
APPENDIX B

CBSC Decision 10/11-2102 & -2124 Sun News Network re *The Source* (Edmonton Artists' Housing)

The Complaints

The CBSC received a total of 40 complaints about this segment. Six people were unable to identify the time of broadcast so they were not provided with the opportunity to request a CBSC ruling. The remaining 34 complainants were provided with an opportunity to request a ruling, but only two did so. Their complaints are reproduced below.

File 10/11-2102

The following complaint was received via the CBSC's webform on July 7, 2011:

station: Sun News Network
program: *The Source with Ezra Levant*
date: July 4, 2011
time: unknown
concern: To whom it may concern;

I am writing to respectfully voice my objection to M^e Levant's attack on Arts Habitat in Edmonton, aired July 4th on the Sun News Network. The piece in question lacks balance in its debate. There are no artists, nor public representatives present to state what the facts are concerning who is eligible to apply for this housing, how much the actual cost is, or what the possible benefits are for the local and national community. I was born and raised in Edmonton, and many of my friends there are practicing artists. I can say with absolute certainty that the claims made in this segment about artists receiving housing for free are false. As well, the maximum an artist is allowed to make in order to qualify to apply for Arts Habitat support is under \$30,000. The criteria can be found here: http://www.artshab.com/pdfs/co-op_criteria_feb_2011.pdf.

Obviously, Mr. Levant neglected to do even this small amount of research before running this piece, which is why I object. *The Source* and its network are not news. This piece is not even a debate, is certainly not journalism. It is, indeed, libelous. I urge you to take this complaint seriously, as it is an ongoing issue with this fledgling network – one of which you are no doubt already aware. Thank you.

The CBSC informed the complainant that he would need to provide the time of broadcast in order to pursue his complaint. He provided that information on July 10:

Thank you for your prompt reply. The broadcast in question was aired July 4th between 5-6 pm Eastern. Should you not be able to locate this broadcast, or if Sun destroys its archives after 28 days, it is up for all to see, here on YouTube: <http://www.youtube.com/watch?v=YrdHyxKZkTw>. Thank you so much for your investigation, and I look forward to hearing more from the CBSC regarding this complaint.

He sent another e-mail the same day:

Further to my original complaint, the argument being made by Mr. Levant and Ms. Marshall that artists do not deserve special treatment does not address other professions that also receive subsidized housing. Debates require balanced voices. If a resident of artshab was present to defend the project, or, say, a debate was constructed surrounding whether or not artists deserve subsidized housing more than members of the clergy, these variables might have provided some balance to the discussion.

However, *The Source* piece was strictly an attack on the arts community, ignoring other subsidized professions, while also providing incorrect information about the Arts Habitat project in Edmonton. Several times throughout his diatribe, Levant says that artists are receiving "free" housing. This is false. And while excluding dissenting voices from a debate is, indeed, lazy and ignorant but not illegal – but certainly not journalism or "news" either – the broadcast and circulation of false information aimed at discrediting or defaming a person or group is libelous. Therefore, Sun News Network, Mr. Levant, and Ms. Marshall must be held accountable for making, broadcasting, and circulating libelous statements.

File 10/11-2124

The following complaint was received via the CBSC's webform on July 8:

station: Sun TV
 program: Ezra Levant
 date: 07/20/2011
 time: unknown (Link: <http://www.sunnewsnetwork.ca/sunnews/opinions/archives/2011/07/20110704-212545.html>)

concern: Nearly ever allegation made by Levant in this piece on Arts Habitat is factually incorrect. The segment deals with Levant's opinions about what he reports to be "free artists housing" in Edmonton. This "Free housing" simply does not exist: Levant is lying. He states the apartments in question are "luxurious" and that they feature "hardwood floors". Neither of these allegations are based in fact. The apartments pictured are all one-room bachelor apartments, with rough two-by-four ladders instead of stairs, and low-grade plywood floors without any overlay of any kind.

Mr. Levant is, of course, entitled to present his opinions, but most of the segment is devoted simply to misinforming viewers about what the facts are, in order to mis-lead their opinions. No one from Arts Habitat was allowed on air to correct the misinformation of the segment.

