personally sued to recover costs associated with construction delays.⁵¹

No level of government did act, and an injunction was eventually applied for and secured by Pieter Kiewit Sons' Inc. ("Kiewit"), the construction firm responsible for the highway project. The protesters who ignored the injunction were arrested by police. Twenty-one protesters were arrested and fined \$1,000 each to defray the contractor's costs due to delays, and additional fines were imposed ranging from \$250–400.⁵² Three protesters were jailed for criminal contempt of Court. Harriet Nahanee, 71 years old, served 9 days of a 14-day term and later died from pneumonia complicated by underlying, undiagnosed lung cancer.⁵³ The authors share publicly stated concerns that her stint in jail may have contributed to or accelerated her death.⁵⁴ Some community groups are calling for a public inquiry into her death. Betty Krawczyk, who is 78 years old, was sentenced to 10 months in jail for criminal contempt of Court.⁵⁵

Though, to the knowledge of the authors, there was no public or private threat to the court proceedings, Ms. Krawczyk was sentenced in the highest security court room in the Province, the same one used in the Air India trial. Those attending the trial were subject to search and made to pass through a metal detector. There was massive police, sheriff and security presence on site.⁵⁶

Analysis and Recommendations

The authors seek to raise with the Parties the implicitly and/or explicitly condoned use of civil injunctions to respond to non-violent civil disobedience protests, as represented in the Eagleridge Bluffs protests. While the Eagleridge Bluffs protest was a single series of related events which is unlikely to occur at the same location, it is highly likely that non-violent civil disobedience will be a feature of upcoming Games-related protests, and it is important to establish appropriate, planned responses to such events in the future. Given the likelihood that Games-related civil disobedience will arise in the future, whether or not the sea-to-sky highway is considered

"Games-related infrastructure" or not is moot; the issue is the response of the Parties' to civil disobedience. The use of court injunctions and charges of criminal contempt to respond to civil disobedience, instead of charges under the Criminal Code, provincial trespassing tickets, or simple physical removal of alleged trespassers through temporary "Breach of the Peace" arrests, is a distinct policy choice which is unduly punitive, minimizes access to procedural rights for protesters, and has distinct implications for the bid book Commitments.

While criminal contempt prosecutions, and arrests for violation of injunctions, do not technically violate the Commitments in that such arrests are permissible under the *Charter*, these prosecutions do disproportionately penalize the historically recognized, and legitimate, form of protest known as non-violent civil disobedience. The authors recognize that the very point of civil disobedience may be to be arrested, in order to, in the opinion of the protesters, draw attention to a larger injustice taking place.⁵⁷ The authors further recognize that the Parties may have limited control in binding the actors in a civil dispute, as in the case of Eagleridge Bluffs. However, the authors argue that the Parties nevertheless maintain some level of control over this process.

First, the Parties could have prevented the situation that led to the civil disobedience by ensuring more meaningful community consultation. Second, the Parties have significant moral suasion and influence over those who were involved in Eagleridge Bluffs. Comments by the Parties like the province's Transportation Minister that the Province would pursue protesters personally to recover costs associated with construction delays – which was the action ultimately taken by the private contractor – indicate the influence that the Parties have.⁵⁸ Finally, in this case, the failure of the Parties to implement less severe sanctions to respond to the issue meant that a private actor, in this case Kiewit, had to act through far more severe civil injunctions to resolve the issue.

Civil contempt proceedings are significantly different than criminal prosecutions. In contempt proceedings, the judge need only establish that the accused violated an order of the court. If the accused has violated

the order, the accused is guilty and the judge may fix a penalty. The accused is not permitted to raise a defense beyond that he or she did not violate the order of the court; the question of whether or not the violation was intended is irrelevant. In legal terms, this means that contempt is an absolute liability offence. In contrast, if a criminal prosecution is initiated, the law requires a *mens rea* or “guilty mind” requirement. While civil contempt proceedings are constitutionally legitimate, the Supreme Court of Canada, in another matter, re: *B.C. Motor Vehicle Act*, has stated that it is unconstitutional to combine absolute liability offences with the potential for imprisonment.⁵⁹ The policy reasons for requiring a “guilty mind” before a person is put in jail should be apparent.

Further, civil injunctions artificially set up protesters’ actions as a challenge to the authority of the Court, rather than a challenge to the party that is the target of the protest, resulting in custodial sentences of “real jail” to set an example or send a message to the general public that the authority of the Court is not to be underestimated. In comparison, similarly serious criminal offences for challenging the authority of a contractor building a road, or challenging the authority of the province to build a road without appropriate environmental assessments, instead of challenging the authority of the Court, would be extremely unlikely to result in a custodial sentence.

Regardless, short of a criminal prosecution, there are many other options available to VANOC and the bid book partners for dealing with non-violent civil disobedience, including non-criminal sanctions like provincial tickets and prosecutions for trespassing, and even such simple approaches as the arrest of protesters for “Breach of the Peace” with their subsequent release away from the site of the breach without criminal charge. None of these intermediate steps were attempted at the Eagleridge Bluffs protests, and the authors encourage exploration of these approaches by the Parties for the future acts of civil disobedience that are sure to arise in the lead-up to the Games.

