

MEMORANDUM

October 30, 2020

TO: Mayor and Council

CC: Sadhu Johnston, City Manager
Paul Mochrie, Deputy City Manager
Karen Levitt, Deputy City Manager
Lynda Graves, Administration Services Manager, City Manager's Office
Rena Kendall-Craden, Civic Engagement and Communications Director
Rosemary Hagiwara, Acting City Clerk
Anita Zaenker, Chief of Staff, Mayor's Office
Neil Monckton, Chief of Staff, Mayor's Office
Alvin Singh, Communications Director, Mayor's Office
Jessie Adcock, General Manager, Dev Svcs, Bldg & Licensing
Sandra Singh, General Manager, Community Services
Adam Palmer, Chief Constable, Vancouver Police Department
Carolina de Moura, Acting Chief Risk Officer

FROM: Patrice Impey
General Manager, Finance, Risk and Supply Chain Management

SUBJECT: RTS 13014 REPORT BACK - Deterring and Preventing Money Laundering and the Business of Organized Crime in the City of Vancouver -

On January 29, 2019, Council approved a Motion regarding Money Laundering, which included a number of action items for staff. The purpose of this memo is to provide Council with an update on the background and context of money laundering in BC and the progress taken on the direction to staff from the Council motion.

The office of the Chief Risk Officer is tracking the action items and has engaged the services of a consultant, Dr. Peter German, QC, to provide expert assistance. Work is well underway, including consultation with numerous internal and external stakeholders, including the Vancouver Police Department. Best practices are being researched and legal advice is being provided by the City's Legal Services.

BACKGROUND / CONTEXT:

Money laundering captured the attention of British Columbians for the last three years as a result of large quantities of cash entering Lower Mainland casinos. Two reports commissioned by the Attorney General reviewed the impact of money laundering and organized crime in casinos, the real estate sector, the luxury car market, horse racing, and other vulnerable industries.

The first review, *Dirty Money*, authored by Dr. German, described Vancouver's unique geopolitical vulnerability to money laundering. What makes Vancouver and surrounding communities desirable places to live, also makes them desirable to organized crime. An academic in Australia coined the term, Vancouver Model, to describe a unique form of money laundering which saw capital fleeing Asia and being exchanged in the Lower Mainland for the proceeds of organized crime, primarily drug trafficking.

Illegal drugs are responsible for the deaths of hundreds of people in the city of Vancouver every year. The substances at play in Vancouver cover the spectrum of illegal drugs, with opioids and fentanyl causing tremendous grief and suffering. Pursuing the financial proceeds of crime is a time-tested method by which organized crime groups can be dismantled and the flow of illegal commodities reduced. Similarly, a reduction in dirty money within our economy will reduce abnormal price fluctuations in real and personal property.

The Federal Government is responsible for the Canadian money supply and significant financial regulations. Property registration and transfers are the responsibility of the Provincial Government. Both of these areas are critical to addressing money laundering but fall outside the City's authority. City police have the primary jurisdiction to investigate criminal activity related to money laundering in Vancouver. The various reviews of money laundering in British Columbia point to numerous gaps at both the federal and provincial levels of government. These gaps include ineffective regulations, a lack of criminal and regulatory enforcement, no dedicated police for Canada's ports, a lack of transparency of the true (beneficial) owner of property and companies in BC, and a lack of universal cash reporting to Canada's financial intelligence unit, FinTRAC. The latter leaves some businesses, such as luxury car and boat sales, with no reporting requirement. Although Money Service Businesses (MSBs) must register and report, many may not be registered.

As municipalities constitute the level of government closest to citizens and their issues, the City is often asked to step in to fill the gaps created by other levels of government. In the case of the City of Vancouver, the legal ability to step in depends on the authority granted to the City by the *Vancouver Charter*, or another statute. The City cannot simply legislate in areas that are the preserve of other levels of government. The City has to be authorized, by statute, to do so. A similar rationale applies to the collection and sharing of information. The information can only be shared in accordance with the law, including British Columbia's *Freedom of Information and Protection of Privacy Act* (FIPPA) which outlines what information the City may collect, store, share, and use. The City is not authorized to collect information, specifically personal information, unless there is a specific City service or program for which the information is required, as well as a corresponding legal authority for that collection. FIPPA also contains provisions that limit the instances in which information can be used and shared with other entities.

UPDATE ON COUNCIL'S MOTION

Below is an update on progress to date regarding the Resolutions contained within Council's January 29, 2019 motion.

