



July 7, 2009

Mayor Gregor Robertson and Council
c/o City Clerk's Department
City Hall, Third Floor
453 West 12th Avenue
Vancouver, BC V5Y 1V4

VIA FAX: 604-873-7419

Dear Sir/Madam:

RE: Agenda Item #8, Regular Council Meeting July 7, 2009

I write to you in my capacity as President of the B.C. Civil Liberties Association concerning the proposed purchase and installation of noise makers at several EasyPark locations for the purpose of "detering vagrants."

We understand based on responses to our inquiries from EasyPark management that the noise making devices are the device marketed under the "Mosquito" brand name by Moving Sound Technologies Inc. We understand further that this installation would be the first installation of these devices on property controlled by the City of Vancouver, and one of the first installations in Vancouver ever.

The Mosquito has been subject to an extended campaign in the United Kingdom by the rights organization Liberty UK alleging that the device discriminates against youth and is potentially harmful to health. Since the Mosquito's introduction, there are now over 3,500 locations in the UK that use these devices on private and public property.¹

While we understand that the intended use of the devices by EasyPark could be appropriate – to prevent city property from being used for the purposes of injecting drugs when a safe injection site is available – we would urge the City to introduce these devices with great caution and with assurances that their use will be limited to only those circumstances in which no other security application, including live guards, would be appropriate.

¹ <http://www.liberty-human-rights.org.uk/issues/young-peoples-rights/stamp-out-the-mosquito.shtml>

We note that to this point in time the City has focused its concerns about noise on noise reduction and regulation of private noise emissions. This has been done so as to ensure a more livable and pleasant environment for all. Having the City directly involved, through EasyPark, in being the cause of noise emissions goes in the opposite direction of policy to date. Doing so in a manner calculated to inflict annoyance and potentially pain makes the step even more troublesome.

The City sets out on its website its concerns about noise and the steps it has taken to control it, including the April 1997 City Noise Task Force Report.² Part of that report is useful to keep in mind:

The main obstacles to increased public awareness seem to be habituation -- a tendency to ignore or to get used to annoying sounds -- and a fatalistic sense of futility or even cynicism -- the feeling that no one cares or is willing to do anything about most noise. The overall solution involves two directions:

- a) The City has to make every effort--and publicly appear to be doing so -- to include acoustic concerns in all its business. Noise and the quality of the soundscape must be seen to be on the public agenda. The Urban Noise Task Force is a beginning, but the city must continue along this line after the Task Force's report is tabled.
- b) Individuals and groups ought to be continually reminded that they can and must contribute to the solution of the city's noise problems. If they believe that these problems can be left to the "experts", little will change.

Proposals should follow both of these paths. They should also include both noise issues, that is, elimination of negative effects and soundscape issues, promoting and preserving positive aspects of the acoustic environment.

The City's Noise Bylaw was apparently introduced in 1989 and has been amended from time to time since then.³ It provides that noise is to be reduced or eliminated. It does not provide that noise is to be authorized and encouraged to be inflicted on humans who some may think need to move along.

² <http://vancouver.ca/ENGSVCS/projects/soundsmart/what.htm>

³ <http://vancouver.ca/bylaws/6555c.PDF>

In response to the EasyPark proposal, we would urge the City to:

- Engage in public consultation on whether the City should be deploying a device that disproportionately targets youth and is manufactured by a business that advocates the public and expanded use of these devices for the specific purpose of targeting young citizens regardless of the conduct of those citizens;⁴
- Refer to the City Legal Department for a report the question of whether the City, through EasyPark, would be in compliance with the existing Noise Bylaw by this proposal and, if not, whether a change to the existing bylaw is required to accommodate it, and further, whether either the practice of inflicting discomfort or pain in this manner or the prospect of a bylaw authorizing it would offend the *Canadian Charter of Rights and Freedoms* or the *BC Human Rights Code*, and make that report public;
- Refer to the City Noise Task Force, either in its current form or as it may appropriated be re-constituted, the issue of the use of noise in business as a means of inflicting pain and deterring loitering, and require a report that will be made public;
- Request an assessment and report by qualified medical practitioners employed by the City or otherwise of the health data and analysis of the impacts of these devices on the aural health of EasyPark employees, EasyPark customers, and those who would be exposed to the noise in the stairwells of EasyPark facilities on a regular or extended basis, including infants and those with hearing aids, and make that report public; and,
- Request an assessment and report by the Vancouver Police Department on their views on the use of these devices, and make that report public.

These devices have been deployed by private business to deter young citizens from being in public spaces in Victoria, Richmond and New Westminster and there is no sign that the expansion of the use of this device is slowing.⁵ We have confirmed and will shortly be filing a complaint concerning the use of a noise device on the exterior of a private building in Vancouver for the purposes of discouraging individuals from congregating.

If anything, the City of Vancouver should be engaging in consultations to consider passing a bylaw to preemptively ban the introduction of this

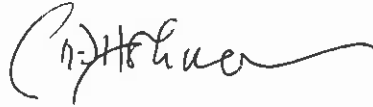
⁴ <http://www.movingsoundtech.com/>

⁵ Canadian Press, "Mosquito Youth Repellent device hits Canada after success in Britain," <http://www.amherstdaily.com/index.cfm?sid=128653&sc=510> .

device in Vancouver due to its disproportionate impact on youth and their use of public space, rather than be one of the first local customers of this company.

Thank you, in advance, for your consideration.

Yours Truly,

A handwritten signature in cursive script, appearing to read "R. Holmes", with a long, sweeping horizontal flourish extending to the right.

Robert Holmes
President