Illegal restrictions on public space and the mobility and assembly rights of protesters in general at Games-related events

Background – Olympic Clock Unveiling

On February 12, 2007, the Parties held an event celebrating the unveiling of the Olympic countdown clock, a large clock that is counting down the days, weeks, minutes and seconds to the opening ceremonies of the 2010 Games on February 12, 2010. Approximately 100 protesters, of varying ages and philosophies, attended the event. One group of protesters attempted to float a banner calling for housing using helium balloons, and police attending the event grabbed the banner, pulled it to the ground, and cut the helium balloons.

Following this police action, tensions rose between police and protesters, with police forming a line between those celebrating the clock, and those protesting it. One person was arrested for throwing eggs and paint-filled balloons at a large television screen that had been set up. Two people were arrested for jumping on the stage and shouting into the microphone that had been set up. A total of three people were criminally charged. The vast majority of protesters remained to the side, presenting their own countdown to homelessness clock, and were not arrested.

After the event, the Vancouver Police Department reported that protesters were throwing “paper-mache balls filled with rocks” at police officers. In fact, police had found a hand-made musical rattle, which is a paper mache ball, filled with rocks, but which is not generally used as a weapon. No individual was charged with throwing rocks, nor has any evidence of an individual throwing rocks been released by Police. Vancouver Police representative Inspector Steve Schnitzer was quoted, following the event, as saying: “I don’t even want to refer to this as a protest. It’s a criminal act by a bunch of hooligans that just came to disrupt an event that people wanted to partake in peacefully.”⁶⁰

Background – Flag Illumination Ceremony

On March 12, 2007, the Parties hosted a “Flag Illumination Ceremony” on the North lawn at the City of Vancouver City Hall, at the corner of Cambie Street and 11th Avenue in Vancouver. At this event, Mayor Sam Sullivan and representatives from VANOC were to address the crowd, and a children’s choir was retained to sing various songs, including O Canada. Posters advertising the protest had been circulated widely, and a significant number of protesters were expected to attend.⁶¹

Police liaisons informed one group of protesters, prior to the event, that protesters would only be permitted on the City Hall lawn if they consented to be searched and did not bring anything that could be used as a weapon. Upon arrival at the North City Hall lawn, protesters were informed by uniformed Vancouver Police officers that no protesters were permitted on the lawn area at all. The protesters were told that the designated protest area was in a parking lot on the North side of 10th Avenue, at which protesters could legally protest, but from which protesters could neither see nor hear, nor be seen or heard, by those attending the event. The protesters then circled around the police line and entered onto the lawn, with one protester detained and searched but not arrested by police, and other officers on horseback attempting to block the protesters from entering on the lawn.⁶²

Once the protesters had entered onto the lawn, police permitted them to stay; however, the perimeter was re-established, and all protesters who wished to attend the event were required to consent to a search. The reason given for the search by the officers was that the North City Hall lawn was “private property” owned by the “Corporation of the City of Vancouver” and that Vancouver had requested searches for all attending the event.⁶³

No violent or legally prohibited incidents took place during the flag illumination ceremony, and there were no charges arising from that event. The City maintained a force ratio of nearly 1:1 during the event,⁶⁴ meaning there were nearly as many police as attendees.

Analysis and Recommendations

The authors of this Report seek to draw to the attention of the Parties the importance of balancing the rights of those attending to celebrate Games events with those attending to protest Games events, and submit that the Parties have not yet found that appropriate balance. The authors recognize and encourage consideration of the importance of safety for all attending Games-related events, whether protester, police officer, or attendee. Despite this recognition, the authors submit that the trend towards the Parties’ repression and marginalization of growing and legitimate protests is becoming apparent in the comparison of these two most recent Games events open to the public.

Issues arising from these first two tests of the Parties’ ability to respond to appropriate and inappropriate forms of protest include the following:

1. Attempts to limit legitimate protest opportunities to be seen and heard, contrary to law;
2. Attempts to restrict equal access to public space based on whether individuals are protesters or celebrants, contrary to law;
3. Police searches not grounded in legal authority;
4. Signs, banners, and other creative means of communication used by protesters destroyed or seized without such action being grounded in proper, legal authority;
5. Equating by public officials of legitimate political protest with criminal acts;
6. Criminal allegations (throwing rocks) against protesters made by public officials and representatives, but not supported by evidence or charges recommended to the Crown for prosecution; and,
7. Failures in communications between police liaisons and those operating policing at the protest site.

Other issues include the significant cost in overtime to over-police Olympic events.

The authors of this Report encourage the Parties to convene, immediately, the public consultation on civil

liberties issues promised in the Commitments. Further, the authors of this Report encourage the Parties to investigate and learn from the experience at the two events listed in this Report, to ensure that the same mistakes are not made at future events.

Attempted exclusion of bid partner critics from participation in Olympic dialogues

Background

On December 19, 2006, Pivot Legal Society held a press conference claiming that the City of Vancouver had attempted to have one of its staff lawyers removed from the Olympic housing sectoral table. Lawyers from Pivot Legal Society routinely represent residents of Vancouver's poorest neighbourhood in legal and administrative matters. Lawyers from Pivot are also involved in advocacy on housing, policing and other community issues in the Downtown Eastside. The sectoral table was a "co-design process" at which non-profits, for-profits, and government collaborated on creative solutions to meet the Parties' housing Commitments.