- A. *THAT the Mayor write a letter on behalf of Council to the Attorney General of British Columbia and affirm the City of Vancouver's support to work with the B.C. Provincial government and when appropriate, the Vancouver Police Department and the Royal Canadian Mounted Police and appropriate investigative teams to prevent money laundering that could be directly*

or indirectly linked to businesses operating with or without a business license in the City of Vancouver.

UPDATE: Letters were sent on March 5, 2019 to the Attorney General and March 6, 2019 to the Premier (copies attached), which affirmed the City of Vancouver's support of provincial initiatives aimed at dealing with money laundering, and where appropriate, assisting law enforcement. The letter to the Premier also called for a public inquiry. On May 15, 2019, a public inquiry, the Cullen Commission, was announced by the Premier. The Cullen Commission is ongoing.

- B. *THAT Council direct staff to work with the Vancouver Police Department, the Attorney General's Office, and the Province of B.C. to identify a system where the City of Vancouver can share pertinent information with the appropriate authorities to prevent and deter money laundering.*

UPDATE: Staff are working closely with the Law Department, the Vancouver Police Department and the consultant to determine what information can and should be shared between the City of Vancouver, the Province of British Columbia and the Vancouver Police Department. Critical to this review is determining the reason why specific information is collected, the use to which it is put, and the ability to disclose that information. There are many constraints on the release of information and there are also reasons why the police may not wish to obtain information voluntarily, such as during a criminal investigation when evidentiary requirements favour obtaining a production order or search warrant. In a criminal prosecution evidence obtained through a production order or search warrant is less likely to be challenged. All these issues are currently being examined.

A delegation of staff lawyers from the Cullen Commission met with senior staff at City Hall on January 14, 2020. City staff made a presentation to the Commission, which outlined Council's Motion and the action underway to meet Council's directions. In the meeting, City staff shared concerns about the ability of the City, considering current privacy laws, to obtain and, or share information to address money laundering with other government agencies. The Cullen Commission is due to present interim findings by November 15, 2020 with a final report at the conclusion of its hearings, scheduled to occur between October 2020 and April 2021. A final report was expected to be released in May 2021; however, this date may change due to the impact of the provincial election. On September 23, 2020, the Commission requested an update on the response by the City to the Counsel's motion on money laundering. A copy of this memo will be provided to the Commission.

Staff and the consultant began a dialogue with the Provincial Attorney General's Office (AGO), with the intent of developing an information sharing process and engaging in areas of common interest or overlapping jurisdiction with respect to money laundering. The Province has created a Secretariat to co-ordinate its response to money laundering. They wish to move aggressively in this area and are supportive of complimentary efforts at the municipal level. The Province is prepared to co-develop information sharing agreements with the City. The Province is pleased by the interest shown by the City and wishes to continue the consultations. The Province agreed that Money Services Businesses (MSBs), and ATMs provide an excellent opportunity for collaboration.

C. *THAT Council direct staff to review the powers available in the Vancouver Charter, including but not limited to:*

(i) *The ability of the City of Vancouver to require stringent financial reporting; including but not limited to requiring audited financial statements, from businesses, individuals, corporations and companies when paying specific taxes, business licensing or any type of fee charged by the City of Vancouver in areas of business or property ownership that are more likely to attract money laundering and/or organized crime;*

UPDATE: Due to the restrictions in the Vancouver Charter, the City can only request information that is needed to prove compliance with City by-laws. While virtually all businesses must apply for a licence to operate, the City cannot simply require all licence holders to provide any information the City may want.

(ii) *The ability of the City of Vancouver to share information related to property ownership, and the collection of fees collected by the City of Vancouver, with senior levels of government, and appropriate agencies, including police agencies and specific investigative teams, in the interest of preventing and deterring money laundering; and*

UPDATE: As discussed in the update to Resolution B, we recommend that the initial focus be on Money Services Businesses in coordination with the AGO and the Province of BC. Property-related transactions could follow.