This segment is a clear violation against the Canadian prohibition of disseminating false or misleading information.

Sun TV makes contacting them very difficult. After hunting around on their web page, I was able to find an email contact form, which I filled out, but I have not received any response from Sun TV about their deceptive programming.

The CBSC informed the complainant that he would need to provide the time of broadcast in order to pursue his complaint. He provided that information on July 11:

The program airs at approx. 4-5 pm, check your local listings.

He sent another e-mail that same day:

My apologies for the incorrect information in my previous message.

The broadcast date was July 4, 2011.

This complainant wrote again on July 21:

I have responded to your request for the information regarding my complaint concerning the counter-factual nature of *The Source with Ezra Levant*.

I have not received any further correspondence on this matter, from Sun News Network or from CBSC.

Please advise as to whether this complaint will be addressed by Sun News Network, and if not, please forward to me whatever forms I must fill out to take my complaint further.

The CBSC wrote back the following day explaining that it had now received confirmation from Sun News that the loggers were being held and so it would proceed.

Broadcaster Response

Sun News responded to all complainants on August 12:

I am counsel to the Sun News network. I am writing in response to your complaint to the Canadian Broadcast Standards Council ("CBSC") concerning Ezra Levant's item on his show *The Source* about the Arts Habitat housing project in Edmonton, which was broadcast on Sun News on July 4, 2011.

The CBSC received a large number of complaints about this segment. Given the large number of complaints, we have chosen to provide a common response that addresses the main points made by those who took issue with the interview.

Sun News acknowledges that the broadcast contained an error in that Mr. Levant referred to the Arts Habitat project on several occasions as "free" housing for artists. In fact, it is subsidized housing for artists. Mr. Levant corrected the error on the episode of *The Source* broadcast two days later, on July 6, 2011.

Apart from pointing out the subsequently-corrected error in the July 4 broadcast, many of the complaints to the CBSC took issue with the views expressed by Mr. Levant or his guest with respect to the Arts Habitat project. Many complaints expressed outrage that Mr. Levant would criticize a project that the complainants consider to be a worthy one.

It is part of the mandate of Sun News to explore topics and issues that have not been fully explored in other media, including other broadcasters.

One such issue is government funding for artists and for the arts in general. Sun News understands that there are many people in Canada who strongly believe that government should fund the arts. There are many others who believe just as strongly that it should not, or who question what the justification might be for doing so. The very fact that there are strong differences of opinion underscores the importance of exploring the issue in a sustained and critical way.

Mr. Levant's show is a talk show. It is intended as a forum for the expression of opinions, both by Mr. Levant and by his guests. Mr. Levant is entitled to express his opinions concerning matters of public interest, even if those opinions do not coincide with those of others who might disagree with him.

The codes of the Canadian Broadcast Standards Council permit the expression of opinion on broadcast outlets, as of course do the *Canadian Charter of Rights and Freedoms* and the common law of Canada. To suggest or imply (as some of the complaints did) that Mr. Levant should not have the right to express his opinion on the issue of arts funding is, with respect, inimical to Canada's long tradition of respect for freedom of expression.

Sun News makes no apologies for being controversial, and will continue to take on contentious subjects.

Sun News, like all private media, is accountable to its audience and to the courts. Those who are offended by content broadcast on Sun News have many remedies at their disposal, including changing the channel. One remedy that should never be on the table is to censor or ban voices one disagrees with or is offended by.

Sun News submits that it acted properly in quickly correcting the erroneous reference to free housing. Apart from that, Sun News submits that the segment in question violated no CBSC codes or guidelines.