Vancouver rescinded this attempted prohibition; however, the municipal Party has maintained the unusual step of prohibiting Pivot, or its representatives, from contacting city staff.⁶⁵ The reason given for this prohibition is that clients of Pivot are currently suing the City, and therefore Law Society Rules prohibit contact of anyone by lawyers for party to a lawsuit other than the opposing party's lawyer.⁶⁶ To the knowledge of the authors of this Report, lawyers from Pivot Legal Society are the only lawyers in Vancouver banned from contacting City staff directly.

Two organizations, the B.C. Civil Liberties Association, and Lawyers' Rights Watch Canada, registered formal complaints with the City of Vancouver legal department about the prohibition.⁶⁷ The matter is now before the Ethics Committee of the Law Society of British Columbia, and will be determined in early May, 2007.

Analysis

The authors wish to point out to the Parties that this

attempt to interfere directly with advocates for constituents in Vancouver's Downtown Eastside directly contradicts the ICI Statement signed by the municipal bid partner guaranteeing representation for inner-city residents at the housing sectoral table, as well as the promise to ensure that residents of Vancouver's inner city had input into all major decisions.

While the authors recognize the difficulty of inviting those seen by the Parties as traditional adversaries in the policy arena into high-level decision-making processes, the bid Commitments are unequivocal, and the input of the inner-city residents and their advocates cannot and should not be limited to advocacy outside the advancement of their rights through the legal system. The authors wish to point out to the Parties that the continued maintenance of this prohibition, combined with a failure to offer a legitimate explanation for this singling out of a Downtown Eastside advocacy organization raises the possibility that the municipal bid partner is attempting to undermine effective representation for the same inner-city residents it pledged to assist in the Commitments.

Use of criminal law to intimidate Games critics

Background

The Downtown Eastside Residents' Association is an advocacy and activist group based in Vancouver's poorest urban neighbourhood, the Downtown Eastside. Founded in 1973, the organization, commonly known as DERA, has a storied history of civil disobedience, including blocking traffic, stealing records from city hall on standards of maintenance violations to release publicly, and mass protests. DERA is also a notorious opponent to Vancouver's hosting of the 2010 Games, going so far as to post a sign that said "No Homes, No Peace" on the roof of their Tellier Towers building on Hastings Street to protest the lack of housing in Vancouver during a visit of the IOC to Vancouver. Never, in the entire history of the organization, had it been subject to a search warrant.⁶⁸

On March 6, 2007, a person or group of people stole the Olympic flag at Vancouver City Hall. The flag, valued at \$1600.00, has yet to be recovered. On March 7,

2007, an organization called the Native Warrior Society took credit for stealing the flag in a press release, expressly describing how they had stolen the flag, and posing for a picture in front of the flag wearing balaclavas and mechanic suits.⁶⁹

On March 30, 2007, more than 3 weeks after the disappearance of the flag, the Vancouver Police Department executed a search warrant on the office of the Downtown Eastside Residents' Association, for the stated reason of recovering the Olympic flag or evidence as to its whereabouts.⁷⁰ Eight police officers, including two detectives, attended at the DERA office and served the warrant at 11:00 p.m., justifying the lateness of the warrant's execution in the media by stating that the Vancouver Police had had "violent altercations" with DERA in the past. Police informed the media that the lead had come from a "tip" that they had received.⁷¹

Kim Kerr, the executive director of the organization, questioned the rationale behind the search, stating that DERA has never had a violent altercation with a police officer, that DERA did not participate in the theft of the flag, and that DERA has no connections to the group that claimed responsibility for the flag theft.⁷² DERA, together with lawyer Jason Gratl, are appearing in B.C. Provincial Court in early May to make an application to unseal the information that police used to justify the warrant.

On April 3, 2007, City of Vancouver City Councillor Peter Ladner overturned a staff recommendation to approve 86 community services grants, singling out DERA's grant to provide services to Chinese seniors in DERA's buildings for refusal.⁷³ DERA's grant was refused in a 6 to 5 City Council vote. No justification for the motion was given by Councillor Ladner at the Council meeting;⁷⁴ however, he later justified his action by suggesting that Executive Director of DERA, Kim Kerr, had threatened the life of Councillor Elizabeth Ball. When videotape surfaced that contradicted the claims of Councillor Ladner, Councillor Ladner refused to retract his claim and apologize, and insisted he was referring to "another event" whose date, place and time he could not recall. The funding refusal has been appealed by DERA, and executive director of DERA Kim Kerr has launched an

action in B.C. Supreme Court for defamation against Councillor Ladner.⁷⁵

Analysis

The authors wish to bring to the Parties' attention that, while no one incident listed in this section or the previous rises to the level of particular concern for the Parties as "Olympic-related," the combination of these incidents points to a worrying trend of criminalization and marginalization of inner-city advocates in the lead-up to the Games, and in many incidents with Games-oriented overtones. In light of the ban on contact with Vancouver City Staff for Pivot Legal Society, two of the main, and most outspoken, advocacy organizations for residents in the inner city appear to have been directly targeted.