(iii) *The creation of by-laws to regulate the use and operation of cryptocurrency ATMs, including the requirement for a business license, requirement for signage to advertise common frauds, requirement for identifications to be used to verify the sender and receiver of funds, and requirement of security features.*

UPDATE: A working group with staff from VPD, Risk Management, Legal Services, DBL and the external expert and consultant Peter German, assessed options for regulating cryptocurrency ATMs, and unanimously supported to regulate rather than ban cryptocurrency ATMs for the following reasons:

a) Regulatory Change: Since Council's motion, there has been a regulatory change¹ at the federal level. Starting on June 1st 2020, all virtual currency platforms, including cryptocurrency ATMs, have been classified as money services business (MSBs) by FinTRAC, and must register with it. All MSBs are required to have documented Anti-Money Laundering compliance programs in place, including ongoing training and compliance.

b) Jurisdiction

- o Regulation of financial institutions, banking and monetary policy is under federal and provincial jurisdiction. The federal and provincial governments are better placed to regulate financial mechanisms and instruments, given their ongoing engagement with the financial technology (Fintech) industry and other financial stakeholders. The recent FinTRAC changes are evidence of the federal regulatory role, and by regulating, they provide recognition of the legitimacy of this business line.

¹ <https://www.mnp.ca/en/posts/cryptocurrency-businesses-are-becoming-a-fintrac-reporting-entity>

- At the Provincial level, the issue of cryptocurrency is included in the scope of inquiry of the ongoing Commission of Inquiry into Money Laundering in BC (the Cullen Commission), which was recessed until after the Provincial Election on October 24, 2020. The final report and findings are expected to be released in May 2021, subject to change due to the provincial election, and should help inform the best approach to tackle money laundering, including crypto-currency. Further municipal changes can be enacted to reflect and implement these findings.

- c) Unintended consequences of a ban and potential difficulties with enforcement:** A ban on cryptocurrency ATMs will not solve the issue of money laundering, nor necessarily mean that cryptocurrency ATMs will be removed from the City. A ban could potentially drive operators underground, making it difficult to locate the ATMs and take the necessary enforcement actions. Furthermore, banning may lead to displacement, by forcing legitimate customers and investors, as well as criminals, to cross borders to use machines.
- d) Regulatory equity:** There is evidence to suggest that “white paper” ATMs are also highly susceptible to fraudulent activities. Banning cryptocurrency ATMs, while permitting the operation of white paper ATMs, could be seen as an inequitable regulation to purchasers and sellers that use cryptocurrencies.

Staff generally consider the banning of a business activity to be a last resort, to be employed only when all other tools have failed, or if the activity is so egregious under human rights or otherwise that it needs to be prohibited.

- e) COVID-19 considerations:** Since the COVID-19 pandemic, one of the Council priorities is to protect and build a resilient local economy and in particular, to support local businesses. A ban on crypto-currency ATMs would negatively impact those Vancouver businesses that operate cryptocurrency ATMs, and businesses such as convenience stores that allow the placement of such ATMs on their premises.
- f) Innovation:** Cryptocurrency has evolved in the last few years from an unrecognized, speculative, and somewhat suspect alternative to mainstream currency, into a form of currency which is being recognized by countries around the world. The world’s first Bitcoin ATM was opened in Vancouver by Vancouver-based innovators. While cryptocurrency remains an emerging industry, its usage is expected to grow with further innovations in financial technology (Fintech). Vancouver’s Fintech industry and start-ups could wrongly interpret a ban on cryptocurrency ATM as hostility or lack of government support, which may drive them to relocate to other jurisdictions, taking away jobs and residents.

Preferred Licensing Approach

The preferred licensing approach is to continue to permit the operation of cryptocurrency ATMs in the City and to address potential concerns with fraudulent activities by regulating them using existing by-laws, including adding a self-declaration about compliance with FinTRAC, and to gather data through the business licensing data base (AMANDA) to report out as needed. Implementation could begin immediately.

Staff can regulate cryptocurrency ATMs without requiring changes to the City’s License By-law. These ATMs can be considered “Bank Machines” under the License By-law, which is the

current business licence category for bank and “white paper” ATMs in the City. To address any potential concerns with fraud, the Chief Licence Inspector can require cryptocurrency ATMs to comply with all FinTRAC regulations (and to self-declare their compliance) as a condition of their business licence. This is authorized by Section 4(10)(e) of the Licence By-law, which allows the Chief Licence Inspector to establish terms and conditions on a licence which are necessary to ensure the business does not have a negative impact of the public. Staff can reassess this regulatory approach when the results of the Cullen Commission are available, in order to ensure it aligns with their recommendations for crypto-currency ATMs.

- D. *THAT Council direct staff to work with the Vancouver Police Department to explore possible ways the City of Vancouver can implement a by-law(s) or policy (or policies), to require all reporting entities involved in property-related transactions in the City of Vancouver to provide specific information to the City of Vancouver in the interest of deterring money laundering and the business of organized crime in the City of Vancouver.*

UPDATE: This Resolution is largely captured by the work related to Resolution B, although it provides greater specificity such as information related to property-related transactions. The same considerations apply as they do for Resolution B. Nevertheless, this Resolution highlights the importance of determining the source of funds, or wealth used to buy property. The City should consider working collaboratively with the Province on property-related matters, after completion of our initial work on Money Services Businesses.