Additional Correspondence

File 10/11-2102

The complainant submitted his Ruling Request on August 15 in the form of the following letter:

Thank you for your response, though I still find this to be an unsatisfactory explanation. First of all, there is a line between freedom of speech, and making libelous statements bordering on hate speech – a line which Sun "News" has crossed several times, from day one. Just because someone has the "freedom" to say something doesn't mean they should. I had the freedom to address this email "Dear jerk lawyer for biased media outlet" but I didn't, although it would be my right to do so. What would that accomplish? It may be my view at the

moment that you are a jerk lawyer, but it would only degrade our discourse with a poorly articulated opinion. Still, having done some quick googling this morning, it seems you're no stranger yourself to having things published about you that are questionable, so you must be able to understand that "freedom of speech" does not extend to erroneous or indeed hateful remarks. And making an erroneous or hateful remark and then rescinding it is not the same thing as informing oneself to have not made the erroneous or hateful remark in the first place.

Secondly, there is no way around the fact that Sun "News" intentionally omits providing balance to their own arguments. While Mr. Levant's may be classified as a "talk show", it nonetheless appears on the Sun "News" Network – something that signals a certain level of authority and responsibility to its audience – an authority and responsibility that is markedly absent. I may know, like many of my fellow intelligent Canadians, that Sun News isn't "news"; still, many don't. As well, there are myriad topics and issues not covered by other media outlets; it is not necessary for Sun to dig into Canadian cultural producers. What about members of the clergy, who also receive subsidized housing? Many people agree with that situation; some don't. Was this raised to balance out Mr. Levant's argument? No, it was not. Why? For one, it would have provided a valuable counterpoint to the artists in question – something Mr. Levant would obviously rather not do. Secondly, I believe that artists were specifically chosen by Mr. Levant, Ms. Erickson et al. as an easy target – a group who they thought wouldn't fight back. How wrong they (and you) are. If the network for which you are counsel continues receiving a large number of complaints about this particular brand of incendiary reporting, perhaps that is because a large number of Canadians feel as I do that these types of broadcasts have no place in Canada. So, get ready for more.

Ultimately, the "news" that these "talk shows" present appeals to a sense of fear and hatred, from both sides. Those who agree with Mr. Levant and the mandate of Sun News are full of both; those who disagree are becoming alarmingly more so, towards the advent of unbalanced and extreme voices (from both far left and far right) that are increasingly crowding the airwaves. Opinions are wonderful, but ignorant or false opinions (opinions that are formed in ignorance of fact) are not, especially when they are broadcast coast to coast, and contribute to susceptible members of the public formulating their own ignorant and/or false opinions based upon them. This, in my humble opinion, is what the world needs less of, not more. Well-informed opinions are formulated with more and better-balanced information, presented respectfully, not through intentionally biased and socially aggressive tabloid style "talk shows" like Mr. Levant's. It's shameful that you would hide behind the CBSC and the *Canadian Charter of Rights and Freedoms* to protect Sun News' right to mislead and offend its audience. I am reminded of the recent tabloid scandal in Britain, where the breach of private citizens' privacy was framed as "freedom of speech". Because your response is unsatisfactory, I do not consider this matter closed.

File 10/11-2124

This complainant filed his Ruling Request webform on August 13:

I wrote a complaint directly to Sun TV, but have, at this date, still not received a response to my specific concerns. After writing a complaint to the CBSC, forwarded to Sun TV, [Sun News's Director of Legal Affairs] forwarded to me, on the last possible date, an 11 paragraph form response which not only failed to address my concerns, but was almost entirely comprised of irrelevant non sequiturs which had nothing whatever to do with my specified complaints. Despite my making explicit in my complaint to the CBSC that, I quote, "Mr. Levant is, of course, entitled to present his opinions...", [the Director of Legal Affairs] spent

the better part of seven paragraphs to rebut complaints which I did not make. Due to this inept and unacceptable response, I shall endeavour to be more clear with my complaint:

1. Mr. Levant alleges that the city of Edmonton is taking "a bunch of money ... and give free housing to artists". This is factually incorrect, and represents the first instance of the false allegation of free housing. [The Director of Legal Affairs] alleges that this was corrected on a subsequent broadcast, but has offered no evidence to back up this assertion. Nevertheless, I'll take him at his word.

2. Mr. Levant refers to "free housing" a second time in the broadcast. The US office of Strategic Services refers to this kind of propaganda technique "The Big Lie".... Quote: "people will believe a big lie sooner than a little one; and if you repeat it frequently enough people will sooner or later believe it."