The authors recognize that DERA closely allies itself with the Anti-Poverty Committee, an organization that, while non-violent, routinely violates the law during its protests as a form of civil disobedience. Given this alliance, the authors submit that DERA should expect increased police scrutiny. It may ultimately be revealed that police had legitimate grounds – through a well-founded and independently verified tip – to execute the search warrant at the DERA office; however, it is difficult for the authors to understand how DERA could have been connected through a tip with a crime for which an entirely separate, and unrelated, organization took credit.

In any event, the authors note that DERA is legally operating non-profit organization that provides essential services to residents of the inner city. Despite police claims, the authors have found no evidence, media or otherwise, of "violent" interactions between police and DERA that would justify the late-night execution of a warrant at DERA's offices by 8 police officers.

Finally, the authors of this Report question a municipal process in which a grant to provide services to low-income Chinese inner-city residents is refused to a known Games critic and inner-city advocate without justification at a Council meeting, and this refusal is subsequently justified through improbable, and unproven statements outside of that Council meeting by the Councillor moving the motion. The combination of these events must

be addressed by the municipal Party and VANOC to ensure that fair, accountable and predictable processes are in place to prevent intended or unintended marginalization of inner-city advocates. The authors recommend that the Municipal Party and VANOC meet to create policies that will protect the freedom of speech and access to funding and City services of inner-city advocates, and that all policy recommendations that come from that meeting be brought forward in City Council for debate and implementation.

Lack of protection for criticism, satire, and independent media freedom of speech

Background

On March 2, 2007, at the request of VANOC, the Industry Minister of the Government of Canada introduced a government bill titled *An Act respecting the protection of marks related to the Olympic Games and the Paralympic Games and protection against certain misleading business associations and making a related amendment to the Trademarks Act*. This bill passed its first reading in the House, and is expected to become law in Canada.

The new law, Bill C-47, gives specific rights to VANOC that are not available to other citizens or businesses in protecting their trademarks. Normally, a party would be required to show they had suffered “irreparable harm” before seeking a court injunction.⁷⁶ Under the new *Act*, no such standard exists and VANOC need only show an individual has used a number of specified words, including “winter,” “2010” and “Olympic” in a way that implies association with the Olympics to secure an injunction.⁷⁷

Analysis

The authors of this Report wish to inform the Parties of the authors’ concerns about the lack of protection for criticism, satire, and independent media specifically, and freedom of speech of Canadians generally, under this proposed trademark legislation.

While the authors recognize the importance of protecting the legitimate trademarks of the Olympic and Paralympic Games, this piece of special-interest legisla-

tion provides unique protection not available to other Canadian businesses or citizens. Sufficient justification has not been provided by VANOC or the Federal Government to explain why existing federal and provincial protections for trademarks, available to VANOC and all Canadian businesses and individuals under Canadian law, are insufficient for VANOC’s purposes.

The authors recognize that no explicit promise was made in the Olympic bid to protect freedom of expression; however, the authors note that a general statement was made that affirmed Canada protects human rights through a modern constitution containing a *Charter of Rights and Freedoms*. The *Charter* does protect freedom of expression. Further, the authors would hope that VANOC, and the bid partners, recognized – without expressly stating it – that the value of free expression in Canada would not be compromised as part of the 2010 Games.

Legitimate concerns have been expressed in the media that this new law might allow VANOC to sue private citizens, preventing them from discussing or critiquing the Olympics publicly.⁷⁸ These concerns arise from the fact that criticism, satire and parody are not allowed exemptions for uses of the protected words, and that only “the media” have been exempted from the restriction on using the protected words.

The authors note that VANOC has already, unsuccessfully, pursued a registered Charity that provides funding for amateur athletes to attend international sporting competitions for using the phrase “See you in Vancouver” in their marketing materials.⁷⁹ In another case, legal threats have been sent to a coin dealer posting images of Olympic coins for sale on his website.⁸⁰

Even if the proposed legislation is not used to prosecute independent media, bloggers, pamphleteers, protesters, satirists, or any other individuals or organizations for allegations of inappropriate use of the protected phrases, the existence of the legislation and VANOC’s pugilistic tone with respect to the trademarks has, and will, result in a “chilling effect” on what should otherwise be legitimate uses of these phrases and marks, given their broad public content and funding.

The authors recommend that VANOC and the Federal

Government bid partner withdraw Bill C-47 until sufficient justification for special treatment is provided. If sufficient justification is offered, and the Bill is reintroduced, safeguards for legitimate political speech must be included in the legislation.

Proposed legislation and policies restricting inner-city residents' and homeless residents' use of public space, before, during, and after the Games

Background

On November 27, 2007, Mayor of Vancouver Sam Sullivan announced the launch of what he called “Project Civil City,” an initiative aimed at “crime, public disorder and social issues in Vancouver.”⁸¹ While the initiative listed reducing homelessness by 50% as a target, no means of achieving that target were listed in the constituent documents. The supporting documents did, however, pledge spending \$1,000,000 in Olympic Legacy funding to “enhance the civic response to nuisance and annoyance complaints” and \$300,000 for a Project Civil City Commissioner. A multi-level government panel has been convened by the Mayor with all three levels of Government represented.