- E. *THAT Council direct staff to work directly with the Vancouver Police Department to consider ways the City of Vancouver can legally require information from individuals and businesses that own property or apply for a business license in the City of Vancouver, in the interest of preventing and deterring money laundering.*

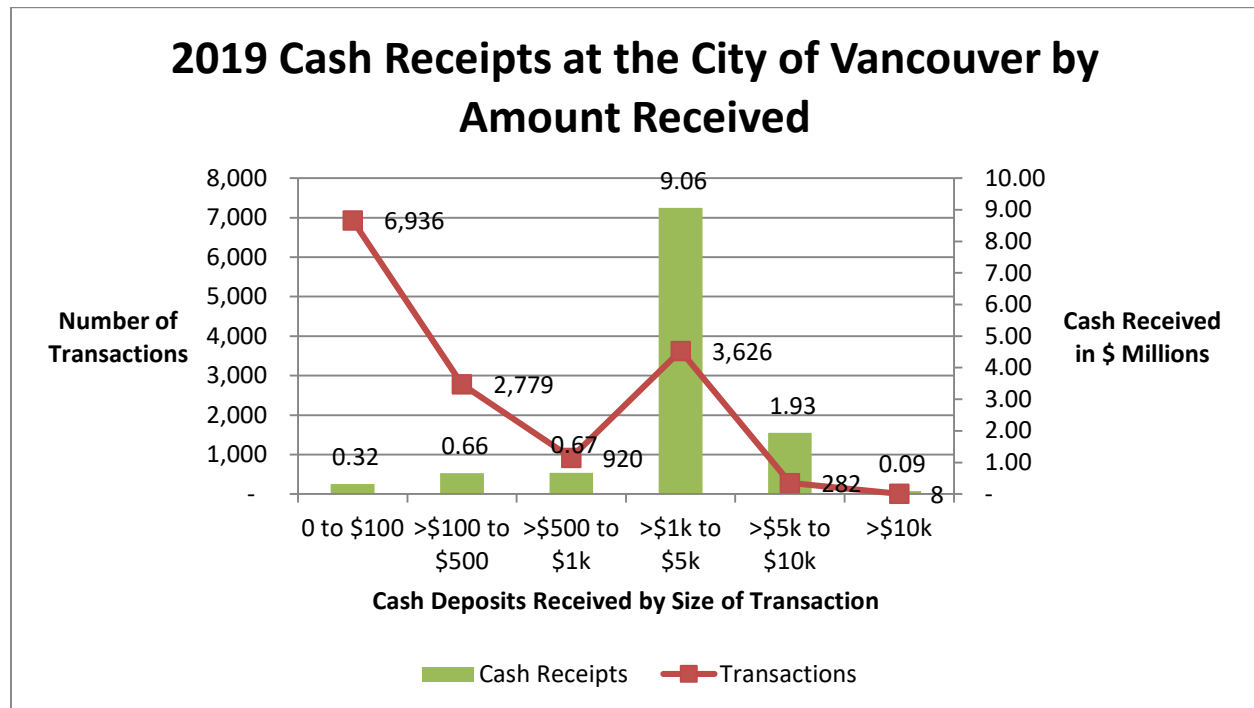
UPDATE: This Resolution is largely captured by Resolution C (i). The same considerations apply.

- F. *THAT Council direct staff to immediately review and take necessary action considering security protocols and processes involved with cash payments, and:*
- (i) Authorize staff to take any necessary security measures in the interest of public safety; and*
 - (ii) In consultation with the Vancouver Police Department, review the process and methods of payment accepted by the City of Vancouver.*

UPDATE: Staff reviewed cash payments received by the City and City Boards in 2019. The review focused on areas where large cash payments were possible, so areas such as Parks and Recreation or the Library were not included in the analysis. In 2019, the City did have a \$10,000 limit on cash payments to the City. However, there was no limit on the number of \$10,000 payments a single person could make. It is possible for individuals to pay taxes and other fees with for more than \$10,000 in cash through multiple transactions.

