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Mayor Gregor Robertson
Vancouver City Hall
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Mayor Sharon Gaetz
City of Chilliwack Administration
8550 Young Rd,
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Mayor Ernie Daykin
District of Maple Ridge
11995 Haney Place
Maple Ridge, BC Canada V2X 6A9

June 23, 2011

Dear Sirs/Mesdames,

I am writing to you on behalf of the British Columbia Civil Liberties Association (BCCLA). The BCCLA is Canada's oldest and most active civil liberties organization (www.bccla.org). Freedom of speech and democratic rights are central our organization's mandate and I am writing to express our concern over reports that HST signs are being removed from or disallowed on public property in your municipalities.

We understand that citizens who are attempting to place political signs on public property including boulevards, meridians and poles, have either had their signage removed or been issued notices that such signs were subject to removal and impounding under various bylaws. Signs addressing the Harmonized Sales Tax Referendum are clearly political expression, and while our constitutional right to freedom of expression covers all types of speech, political expression receives the highest level of constitutional protection because it is essential to the workings of democratic system. As Mr. Justice LeBel for the Court wrote *in R. v. Guignard* 2002 SCC 14 at para 20: "some forms of expression, such as political speech, lie at the very heart of freedom of expression." The jurisprudence of Canadian courts, and in particular a recent decision of the British Columbia Court of Appeal, affirm that a blanket prohibition on political speech will not withstand a legal challenge under the *Canadian Charter of Rights and Freedoms*.

In *Vancouver (City) v. Zhang* 2010 BCCA 450 ("*Zhang*") the court addressed the City of Vancouver's regulation of political structures. The regulatory scheme at issue was an absolute prohibition on political structures in public space, with a theoretical possibility of receiving an exception by City Council on the basis of no stated criteria. The court found that this effectively precluded any political structures in public space, and was therefore unconstitutional. The court struck down the impugned bylaw: "[the City] reached beyond that which is permitted to them when political speech is the right sought to be exercised. It cannot be said that there is not a more reasonably tailored regulatory scheme".

It may be that some form of regulation of the time, place and manner of expression may be permissible under the Charter of Rights and Freedoms. But those restrictions must meet very strict requirements and, among other things, must be reasonable tailored to minimally impair citizens' right to political expression.

Our understanding is that the municipal bylaws being cited in the removal or threats of removal of HST signs are general prohibitions that would not withstand *Charter* challenge. We are calling on all municipalities to simply refrain from removing political signage for the duration of referendum campaign period, after which, we urge municipalities to direct their in-house counsel to review their relevant bylaws in light of the Court of Appeal decision in *Zhang*.

We believe that the continued removal of HST signs will likely result in legal challenge, which would be costly to citizens and taxpayers and quite unnecessary given that the courts have already made several pronouncements on the point.

We therefore urge municipalities to respect citizens' right to political expression and to undertake the needed legal review of these speech bylaws as soon as practicable possible.

Thank you.

Yours truly,

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

Robert Holmes
President