In a full-colour document titled “Project Civil City,” various by-law initiatives were proposed including initiatives intended to achieve:

- the limitation of aggressive panhandling;
- the limitation of open drug use;
- the re-institutionalization of the severely mentally ill;
- a public awareness campaign on the negative impacts of providing money to panhandlers;
- the locking of garbage bins to prevent “dumpster diving”; and,
- the introduction of closed circuit television cameras in public areas.⁸²

Perspectives that called on the City Council to “encourage legislation to make mandatory sentences for repeat offenses, including aggressive panhandling (which can be very frightening), theft from home/business, sleeping on public property, open drug abuse, etc.” were given prominence in the supporting materials.

Despite public speaking notes that suggested the initiative is not about the Olympics,⁸³ Mayor Sam Sullivan is quoted in the supporting brochure as saying that there is a “tremendous opportunity” to “use the 2010 Olympic and Paralympic Winter Games as a catalyst to solve the public disorder problems that affect our city.” The timelines for the document focus on 2010 as the year of full implementation of the program.

Analysis

The authors wish to point out to the Parties the importance of meeting the Commitment statement, which explicitly ensures “all inner-city residents’ continued access to public spaces before, during and after the Games.”

The authors are concerned that the Project Civil City initiative is designed expressly for the purpose of limiting the poorest and most marginalized inner-city residents’ access to public spaces in Vancouver during the Games. Continued harassment by private and public police, in the forms of the Vancouver Police Department, municipal By-law inspectors, and private security firms, will result in the functional denial of access to public spaces for homeless and under-housed residents.

The authors wish to point out that the failure of the Parties to build sufficient social housing and to fund social welfare programs like drug detox, treatment and transition housing, along with mental health supports in the community, has resulted in the visible street disorder in Vancouver. The proper response, given the Parties’ Commitments, is to adhere to the recommendations of the Olympic sectoral table on housing, which provides the Parties with constructive ways to deal with the street disorder in Vancouver.

The authors recommend the Parties abandon the ill-conceived Project Civil City initiative, and focus instead on achieving the community-driven and endorsed ICI Olympic Housing Report recommendations, released in March 2007, and available on the City of Vancouver Housing Centre website.⁸⁴

Failure to implement the sectoral table on Civil Liberties

Background

The Parties have committed to establish a table to discuss civil liberties and Games security concerns. The purpose of the table is to bring together members of all levels of government, the community and interested non-profits and businesses to discuss how VANOC might best implement their ICI civil liberties Commitments *before* formal Games security policy is put in place. To date this table has not been established.

Analysis

Given the rash of recent protest and political activism related to the Olympics, the escalation of tactics used by both protestors and the Government parties, and the significant likelihood that Games security policy is nearing completion, if it is not already complete, the authors seek to challenge the failure of the Parties to commence the civil liberties table meetings. As outlined above, substantial Olympic-related curtailments in civil liberties have been occurring for the last year. Considerable media attention has been paid to this phenomenon, and the authors observe that the situation will likely only intensify as time goes on. The authors urge the Parties to begin taking serious steps to develop and implement policies that will protect civil liberties, as promised.

Notes

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PUBLIC EXPENDITURE *and* TRANSPARENCY

*Prudent financial governance will be a priority of the Vancouver OCOG.*⁸⁵

The authors of this Report wish to propose to the Parties areas for potential improvement in the area of public expenditure and transparency. The authors are troubled that, to date, there are significant and well-grounded concerns that the public budgets for the Olympic Winter Games are inaccurate and that the business practices of the Parties may expose tax payers to cost overruns. Most, if not all of this concern, is grounded in the failure of the Parties to define the term “Olympic Costs.” A simple definition would lead to transparency and increased confidence in budget analysis. More particular concerns include:

1. true cost accounting at the municipal level;
2. true cost accounting at the provincial level;
3. public entity sponsorship by ICBC; and,
4. the lack of transparency at VANOC, combined with a failure to date of VANOC to produce a public business plan or audited financial statements.

True Cost Accounting at the Municipal Level: The Richmond Oval

Background

The Auditor General has expressed concern about VANOC’s practice of downloading projects to municipalities.⁸⁶ The authors have chosen to examine the City of Richmond’s Olympic Oval as a test case to determine the impact of this policy.

The City of Richmond has repeatedly described the Olympic Oval as “on time and on budget.”⁸⁷ Construction on the Oval was originally slated to finish in November of 2007.⁸⁸ However, that date has been moved twice: first to April of 2008, and then to the fall of

2008.⁸⁹ Construction has been repeatedly delayed due to geotechnical and budget issues.⁹⁰

The Oval was originally budgeted for \$44.322 million (2002 dollars).⁹¹ Costs have risen to \$178 million (2007 dollars).⁹² The current budget does not take into account key expenses, including \$12 million spent acquiring CPR land for the construction of roads, \$7 million to realign River Road to the Oval, \$1.6 million to hire additional staff to address the work load in city hall, \$2 million for a bridge to serve the Oval, and approximately \$156,000 spent on related travel and meals.⁹³ These expenses bring the Oval’s cost to more than \$200 million.

