

Charging \$1,200 to democratically assemble, Vision Vancouver looks to China for advice on (anti) free speech laws.

by kevin harding - Friday, April 08, 2011

<http://politicsrespun.org/2011/04/charging-1200-to-democratically-assemble-vision-vancouver-looks-to-china-for-advice-on-anti-free-speech-laws/>



I wish that this was a satirical piece.

In sort of a break from the ever-so-boring federal election coverage that we've been bringing you lately, the City of Vancouver and its maybe-progressive governing party Vision Vancouver and former NDP MLA and now VanCity mayor (and [Gordon Campbell endorser](#)) Gregor Robertson have (almost) decided that any protests that have a literature table, tent, or even sign at them might well be charged \$1,200 - a fee charged to citizens in order to exercise their (supposedly) constitutionally guaranteed right to assembly.

Sadly, it looks like the progressive Mayor Gregor Robertson is showing us what a Harper majority government would probably do to our "democratic rights."

Even better, [they're apparently taking advice from the government of China on the bylaw.](#)

Yes, China.

The country that safeguarded free speech in Tian'anmen Square.

See, for example, [The Tank Man](#).

The country that has disappeared Ai Weiwei (???) simply because he did try to exercise his (not guaranteed) free speech.



First, a bit of history. Those of you familiar with the city on the edge of Lotus Land may well remember the constant presence of Falun Gong protestors and their signs depicting the horrendous atrocities the Chinese government visits upon practitioners outside the Chinese consulate in Vancouver, which itself is situated in a residential zone. No one, as far as I am aware, is suggesting that the Falun Gong protest was violent or unruly. In fact, most Falun Gong practitioners I've known are calm, and quiet, and they almost, well, flow with the qi.

Well, one day the city decided to ban these protestors. They used a bylaw to prohibit any "structure" (the Falun Gong signs) on public property (the edge of the sidewalk) and evict the entirely peaceful protestors. Sue Zhang, one of the organizers, rightfully challenged the bylaw in court, and after a series of cases, the BC Court of Appeal struck down the bylaw, saying that blanket prohibitions were unconstitutionally restrictive on free speech rights and rights of assembly.

That being said, there's a court order in place at the moment, preventing the Falun Gong protest from re-establishing itself, to allow the City to bring its bylaw to shape in order to pass constitutional muster. Effective April 19, the court would strike down the current law which bans any structure.

The court did also say that some regulation could make sense - owing to a clause in the Charter of Rights and Freedoms allows "reasonable" restrictions "as may be justified in a free and democratic society." Following direction from the courts, I suppose, the city directed staff to prepare a report with suggestions on what could be done. In an amazing tour de force, [the report has come back, recommending that the city charge \\$1,200 for a permit to erect 'structures' on public property - ie, signs, tents, tables. You know, structures.](#)

Let's put this in plain and simple terms: charging \$1,200 to have a table, or a sign, or a tent at a protest limits free speech. It restricts freedom of assembly to those who can afford it. There should not be a fee on democracy.

This is a ridiculous concept. One, a lot of protests and rallies involve a table for literature or refreshments. \$1,200 permit charge. Two, a lot of protests and rallies involve a tent to keep rain off of speakers and sound system equipment. \$1,200 permit charge. And it rains a lot in Vancouver. If you happen to stick a sign into the ground, \$1,200 charge. Imagine that you put up an installation art piece. \$1,200 permit charge.

The Falun Gong protestors set up a series of signs and a rain shelter on city property directly outside the Chinese Consulate. They couldn't put the signs on the consulate property - that would be trespassing.

They used public property for their signs. The same public property we use every day to walk on, to protest on, to rally on. However, they put up signs. Here, the city is trying to ban protests that occur on public property unless you can afford to pay a \$1,200 fee for a permit to actually hold a protest this way.

Aside from the fact that this bylaw would restrict protests to those who could afford it, [it is absolutely insane that the City of Vancouver consulted the Chinese government about the bylaw, while it merely "advised" the Falun Gong protesters that this would be happening.](#) What did the City ask the Chinese government? If this went far enough? Seriously, guys, asking the Chinese government about free speech is like asking the Tea Party on how we can ensure a woman's right to choose.

The City won't tell anyone what they discussed with China, bastion of free speech, because they signed a ["confidential agreement"](#) about the consultations.

