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Another Gong show, hosted by the City of Vancouver

BY PETE MCMARTIN, VANCOUVER SUN APRIL 9, 2011



In 2006, then-mayor Sam Sullivan had the Falun Gong's shed and banners removed from the front of the Chinese consulate on Granville Street. Then in 2010 the B.C. Court of Appeal ruled that the shed and placards were integral parts of the group's political expression and deserved protection under the Charter.

Photograph by: Peter Battistoni, Vancouver Sun Files, Vancouver Sun

Clive Ansley knows something about China.

He speaks and reads Mandarin. In 1985, he was the first foreign lawyer to establish an office in Shanghai. He taught law at Shanghai's Fudan University and Tongji University, both of which are among the best in the country. He is a recognized expert on Chinese law and the Chinese judicial system. He spent, in all, 19 years in China, Taiwan and Hong Kong.

He now lives in Courtenay where at the age of 70 he should be enjoying retirement. Instead, he is busier than ever. Clive, for the past six years, has been representing the Falun Gong in its legal fight with the City of Vancouver.

He took the case, he said, because in China, he witnessed first-hand the Communist Chinese government's propaganda campaign vilifying the Falun Gong - the daily announcements depicting it as a dangerous cult that inspired, among other atrocities, mass murder, infanticide and rape.

"I saw the persecution there and, aside from the Falun Gong, I chafed at the generally

repressive policies of the Communist party and its habit of suppressing any opposition. So I felt compelled when I came back here to take up the Falun Gong case."

Ansley and constitutional lawyer Joe Arvay have been steering that case through the courts since 2006. It was in that year when then-mayor Sam Sullivan suddenly felt the need to remove the Falun Gong's little shed and banners from the front of the Chinese consulate on Granville Street. The protesters had been there since 2001, where they bothered no one, impeded nothing and sat 24 hours a day in silent, damning meditation.

Sullivan pooh-poohed Ansley's accusations at the time that pressure from the Chinese government was influencing his street-cleaning impulse. Politics had nothing to do with it, Sullivan claimed: it was merely that the Falun Gong was contravening city ordinances.

But there was nothing mere about it: Sullivan, who clearly had no idea what he was starting, had given a street-and-traffic bylaw precedence over the Charter of Rights and Freedoms.

This did not escape the attention of the B.C. Court of Appeal, which ruled in 2010 the application of the bylaw to be unconstitutional.

If I read its ruling correctly, it found the bylaw gave the city too much discretionary power, and that the Falun Gong's hut and placards were integral parts of the group's political expression. It therefore deserved protection under the Charter.

The Appeal Court then gave the city six months to draw up a better bylaw. On Tuesday, city council saw for the first time the new bylaw proposed by city staff.

As law, it's so contorted you can practically see the bureaucrats bending over backwards to try to make it work. Public protest structures -read "Falun Gong huts" -would be allowed in commercial and industrial areas, and only if they met certain criteria, but they would be banned in residential areas -read "in front of the Chinese consulate" -since the consulate is in an area zoned residential.

Ansley, in addressing council, argued the proposed bylaw would do exactly the same thing the Appeal Court said was unconstitutional.

But then came the startling admission from city engineer Peter Judd that staff had consulted with the Chinese government over the proposed bylaw because it was a "stakeholder" in it.

When Coun. David Cadman asked about the particulars of that meeting, city manager Penny Ballem replied the city entered into a "confidential agreement" with the Chinese consulate, and that she wasn't about to divulge any details.

Ballem's revelation left Cadman aghast.

"Council," he would tell me later, "should not be in the business of controlling free speech in Canada. It strikes me as being a very heavyhanded way of dealing with a very specific thing."

He's right. In its clumsy foray into law-making, the city appears to have treated constitutional rights as nuisances to be stepped around, given itself more intrusive powers over all manner of political protest than it had before, and left nothing but questions in its wake, such as:

Whose idea was it to talk to the Chinese government? The Chinese government is not a "stakeholder" in anything in this city, especially when it comes to making law. It's none of the Chinese government's business, especially considering its dim view of inconveniences like freedom of speech.

And why is the Chinese consulate operating in a so-called residential area, anyway? Does it conduct government business out of the consulate? And if that is the case, will the city be as bravely vigilant in enforcing zoning bylaws prohibiting such activity as it was in chasing off those Falun Gong scofflaws? Just asking.

If the city passes the bylaw, and it probably will, Ansley said he and Arvay will have no choice but to challenge it again in court.

That is, here we go again.

Meanwhile, Sam Sullivan, who started this whole needless mess, has gone on to found the Global Civic Policy Society, in which Sullivan and invited eminent guests get together in his loftily-if-pretentiously-named Public Salons, in which they reflect on "local government and citizenship," or some such claptrap.

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