The cost of the Oval was never publicly debated in Richmond. Richmond council undertook the Olympic bid without consulting voters and entered into an agreement making the City of Richmond solely liable for all cost overruns without public consultation.⁹⁴ The City is responsible for \$118 million of the total cost.⁹⁵ The City was even required to pay for a proposed sign in the Oval from VANOC thanking the City for their contribution.⁹⁶

Concerns have also been raised about the long-term viability of the Oval. Thurber Engineering has informed the City of Richmond there is a strong likelihood the Oval will be unsuitable for speed-skating competition within 10 years due to settling of underlying sedimentary layers.⁹⁷ If this occurs, it will contravene the Parties’ commitment in the Olympic Bid book to ensure all venues remain available for world championship level competition.⁹⁸

Exacerbating cost concerns is the funding required to staff and run the Oval after the Games. Budgets for similar facilities range from surpluses of \$2 million per year to deficits of \$4.5 million.⁹⁹ Richmond expects that taxpayers will have to subsidize the Oval with \$500,000 to \$1 million per year.¹⁰⁰

Analysis

The authors wish to point out to the Parties the problematic nature of the current method of Games cost accounting, which causes taxpayers in one jurisdiction to disproportionately, and without consultation, assume a significant tax burden due to the mismanagement of a

Games-related project. The Oval is not financially sustainable in the long term and will present a constant tax burden to Richmond residents, who were never given the opportunity to vote on building the structure, or even participate in the Games themselves.

The authors encourage the Parties to take into account the true cost of the Richmond Oval in staging the Olympic Games as part of any ongoing budgets and cost analyses, and further encourage the Parties to determine whether a more equitable resolution can be reached to ensure that taxpayers in one jurisdiction are not disproportionately penalized for the overruns involved in the Olympic Oval project, and other projects downloaded to municipalities.

True Cost Accounting at the Provincial Level

Background

The Provincial Auditor General undertakes yearly reviews of Olympic expenditures. In his 2006/07 report, the Auditor General raised serious concerns that the Provincial government is inadequately costing the Olympics, and that there is inadequate transparency in the budgeting process, inadequate management of the construction and advertising processes, and overexposure to risk on the Province's behalf.

The Auditor General, in his Report, found a number of factors contributed to costs which are either not included in Provincial budgeting or not adequately accounted for, and that these factors will likely significantly increase the cost of the Olympics to the Province.¹⁰¹ The Auditor General expressed concern that, among other issues:

- security and medical costs have not been updated since the original bid figures;¹⁰²
- the current budget does not reflect inflation or wage increases;
- initial cost estimates for building capital were not found to be accurate;¹⁰³
- the building cost deficit has risen from \$73 million to \$110 million, with the Province responsible for \$18.5 million of that deficit;

- VANOC has not successfully negotiated venue agreements fixing venue costs at a number of venues, which may mean securing these venues will cost more than initially budgeted.¹⁰⁴

The Auditor General also noted that some legacy buildings financed by the Province will not be self-sustaining once completed, and will require ongoing subsidization.¹⁰⁵ While the Legacy fund will partially defray these costs, there will remain a balance to be borne by tax payers in perpetuity. This cost has not been adduced to date.

Analysis

The authors recommend that the Parties review and incorporate the recommendations of the Provincial Auditor General into their accounting practices at all levels. Including true costs to taxpayers, such as ongoing costs, current costs, and inflation in reports to taxpayers is essential. The authors further recommend that the Parties immediately work to define the term "Olympic Costs" to ensure certainty in calculating costs to taxpayers.

Public entity sponsorship by the Insurance Corporation of British Columbia

Background

On April 11, 2007, VANOC announced that the publicly owned Insurance Corporation of British Columbia ("ICBC") was sponsoring the 2010 Games. ICBC has pledged free insurance for 4,500 Olympic vehicles.¹⁰⁷ The value of the sponsorship is estimated at approximately \$15,000,000. ICBC is a provincial Crown corporation established in 1973 to provide universal auto insurance to B.C. motorists.

Analysis

The authors wish to raise with the Parties that the cost of the \$15,000,000 ICBC sponsorship is borne directly by taxpayers who own, in its entirety, ICBC. The \$15,000,000 spent on the Games will not be put toward the reduction

of motorist premiums wanted by many British Columbians. Any cost paid for by the public should and must be included in cost accounting either by VANOC or by the province as part of the cost of hosting the Olympic Games. The authors recommend that the Parties require ICBC to withdraw its sponsorship commitment, and that the Parties properly record the insurance costs of its vehicle fleet as a public, Games-related expense.

A lack of transparency at VANOC

Background

VANOC is a corporation established by the three levels of government involved in the bid for the Olympic Games: the Federal, Provincial and Municipal governments. 2010 Legacies Now is a not-for-profit organization established by the Province of British Columbia, and administers much, if not all, of the “legacy” funding that comes from the Parties.

