

Coalition of Vancouver Neighbourhoods: Response to the *Societies Act* White Paper

October 12, 2014

Financial and Corporate Sector Policy Branch
Ministry of Finance
PO Box 9418 Stn. Prov. Govt.
Victoria BC V8W 9V1
By email to: fcsp@gov.bc.ca

To Whom It May Concern:

Re: *Societies Act* White Paper

The Coalition of Vancouver Neighbourhoods (the Coalition) is an organization representing 24 separate neighbourhood associations in Vancouver. Our purpose is to restore and strengthen the primary role of neighbourhood-based planning in shaping land-use and development in the City of Vancouver.

The Coalition has concerns about some of the proposals in the *Societies Act* (the Paper). The proposals introduce changes to the *Societies Act* which provide an opportunity to constrain public discourse and participation in public affairs, and neighbourhoods are among those whose ability to participate would be directly affected.

The Coalition believes that a vibrant civil society, comprised of neighbourhood associations, other community groups, churches, health organizations, environmental organizations and other societies, can only benefit us all. While transparency and accountability are, of course, desirable, over-regulation of societies, and particularly of small and grassroots organizations, can be very harmful, intimidating and a waste of both public and private resources.

For this reason, we are writing to express our concern about the following sections in the proposed legislation:

Section 99 of the draft *Societies Act* (the "Act") -

Complaints by public

99 (1) A person whom the court considers to be an appropriate person to make an application under this section may apply to the court for an order under this section on the grounds that a society

(a) is conducting its activities or internal affairs with intent to defraud a person or to otherwise act unlawfully. or

(b) is carrying on activities that are detrimental to the public interest.

(2) On an application under this section, the court, with a view to remedying or bringing to an end the matters complained of, may make any order it considers appropriate, including an order referred to in section 98 (3).

(3) Section 98 (4) applies for the purposes of this section.

The Paper does not define “public interest”, nor does it provide any guidance regarding criteria for a potential litigant to be considered “an appropriate person”. As s.99(1)(a) makes reference to fraud, and other provisions provide remedies for oppressive conduct, it appears that s.99(1)(b) is intended to encompass litigation regarding behaviour which is otherwise neither fraudulent, oppressive, nor otherwise illegal.

Our Coalition, like many, if not most, of BC’s societies, is run by volunteers on a very limited budget, without experience with the law or the resources to hire lawyers. We believe that court actions filed under s. 99 have the potential to intimidate many societies, and to divert resources away from the valuable work being done by societies.

The commentary says that “The risk that the provision could be used improperly (e.g. for minor matters or to pursue personal grievances) is limited because the court effectively controls the process.” While improperly brought actions are unlikely to succeed, few, if any, non-profit societies have the funds, the expertise, or the time to respond to improper or frivolous legal action taken against them. Small societies, even if not required to defend such an action, may well experience serious negative effects as a result of this proposed legislation. Volunteer directors may be deterred from serving, or a society may be deterred from carrying out legitimate activities because of threats of litigation by disgruntled individuals.

Despite the Paper’s commentary about “the special role of non-profit corporations in society” and an expectation that “societies will act in the public interest”, in our view, it is wrong to assume that all societies will act towards one universally held view of what is in the public interest, or even that all societies will act for the general public. As the Paper itself acknowledges, societies often exist to serve only their members. There is no reason to permit a member of the public, with no connection to a society, to attempt to interfere with its activities on the basis of an ill-defined concept of “public interest”.

While the commentary further suggests that s.99 is required “since so many [societies] are supported by public funding or monies solicited by the public”, the Paper provides no information on how many of BC’s 27,000 societies receive such funds. However, it is important to point out that those societies that do receive public funds are already subject to extensive supervision of their activities. All registered charities are required to act according to their charitable purposes and are subject to monitoring by the Canada Revenue Agency (“CRA”). Societies that receive public funding, whether or not they are charities, are subject to extensive reporting and other restrictions as a condition of funding. Public funders of those societies are best positioned to balance competing considerations and impose appropriate conditions to protect the public interest.

In conclusion, to give a member of the public the option to seek a court order against a society is to invite litigation which is unnecessary (as the public interest is already protected) and likely counterproductive (diverting funds given by public funders and donors from programs to legal defence). We, therefore, ask that you remove s.99 from the draft legislation. The concerns s.99

is intended to address are already adequately dealt with by other laws and by the oversight of funders and CRA.

We citizens benefit from a diversity of societies, representing different points of view and offering a range of programs. Controversy will arise in decisions made by societies and in the vast majority of cases this is a normal part of the democratic process. In our view, s.99 represents a threat to the ability of societies to act in furtherance of their purposes and to participate effectively in public affairs.

Sincerely,

Coalition of Vancouver Neighbourhoods
Larry A. Benge, Co-chair
Fern Jeffries, Co-chair
On behalf of our member organizations

Member Organizations:

The Coalition of Vancouver Neighbourhoods comprises the following 24 neighbourhood associations:

Arbutus Ridge Community Association
Cedar Cottage Area Neighbours
Citygate Intertower Group
Community Association of New Yaletown
Crosstown Residents Association
Downtown Eastside Neighbourhood Council
Dunbar Residents Association
False Creek Residents Association
Grandview Woodland Area Council
Kits Point Residents Association
Marpole Residents Coalition
Norquay Residents
NW Point Grey Home Owners Association
Oakridge Langara Area Residents
Our Community Our Plan
Residents Association Mount Pleasant
Riley Park/South Cambie Visions
Shaughnessy Heights Property Owners
Strathcona Residents Association
Upper Kitsilano Residents Association
Vancouver Heights Ad-Hoc Committee
VGH Residents Association
West End Neighbours
West Kitsilano Residents Association
West Point Grey Residents Association