This is the second broadcast instance of Levant, Marshall, and Sun TV's Big Lie about Arts Habitat. [The Director of Legal Affairs] does not claim to have corrected this second counter-factual statement aired by Sun TV.

3. Kathryn Marshall is introduced as a "critic and media watcher", but she is actually a media personality herself, so is not a "critic" or a "watcher", which necessarily implies a separation from the subject being criticized or watched. Roger Ebert is not a movie star, he is a critic. Kathryn Marshall is a TV presenter, AKA an artist, fully included in the field she falsely purports to cover objectively as a journalist.

4. Marshall refers to the Arts Habitat project as "Art Habitat". This is not the name of the organization, and one wonders if this is some sort of political gambit to avoid responsibility, as if to say, "Oh, we were talking about something else!" More likely, it was merely an error made by a sloppy, ignorant ersatz reporter who couldn't keep her fake story straight.

5. *The Source* refers to the organization of Arts Habitat as providing merely a "housing development". This is not the case, as Arts Habitat, in REALITY, is an artist LIVE/WORK space, meaning that it is a housing/studio project where the housing and work space is combined, so referring to it as if it were merely a place to live, as Sun TV incorrectly does, misleads viewers.

6. Marshall calls Arts Habitat "Very nice subsidized housing". As noted before, it is not simply housing, but rather combined living and working space. As EVERY THINKING PERSON could tell you, combining your housing and your industrial work space into a one-room walk-up is, unarguably, NOT VERY NICE HOUSING. If those words have any meaning, then they have a common meaning for people that does not include doing your job in the same place as you eat your breakfast and dinner. This clearly strays over the line, from brainless opinion, over into obvious falsehood.

7. Marshall claims that "artists have a pretty good gig", alleging that they receive "all these grants" and subsidized housing. In reality, the fact is that MOST ARTISTS do not receive ANY GRANTS or ANY SUBSIDIZED HOUSING. At all. Once again, Sun TV evidently has twisted the truth into its opposite.

8. Sun TV explicitly alleges that the Arts Habitat units have hardwood floors. This is false, and [the Director of Legal Affairs] appears to have ignored, or not comprehended, this issue. As such, it remains unresolved by their feeble response thus far.

9. In the segment, Marshall states, not as her opinion, but as if it is fact, that "You don't need in-suite laundry and hardwood floors to be successful." This is yet another repetition of the outright lie noted in point 8 above, so must be doubly addressed and counted as another failure to tell the truth on the part of Sun TV. Each of these falsehoods, each time they are mentioned, represent another breach of the duties and responsibilities of any broadcaster in Canada.

10. Levant refers to pictures presented as images of "gorgeous show suites". Again, this is false, as the images shown on screen are neither gorgeous, nor are they "show suites". The word "suite" denotes a class of luxury accommodations, the key feature of which is multiple rooms, so, once again, Sun TV has been caught playing fast and loose with the facts. Once again, they are caught in an outright lie, one that is ignored by Sun TV to this date.

11. In the third incarnation of the Big Lie, Marshall disingenuously asks, "Why should artists be blessed with free places to live?". The answer, of course, is that they are not. Unlike the Prime Minister or the Leader of the Opposition, no artists in Edmonton have received free government subsidized housing. Once again, Sun TV has lied to Canadian viewers.

12. Levant disingenuously asks, "Like, where did this come from?", to which Marshall responds, "That's a good question!". Sadly, those "good questions" were evidently not put to anyone outside the dark confines of the Sun TV studios. Obviously, this shows a complete lack of due diligence, an absence of ANY FACT CHECKING, and an unhealthy amount of bad faith pseudo-journalism. One phone call, to the mayor's office, to Arts Habitat, to the Edmonton Arts Council, to virtually any thinking person even, would have corrected this error before Sun TV rushed to air with a story concocted out of whole cloth. The question, of course, remains: where did this story come from? It appears as if Sun TV's gambit is to make up lies, not bother to check that they are untrue, and then repeat them, over and over, and never look back for anything short of a CBSC threat. This cannot be the way journalism in Canada works. To repeat a lie over and over on broadcast TV, and then to mutter "not really" two days later is unacceptable.