All three of these levels of government which comprise the Parties are subject to various forms of legislation that require disclosure, upon request or at regular intervals, to the public of key operating information to ensure transparency and accountability. Some legislation also mandates keeping records, and increases accountability for board members. Despite the fact that their constituting bodies are subject to all of these pieces of protective legislation, neither 2010 Legacies Now or VANOC are subject to this accountability legislation.

Examples of these pieces of legislation that apply in British Columbia are the *Freedom of Information and Protection of Privacy Act*, the *Financial Information Act*, the *Document Disposal Act*, and the *Financial Disclosure Act*.

VANOC holds board meetings that are closed to the public, and of which no minutes are kept.¹⁰⁸ Previous Olympic Committees have held open board meetings without jeopardizing the success or profitability of the Games.

Even the few transparency measures which are required of VANOC are not being met by the organization. To date, VANOC has not released a public budget or business plan, both of which are required documents

and are well overdue.¹⁰⁹ A budget is anticipated to be released in May, 2007. To the knowledge of the authors, there is no date yet set for the business plan required by the Multiparty Agreement that created VANOC. Section 4.1 of the Agreement requires VANOC to produce a business plan within 18 months of being constituted as an entity.

VANOC is also required to list successful bidders for Olympic contracts on their website. No bid results have been posted since December 20, 2006, despite media requests that the bid lists be posted.¹¹⁰

Analysis

The authors wish to point out to the Parties the problematic construction of a corporation whose constituting members are subject to transparency and accountability legislation, but which itself is not. The authors recommend the following, a call which has already been made in community media:

1. place VANOC and 2010 Legacies Now under the jurisdiction of the *Freedom of Information and Protection of Privacy Act* (requires response to public requests for information);
2. require VANOC and 2010 Legacies Now to adhere to the requirements of the *Financial Information Act* (requires organizations to publish annual lists of payments to suppliers);
3. require VANOC and 2010 Legacies Now to adhere to the provisions of the *Document Disposal Act* (stipulates rules for storing/disposing of records); and,
4. require VANOC and 2010 Legacies Now to adhere to the *Financial Disclosure Act* (prevents conflicts of interest).¹¹¹

The authors also call for VANOC and 2010 Legacies Now to begin holding open board meetings, with minutes kept and publicly available, immediately. The authors recognize that sensitive commercial information may be discussed, along with human resource issues; however, the authors feel that such issues can be addressed in limited *in camera* sessions.

The authors recommend that VANOC release a business plan as soon as is feasibly possible.

The authors recommend that VANOC release a true-cost budget as soon as is feasibly possible, including all related Games expenses, which should necessarily include security costs and inflation.

The authors recommend that VANOC and 2010 Legacies Now dedicate staff to ensuring that existing transparency mechanisms are adhered to in a timely manner.

Notes

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APPENDIX A – COMMITMENT DOCUMENT HIGHLIGHTS

The Commitments binding the Parties are found in three distinct document packages:

1. The Bid Book;
2. The Inner City Inclusive Statement; and,
3. The Multi-Party Agreement.

The following are selections of relevant portions of each of these documents, some of which are quite voluminous and inappropriate for full reproduction in this Report.

The Bid Book

Environmental Protection

[. . .]

Sustainability Policy¹¹²

Vancouver 2010 is committed to sport development and sustainable environmental, economic and social practices in our plans and actions. We will meet this commitment through:

Environmental Stewardship

- Conserving resources
- Preventing pollution
- Protecting and enhancing natural systems

Social Responsibility

- Communicating openly and consulting with our stakeholders
- Promoting diversity and celebrating cultural heritage
- Increasing understanding of sustainability
- Hosting inclusive and accessible Games
- Contributing to sport development and health promotion

[. . .]

Our goal is to move towards a zero net emissions Games that is climate neutral.¹¹³

[. . .]

The province of British Columbia (BC) has one of the most diverse and beautiful natural landscapes in the world, preserved in a significant protected area network that covers more than 12% of the provincial land base. This rich natural heritage is a key element of what defines BC and its citizens. As a result, great care has been taken in the selection of 2010 Games venue locations to ensure that this precious natural heritage is respected and not diminished. Construction and operation of the Games facilities will ensure that significant local features and sensitive environments are protected through landscape buffers and careful land development practices. BC also has a rich First Nations cultural heritage. The Squamish and Lilówat nations will participate in the development of the Whistler Nordic Centre to ensure that its development is respectful of their sensitive areas and land use plans.

[. . .]

*Financial Commitments*¹¹⁴

The Province of British Columbia has provided a guarantee to cover any financial shortfalls that may be incurred by a Vancouver OCOG. This guarantee can be found in the Guarantee File.

[. . .]

*Civil Liberties*¹¹⁵

Canada's Constitution includes a *Charter of Rights and Freedoms* that protects the rights of all individuals and allows for legitimate dissent in the form of public protest. Any such protests will be managed peacefully with the resources that are available for the Games. As part of a planned strategy the Vancouver OCOG will continue to involve all community-based groups and agencies representing special interests to ensure that the benefits of an Olympic Games are inclusive of all citizens.