Below is a histogram depicting cash payments received in 2019 at City Hall. Cash payments

received by other venues, including community centers, theatres, etc., are for small amounts and therefore not included in this analysis. Slightly more than \$2 million in cash payments greater than \$5,000 were received by the City in 2019. Relative to the City’s total budget, which exceeds \$1.5 billion, this is a very small proportion. A high percentage of the cash receipts were property tax payments.



Placing additional constraints on cash receipts may not be simple and may increase the City’s administration costs. While handling less cash will reduce some handling and security costs, these costs may be offset by additional administration costs required to track poorly documented Electronic Transfers of Funds (ETF).

The City is handling less cash as a result of COVID-19. Due to COVID-19, the City restricted accepting cash at City offices. Many people are now paying property taxes online or through banks. There will be a large reduction in cash receipts in 2020 due to the restriction on cash payments to the City.

Most large cash receipts are received near the due dates for property taxes. The due date for the June 30 property tax deadline was moved to September 30, 2020 due to COVID-19. The restriction on cash payments did not result in significant public criticism and had the benefit of reducing City Hall lines for payment of taxes.

NEXT STEPS:

The City will be working with the AGO, Vancouver Police Department, Legal Services, Development Building & Licensing (DBL), and Finance Risk & Supply Chain Management (FRS) related to Money Services Businesses. This work will be the main source of

information that will be collected by the City, shared with the Province and utilized by the VPD.

Staff will continue to examine the City's internal processes, as well as its by-law authority, to help determine other opportunities that may arise to address the risk posed by money laundering to the City.

A staff working group, with representatives from a number of departments, including Legal Services, DBL, City Manager's Office and the Vancouver Police Department, is meeting regularly and working with the acting Chief Risk Officer in FRS, her staff and our consultant to develop ways to address money laundering.


To address potential concerns with fraudulent activities with crypto-currency ATMs, staff can regulate them using existing by-laws, including adding a self-declaration about compliance with FinTRAC and to gather data through the business licensing data base (AMANDA) to report out as needed. Implementation of this licensing approach for crypto-currency ATMs can begin immediately.

The City has provided written feedback to the Province regarding projected changes stemming from recommendations contained within the first *Dirty Money* report into illegal activities at Lower Mainland casinos. This includes commenting on numerous issues ranging from proposed legislative changes to enforcement.

A further update from FRS on Money Laundering will be provided to Council by the end of Q2 2021, with an update on the work with the AGO and any other recommendations to address City processes.

Should you have any questions regarding the above, please feel free to contact me at (604) 873-7610 or at patrice.impey@vancouver.ca or Carolina De Moura at (604) 673-8371 or carolina.demoura@vancouver.ca.

Best Regards,



Patrice Impey
General Manager, Finance, Risk and Supply Chain Management/ CFO

Tel: 604-873-7610
patrice.impey@vancouver.ca

Attachment 1
Letter to the Attorney General



MAYOR KENNEDY STEWART

March 05, 2019

Honourable David Eby, M.L.A.
Attorney General
PO Box 9044 STN PROV GOVT
Victoria, BC
V8W 9E2

Dear Minister Eby:

I am writing on behalf of Vancouver City Council to affirm our City's support to work with your government to prevent money laundering that could be directly or indirectly linked to businesses operating with or without a business licence in the City of Vancouver.

Our Council recently passed a motion directing us to take immediate and urgent action to tackle this challenge. A copy of the motion approved by Vancouver City Council on January 29, 2019 is included as an appendix to this letter.

Your government is taking necessary and bold action to investigate the impact of money laundering on some of the key issues our City is dealing with, namely overdose, and housing affordability. We join other British Columbians in acknowledging the findings of Mr. Peter German's first report, and awaiting the second report anticipated later this spring.

An estimated 353 overdose deaths have occurred in Vancouver in 2018, which is almost on par with the 369 overdose deaths that occurred in 2017, despite the extensive harm reduction investments in Vancouver. Vancouver continues to have the highest rates of death per capita in B.C., with 58 deaths per 100,000 people this year, and Vancouver continues to be the most impacted city of the overdose crisis in Canada.

The impact of Vancouver's housing affordability crisis has also expanded considerably over recent years. Data from the Real Estate Board of Greater Vancouver shows that the average price of a single-family detached home in Greater Vancouver increased as much in 2016 as it did from 1981 to 2005. Local housing costs far exceed local incomes, and the gap between housing costs and local incomes increased sharply between 2011 and 2016.