13. "What's wrong with the homes they have now?", Levant pretends to ponder. "Surely these artists have homes. Are they supposed to sell their own home? Do they get to keep their own homes, and rent it out, and keep some money on the side? What's going on?" What is going on, indeed? To misinform viewers in this manner, as if people applying for an apartment already have somewhere to live (?!?) makes no rational sense whatever, and should not be tolerated on broadcast TV in Canada. Of course, Levant's wild-eyed bewilderment about the situation rests on the false assumption that the housing is being "given away for free", but, as we've noted time and time again, this is a lie that has only been presented by Sun TV. It is a fabrication, once again.

14. Marshall asks, "Why are artists getting all this federal funding to do their art?". An inadvertent error, to be sure, considering that Sun TV would hardly wish to bite the federal hand that subsidizes THEIR business, but an error nonetheless. Arts Habitat does not receive federal funding. Another error which remains uncorrected by Sun TV.

15. Marshall alleges that "Edmonton is becoming known as 'Deadmonton' because they have the highest homicide rate in the country". Again, this is false. Edmonton's nickname of "Deadmonton" has nothing whatever to do with murder rates, but was in fact inspired by the perceived LACK of CULTURAL LIFE in the city. The moniker was first introduced as a suggested name for a proposed Halloween festival for the Festival City. Another lie, another opportunity for Sun TV to show contrition.

16. Marshall claims that Edmonton spends "2.4 million dollars on subsidized housing for artists", but cites no source, so, by now, one can only assume they are pulling this number out of their asses, or have misunderstood some data, or have purposely misrepresented the facts. I am not prepared to accept responsibility to fact-check all of Sun TV's broadcasts. The onus MUST be with the broadcaster to show some level of due diligence in this regard, otherwise such a regime would be tantamount to legalized slander. Surely the CBSC must have the power to rule in such cases of wilful propagation of ignorance, as displayed by Sun TV.

17. Levant alleges that the job of the MAYOR is "to stop people from being murdered on the street". This is not the job description of mayor in ANY city in the world. This is not a matter of opinion. City administration and law enforcement are separate entities with separate responsibilities, the division of which should be clear even to the people who work at Sun TV. To suggest such an incorrect view of what a mayor does is to misinform viewers on a serious matter of municipal politics for a cheap effect, and should be against CBSC guidelines, if not Canadian law.

18. Sun TV states that, instead of supporting Canada's cultural industries (by funding Arts Habitat), we should be "making sure that the REAL homeless people are off the streets". By phrasing it like this, the implication made is that the renters of Arts Habitat are either not real, not homeless, or not people. Obviously, this is a false allegation, but one that Sun TV, once again, has not bothered to fact check.

19. The broadcast claims that "These are all questions we should love to hear answered from the mayor of Edmonton ... but, it simply goes to the fundamental question... What is so sacred about art? Why do they get all of this funding, why are they getting FREE HOUSING?" It should not need stating, but since the response from [the Director of Legal Affairs] was so inept, it appears that it bears repeating: It's not "free", and it's not "housing". It is expensive, bare-bones, one-room live/work space. Every misstatement made by Sun TV requires a correction, and by now, out of a six minute segment, we're at falsehood number nineteen.

20. Levant closes by suggesting that Marshall "should write a letter to the mayor in limerick form, and make your application for the free house, in limerick form, and he might give you a free place to stay." Yes, that's right, Levant got two more mentions in about the fictional "free housing".

It simply cannot stand that such brazen lies, without due diligence, without fact checking, and yet with obvious malice of forethought, can simply be brushed aside by an alleged "correction" a couple of days later, as if the one truth balanced out the pile of lies.

I look forward to justice being served, and for a full and contrite apology and correction from Sun TV, as per a forthcoming CBSC ruling against them in this matter.

Thank you for your time.