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April 10, 2018

File No.: PENT 012

Mr. S. Paul Varga
Interior Law LLP
318 Main Street
Penticton, B.C. V2A 5C3

Dear Mr. Varga,

RE: Final Offer to Resolve Case Without Trial

We are seeking to resolve this prosecution to minimize costs to the local taxpayer. By now you have had five months to review both the initial and final disclosure. A pre-trial conference is set for May 2, 2018 with another pre-trial conference on June 28, 2018. You also requested at least four days of trial which has been set for September 11, 12, 13 and 14, 2018. This letter will be the final offer made by the City to resolve this action short of a costly trial.

Background

The prosecution against Paul Braun resulted from public complaints and his continuous breach of City's bylaws and sidewalk obstruction in the downtown core. In particular, Mr. Paul Braun insisted on obstructive panhandling within ten meters of a public breezeway that runs contrary to Section 5.2 of the City of Penticton's *Good Neighbour Bylaw*. The ten meter provision applies to similar public spaces like ATMs, bus stops, and public washrooms. The elected Council for the City of Penticton has determined that obstruction within ten meters of these public spaces is unlawful. Mr. Braun refuses to abide by the law which applies to every person in the City of Penticton.

Witnesses for the Prosecution

The City has thirteen witnesses who will testify against Mr. Braun. Here are some highlights of their will-says or statements:

1. The statement of A.L.: "The "homeless" Mr. Paul Braun started taking pictures of me and calling me gorgeous and babe and also mumbling some other words that I didn't understand and following me. I was very scared and I wanted to call the police but I was afraid no one would believe me....I don't feel safe shopping on Main Street any more.";

2. The complaint of R.C.: Paul Braun scared off another panhandler by claiming the man was sitting in "his [Mr. Braun's] spot";
3. The statement of P.A.F.: "He was sitting on the ground beside [the] breezeway and he screamed at me saying "You don't know how hard it is to be homeless" and he demanded money. [As you know, Mr. Braun is not homeless];
4. The statement of Peter Weeber ("Mr. Weeber"), CAO for the City of Penticton, outlines the assistance he offered to Paul Braun, including housing, counselling resources, food vouchers, and bus passes. Mr. Braun lost each of these opportunities because of his failure to follow through. Mr. Weeber also stated he attempted to arrange employment for Mr. Braun with the City, but this attempt also failed due to Mr. Braun's verbal abuse towards City Staff; and
5. The statement of the Downtown Penticton Association ("DPA"), which highlights the importance of keeping the downtown core safe for all users and shows its support for the enforcement of the law. The DPA has received many complaints about obstructions to the breezeway and has urged the City to increase enforcement to ensure public safety.

If This Case Proceeds to Trial

We have reviewed all the elements of this bylaw offence. The facts support the law to prove convictions on all the charges. If this matter proceeds to trial and the City obtains such convictions, the prosecution will seek the following:

1. a fine in the amount of \$500 per count (under the law, a local government may seek a maximum of \$10K per count);
 - a. if your client cannot afford to pay this amount, jail time in lieu of payment;
2. restitution to the City in the form of community service; and
3. an order that your client comply with all provisions of section 5.2 of the *Good Neighbour Bylaw*.

The City's Offer to Paul Braun

Alternatively, your client can conclude the entire prosecution with:

1. guilty pleas on all counts;
2. an order requiring compliance with all provisions of section 5.2 of the *Good Neighbour Bylaw*;
3. payment of a total fine of \$88.

We will be subpoenaing all thirteen witnesses before the next pre-trial conference so that we can confirm with the court that we are ready to proceed to trial. Before we embark on this costly

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process, the City will make the above offer available to your client until Wednesday April 25, 2018 at 2pm after which time it shall be considered withdrawn. This offer will be contingent upon your client signing onto the applicable terms in the plea order which we will draft and have signed before the May 2nd hearing.

You will note that this is very reasonable offer that can be characterized as a "sweetheart deal". If your client rejects the above offer and receives a more severe sentence upon conviction, he will require independent, professional, legal advice.

Thank you for your consideration. We look forward to your reply on or before April 25, 2018 at 2pm.

Yours truly,

DOMINION GOVLAW LLP

Per:



Troy DeSouza*
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TD/jg

*Law Corporation

cc: City of Penticton