The city says that this wouldn't restrict sandwich boards for stores. That's covered under other bylaws. In fact, according to the city, this proposed bylaw only impacts "non-commercial installations." So, not only do I need to pay one thousand two hundred dollars to put up a table and show off my "PROTECT FREE SPEECH" signs - the store down the way can put up its signs and/or kiosks hawking whatever it wants for free?

Whose free speech is being protected there?

The message box emerging from Vancouver council appears to be as such: currently, the city bylaw bans **all** structures on public property. No tables, tents, or structures used in a political protest are allowed under **the current Vancouver bylaw**. According to the city, the proposed bylaw would actually *enable* people to do things that have been illegal all along. Gracious move by the city to save us?

No. The BC Court of Appeal said that the prohibition was illegal and it will strike down the prohibition as of April 19. This talking point will be moot in exactly 11 days. It's also incredibly disingenuous. Yes, the current (as it exists) bylaw bans ALL structures on city property. But yes - the BC Court of Appeal has said that's illegal. So, Council, you're not rescuing people from the vagaries of an unfair law - the BC Court of Appeal has already done that.

A quote that contextualizes this: "None of these changes will make anything more illegal than they already are." ([See the City video stream of the meeting in question.](#))

Could the same be said on April 20th? Effective April 19, the bylaw that currently prohibits all structures is struck down, it ceases to exist. All structures would be legal. The Vision Vancouver councillors can get away with saying that this is a proposed bylaw that would enable people to protest, that would legalize protest, until April 19th. After that, they're making a lot of protest illegal. Of course, any time you add opportunities when no opportunities legally exist, you're adding. But when everything's legal? Then you're restricting.

Instead, the City of Vancouver is proposing that the following restrictions will apply to any protest that need a table, or a tent, or a free-standing sign:

- Structures would only be permitted from 8:00AM to 8:00PM
- There must be people attending the structure
- Structures would not be permitted in areas of the city that are zoned residential or that have residential units on the ground floor
- There could only be one permit per individual at a time.
- There could only be one permit per 'face' (side) of a block.
- You wouldn't be able to get a permit for a kiosk *and* a sign *and* a tent.
- Your permit would only be valid for 30 days, but you could *only get a permit for an area for 30 out of 60 days*. So, only one month out of every two. And once a protest has been permitted the same area couldn't see a protest for another 30 days.
- The size could not be larger than 2.1 meters high, 2 meters wide, and 1 meter deep.
- It must be at least 5 meters from a building entry or exit, 5 meters from a bus stop, 5 meters from street corners, and 0.5 meters from a curb. A structure could not also cover more than 25% of the front of a building.

Interestingly, the area in which the Chinese consulate is located is in a residential area, so, of course, no protests with structures would be permitted there. Anywhere else where you can meet these proposed restrictions (that the City of Vancouver would likely prefer us to read as "enabling conditions") you can:

- Put down a \$1,000 deposit
- Pay a \$200 license fee
- Pay \$25 for any renewals

And then you can put your sign in the ground.

The staff person presenting the report at the council committee meeting was very specific in saying that this wouldn't prohibit protests where everyone held their own signs and banners, of course. This is because the city only bans **structures** at the moment, and this is what the court case centres on - Vancouver can't constitutionally put a blanket ban on structures used for political expression. I also think that this restriction is in danger of being ableist - I've seen people with disabilities bringing signs and banners that are free-standing to protests. Do they need permits?

But what exactly is a structure? There was an interesting back and forth between Councillor Woodsworth and the city staff person presenting the report.

Q: Is it a structure if I stick a sign in the ground?

A: Yes.

Q: What if I put a table on the side of the road and set up a tent around it?

A: Yes.

In Vancouver, it rains. And most protests in Vancouver I've been to have a tent in case of that, to keep the sound system dry. \$1,200 fee, only in certain areas. Plus, no bigger than 2m by 1m. You also won't be able to set up a petition table at the back of the protest, without that fee and that permit. And only in certain areas.

Yesterday, when news of this first emerged, [I tweeted my outrage](#). Pretty much instantaneously, the [@VisionVancouver](#) twitter account 'followed' (subscribed) to [my twitter account](#). Seeing that, I immediately [asked them if they had a statement](#). No reply. [I asked COPE, another party at Vancouver council, if they had a statement](#). They responded pretty much instantly with a [link to their statement](#).