604-873-7621 kennedy.stewart@vancouver.ca

City of Vancouver, Office of the Mayor, 453 West 12th Avenue, Vancouver, British Columbia, Canada V5Y 1V4

Attachment 1 Continued



These ongoing crises in our City have prompted us to take actions appropriate to our authority under the Vancouver Charter. We have directed our staff to investigate ways to require stringent financial reporting from businesses, individuals, corporations and companies when paying specific taxes, business licensing or any type of fee charged by the City of Vancouver in areas of business or property ownership that are more likely to attract money laundering or organized crime.

We have also directed staff to explore the ability of the City of Vancouver to share information related to property ownership, and the collection of fees collected by the City of Vancouver, with senior levels of government, and appropriate agencies, including police agencies and specific investigative teams, in the interest of preventing and deterring money laundering.

In particular, we have directed staff to explore the creation of by-laws to regulate the use and operation of cryptocurrency ATMs, including the requirement for a business licence, requirement for signage to advertise common frauds, requirement for identifications to be used to verify the sender and receiver of funds, and requirement of security features. In my capacity as Chair of the Vancouver Police Board, I am aware that cryptocurrency ATMs play a role in laundering money that fuels our overdose crisis.

We are committed to work with your Ministry, and when appropriate, the Vancouver Police Department and the Royal Canadian Mounted Police and appropriate investigative teams to prevent money laundering linked to businesses. We want to identify a system where we can share information with the appropriate authorities to prevent and deter money laundering.

I give you the assurance that the City of Vancouver is prepared to work constructively with your government on implementing systemic changes to eliminate money laundering, and restore confidence in our public systems.

We look forward to hearing back from you on this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Kennedy Stewart".

Kennedy Stewart
Mayor, City of Vancouver

Attachment 2 Letter to the Premier of British Columbia



MAYOR KENNEDY STEWART

March 06, 2019

The Honourable John Horgan, M.L.A.
Premier of British Columbia
PO Box 9041 STN PROV GOVT
Victoria, BC
V8W 9E1

Dear Premier Horgan:

I am writing on behalf of Vancouver City Council to call for a Commission of Public Inquiry into money laundering in British Columbia, focusing on the impacts on Vancouver real estate, and the overdose crisis. A copy of the final motion approved by Vancouver City Council on February 13, 2019 is included as an appendix to this letter.

We respectfully recommend that the Inquiry begin after Peter German's review of money-laundering is completed in March, and request that the terms of reference for this Commission of Public Inquiry include the following components:

- Investigation into money laundering in Vancouver real estate that may have deepened the city's housing affordability crisis;
- Investigation into links between organized crime, money laundering, and the overdose crisis, which resulted in the deaths of nearly 1500 people across BC in 2018, including an estimated 353 people in Vancouver.

We recognize the severity of the impacts that money laundering has had in our city. Our Council passed a motion on January 29, 2019, to affirm our support to work with your government, the Vancouver Police Department, the RCMP and appropriate investigative teams to prevent money laundering that could be directly or indirectly linked to businesses operating with or without a business license in the city of Vancouver, including cryptocurrency ATMs. We have also invited Mr. German to present to our Council later in the spring.

An estimated 353 overdose deaths have occurred in Vancouver in 2018, which is almost on par with the 369 overdose deaths that occurred in 2017, despite the extensive harm reduction investments in Vancouver. Vancouver continues to have the highest rates of death per capita in BC, with 58 deaths per 100,000 people this year, and Vancouver continues to be the most impacted city of the overdose crisis in Canada.

604-873-7621 kennedy.stewart@vancouver.ca

City of Vancouver, Office of the Mayor, 453 West 12th Avenue, Vancouver, British Columbia, Canada V5Y 1V4

Attachment 2 - Continued



Vancouver's housing affordability crisis has skyrocketed over recent years. Data from the Real Estate Board of Greater Vancouver shows that the average price of a single-family detached home in Greater Vancouver increased as much in 2016 as it did from 1981 to 2005. Local housing costs far exceed local incomes, and the gap between housing costs and local incomes increased sharply between 2011 and 2016.

The City of Vancouver urges you to call for a public inquiry into money laundering in British Columbia, focusing on the impacts on Vancouver real estate, and the overdose crisis.

We look forward to hearing back from you and your Cabinet colleagues on this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Kennedy Stewart".

Kennedy Stewart
Mayor, City of Vancouver

Encls: Appendix.

Cc: Honourable Carole James, M.L.A., Minister of Finance and Deputy Premier
Parliament Buildings, Victoria, British Columbia V8V 1X4

Honourable David Eby, M.L.A., Attorney General, Parliament Buildings, Victoria,
British Columbia, V8V 1X4