2010 Winter Games Inner-City Inclusive Commitment Statement¹¹⁶

[. . .]

The intent is to maximize the opportunities and mitigate potential impacts in Vancouver's inner-city neighbourhoods from hosting the 2010 Winter Games.

[. . .]

The Member Partners are committed to ensuring that the Inner-City Inclusive Commitment statement is adopted by the Organizing Committee.

[. . .]

Also during the implementation phase, steps will be taken to ensure incorporation of the interests of different groups, such as aboriginal people, women, youth, people with disabilities, people of colour, immigrants and other groups.

[. . .]

The Vancouver 2010 Bid Corporation and its Member Partners have adopted the following goals and objectives to ensure that the interests of those living in Vancouver's inner-city neighbourhoods are addressed:

[. . .]

Civil Liberties and Public Safety

- a) Provide for lawful, democratic protest that is protected by the Canadian Charter of Rights and Freedoms.
- b) Ensure all inner-city residents' continued access to public spaces before, during and after the Games and provide adequate notice of any restrictions of the use of public space/facilities and prominently display alternate routes and facilities.
- c) Maintain the current level of public safety and security in inner-city neighbourhoods during the Winter Games.
- d) Commit to a timely public consultation that is accessible to inner-city neighbourhoods, before any security legislation or regulations are finalized, subject to lawful and legitimate confidentiality requirements.
- e) Ensure RCMP is the lead agency for security.

- f) Reflect the aesthetic design standards of Vancouver in all security related measures.

[. . .]

Financial Guarantees

- a) Provide adequate funds to maintain and operate the new or upgraded public recreational facilities after the Games to maximize the number of facilities available to inner-city residents.
 - b) Provide adequate programming funds for the new or upgraded public recreational facilities to encourage maintenance or increase in recreation programs.
 - c) Provide disclosure of all financial aspects of the Games, including expenditures and revenues, in the bidding and organizing phase of the Games.
 - d) Commit to a comprehensive annual financial audit.
- [. . .]

Housing

- a) Protect rental housing stock.
- b) Provide as many alternative forms of temporary accommodation for Winter Games visitors and workers.
- c) Ensure people are not made homeless as a result of the Winter Games.
- d) Ensure residents are not involuntarily displaced, evicted or face unreasonable increases in rent due to the Winter Games.
- e) Provide an affordable housing legacy and start planning now.

The Multi Party Agreement¹¹⁷

[. . .]

The Parties recognize that, should the Games be held in Vancouver and Whistler, they will be a matter of pride to all Canadians and a credit to Canada and abroad, and therefore, represent an opportunity to:

- (i) strive for excellence in everything they do;
- (ii) be ethical, honest and act with integrity;
- (iv) honour the unique characteristics, values, goals and principles of the host communities;

- (v) commit to sustainable economic, social and environmental practices as set out in Vancouver's bid to be awarded the Games;
 - (vi) communicate openly with the public, the IOC and the host communities;
 - (vii) promote opportunities for participation by persons of diverse ethnic, socio-economic and cultural backgrounds, including persons from Vancouver's inner city;
 - (viii) build respectful and mutually beneficial relationships with First Nations, host communities, governments, business and sport;
- [. . .]

The Honourable Gordon Campbell, Premier of the Province of British Columbia and the Honourable George Abbott, Minister of Community, Aboriginal and Women's Services, confirm that, subject to Canadian law, Her Majesty the Queen in right of the Province of British Columbia guarantees the respect of the Olympic Charter and the Host City Contract; understands that all representations, warranties and covenants contained in the Vancouver bid documents, as well as all other commitments made, either in writing or orally, by either Vancouver (or authorized by Vancouver to be made on its behalf by the Vancouver 2010 Bid Corporation ("Bid Corporation")) or the COC to the IOC as part of the process of Vancouver's bid for the 2010 Games, shall be binding on Vancouver; and guarantees that it will take those measures necessary in order that Vancouver may fulfill its obligations.

[. . .]

The Province states that provincial regulations and Acts in force regarding planning, construction and protection of the environment will apply to the organization of the 2010 Games. In addition, as set out in the Multiparty Agreement, the Vancouver Organizing Committee of the Olympic Games ("OCOG") will be required to agree to comply with all applicable federal, provincial and local laws, regulations and bylaws.

[. . .]

The City of Vancouver declares and confirms that:

- a) in the exercise of its lawful jurisdiction and subject to Canadian law, the City of Vancouver will respect the Olympic Charter and the Host City Contract;
- b) the City of Vancouver understands it will be bound by and have obligations arising from all representations, warranties and covenants contained in the City of Vancouver Candidature File as well as all other commitments made, either in writing or orally, by the City of Vancouver itself or authorized by the City of Vancouver to be made on its behalf by the Bid Corporation or the COC to the IOC as part of the process of the City of Vancouver's bid for the 2010 Games; and
- c) the City of Vancouver will, subject to Canadian law, fulfil the obligations referred to in (b) of this Question and obligations arising from the Olympic Charter and the Host City Contract.

Notes

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116 http://www.vancouver2010.com/resources/PDFs/CommitmentStatement_EN.pdf.

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Impact of the Olympics
on Community Coalition
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