Today, after about 24 hours of badgering, the @VisionVancouver twitter account [sent me a tweet](#) with a [link to their statement](#): "Vancouver is a free speech zone, help us keep it that way."

One, that's a pretty close interpretation of the COPE campaign during the Olympics that had t-shirts that read "I am a free speech zone." Nice move, Vision Vancouver.

Two, Vision's statement is kind of sad. It states that Vancouver is a free speech zone. Right, it is, under the constitution *anywhere* in Canada is. The statement says that the City is working to protect free speech, and that the party "will not accept changes to the law that restrict these critical social expressions."

Here's a key point, Vision Vancouver: no changes to the bylaw could restrict free speech any more than they already do. This is part of your message box - the bylaw right now simply prohibits structures as part of a protest, full stop. That's why the Court of Appeal said it was unconstitutional. Very technically speaking, any changes you make - even if it were to only permit structures on the south east corner of the Art Gallery lot with a \$1 million permit fee - would have the effect of "enabling" free speech MORE than is already the case.

With the logic that they won't restrict free speech **any more than it is already restricted**, Vision could do a lot, seeing as how **free speech with any structures are completely banned at the moment - until April 19.**

Would the same logic hold up after that, when the law is struck down by the courts? Hard to say.

But again - charging \$1,200 for any protest that would need a table isn't democracy. Democracy doesn't require an admissions charge.

Councillor Andrea Reimer, the chair of the committee that this report came to, [tweeted me telling me that protest has never cost anything, and that putting up structures has been 100% illegal](#).

Councillor Reimer and I had quite a civilized twitter chat, though she suggests that there's a lot of misinformation and creative editing going on. I've given you sources for every claim I've made in this piece, and while all opinion pieces contain flair, I don't think I'm going overboard. Ms Reimer even graciously acknowledged that her [electioneering tent was on the street and 100% illegal](#).

I've offered Ms Reimer the opportunity to add comments, corrections, and even her own viewpoint on this article, which I will post directly at the bottom of this piece, without any editing. I'd invite any other Vancouver councillor to do the same, so that everyone in Vancouver can see what their elected representatives are thinking.

Now, Vision Vancouver is asking for public input on the proposed bylaw. I suggest that we all take the moment to send them an email with our thoughts, or send them a twitter message. According to their

statement, you can email them at info@votevision.ca.

When you do so, remember:

- The official message is that any changes to the bylaws would be an improvement, because the current bylaw (which is unconstitutional) prohibits all structures. However, the quasi-emancipatory changes proposed by the City include a \$1,200 fee for permission to have a structure - anything from a sign in the ground to a table to a tent - at a protest. Democracy doesn't have an admissions fee.
- All structures for political protests would be perfectly legal after April 19th - after April 19th, these proposed bylaw changes would be restricting speech that had been made free by the courts.
- These restrictions only apply to non-commercial messages, because other bylaws already permit commercial (ie advertising, etc.) signs under specific conditions.
- No function of democracy should have a price tag attached to it or restrictions as to when or where democracy can be practiced.

Sadly, these kind of restrictions are nowhere near new. The sardonic 'twist' on ["free speech zones" comes from the protest pens that proliferated in the United States](#), which restrict protests at important events to small areas, often caged-in. [In Vancouver during the Olympics, there were a number of free speech zones](#). In Toronto, during the G20, [the free speech zone was the Queen's Park lawn, which the police charged and arrested dozens](#), sometimes rather violently, [like in the case of Adam Nobody](#). These large events have had crackdowns supported by provincial and federal governments - BC Liberals and federal Conservatives. Why would Vision Vancouver - a supposedly progressive party - be parroting the Conservatives? And why should the Chinese government - not exactly noted for its defense of free speech or democratic rights - have a confidential input session with the city, while residents only get 11 days as the Council rushes to approve the bylaw before April 19th?

This isn't just a municipal issue. It's our right to free speech, with a table for our signs and petitions, or a tent for the rain.

Democracy doesn't have a price tag. Certainly not one that is \$1,200.

Here's where I'll add any corrections, clarifications, or comments from any Vancouver City Councillor who wants to clear up any 'misinformation' or 'creative editing,' and I'll post them without any editing on my part. Post your comments in the comments below, or email me directly at kbh@yorku.ca.