

Walking the Line:

City Powers in the Fight Against Climate Change

REGINA

General Overview of City Authority to Regulate the Environment



Catalyst Paper Corp. v North Cowichan (District), 2012 SCC 2

“Municipalities do not have direct powers under the Constitution. They possess only those powers that provincial legislatures delegate to them. This means that they must act within the legislative constraints the province has imposed on them. If they do not, their decisions or bylaws may be set aside on judicial review."

Subsidiarity

- *Shell Canada Products Ltd. v. Vancouver (City), 1994 CanLII 115 SCC*
- *114957 Canada Ltée (Spraytech, Société d'arrosage) v Hudson (Town), 2001 SCC 40*
- *Catalyst Paper Corp v. North Cowichan (District), 2012 SCC 2*
- *Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65*





Subsidiarity Principals

- The court has narrow powers to set aside a bylaw on judicial review
- It must be a decision that “no reasonable body informed by these factors could have taken” for court intervention
- City actions must be grounded in law
- City actions must not frustrate higher levels of government

Concurrent Jurisdiction



Concurrent Jurisdiction

R v. Hydro-Québec, 1997 CanLII 318 SCC

"the protection of the environment is a major challenge of our time. It is an international problem, one that requires action by *governments at all levels*"

Concurrent Jurisdiction

- ***Greater Vancouver (Regional District) v. Darvonda Nurseries Ltd., 2008 BCSC 1251***
- ***Merzetti v. City of Saint John, 2005 NBCA 16***
- ***Canadian Plastic Bag Association v. Victoria (City), 2019 BCCA 254***

Chartered Cities



City of Toronto Act, 2006

Powers now shared by the Municipal Act

- Spheres of jurisdiction
- Statement of purpose
- Natural person powers

Unique Privileges

- Ability to levy taxes not available to other municipalities
- Set limits on borrowing



Calgary and Edmonton City Charters

- *Municipal Government Act* still applies;
- Act shifts authority to cities in areas of a local nature;
- Authority to modify or replace a provision of any enactment;
- May confer authority not currently in law; and
- Inconsistencies are resolved in favour of the Charter.

Calgary and Edmonton City Charters

- Enact new forms of statutory land-use regulation
- Define subdivision approval standards;
- Levy supplementary assessments on property changed from farm to other use;
- Impose stricter building code standards;
- Required to establish climate change mitigation and adaptation plans.

Vancouver Charter

- Borrow on its own authority
- Power to establish its own building code and impose requirements without provincial oversight
- Power to prohibit businesses or business activities
- Ability to impose specialized development cost levies

City Charters and Building Codes

- Toronto – Green Development Standard (LEED based)
- Vancouver – Green Building Strategy
- Calgary– Sustainable Building Policy (2004)
- Edmonton – Sustainable Building Policy (2017)



Charterless Cities

- In Saskatchewan, the Minister provides a coordinating role between provincial and municipal interests
- Minister authorizes the Official Community Plan
- Minister authorizes bylaws including for building, fire, and zoning
- Approving Authorities may amend zoning bylaws without Ministerial approval, but not fire and building bylaws

Regina's Official Community Plan

- Sustainable current and future land use and development;
- Management of lands subject to natural hazards, such as flooding, slumping and slope instability;
- Management of environmentally sensitive lands;
- Source water protection; and
- Co-ordination of land use, future growth patterns, and public works with adjacent municipalities.

Independent Jurisdiction

- Independent jurisdiction is somewhat tenuous
- *Toronto (City) v. Ontario (Attorney General)*, 2021 SCC 34

Independent jurisdiction in practice

- Chartered Cities
- Approving Authorities
- General Bylaw powers

The Basis for Bolder City Action

- City powers are primarily about land use
- Land use and the environment are future focused
- Legal jurisprudence favours environmental stewardship at all levels of government

Practical Solutions

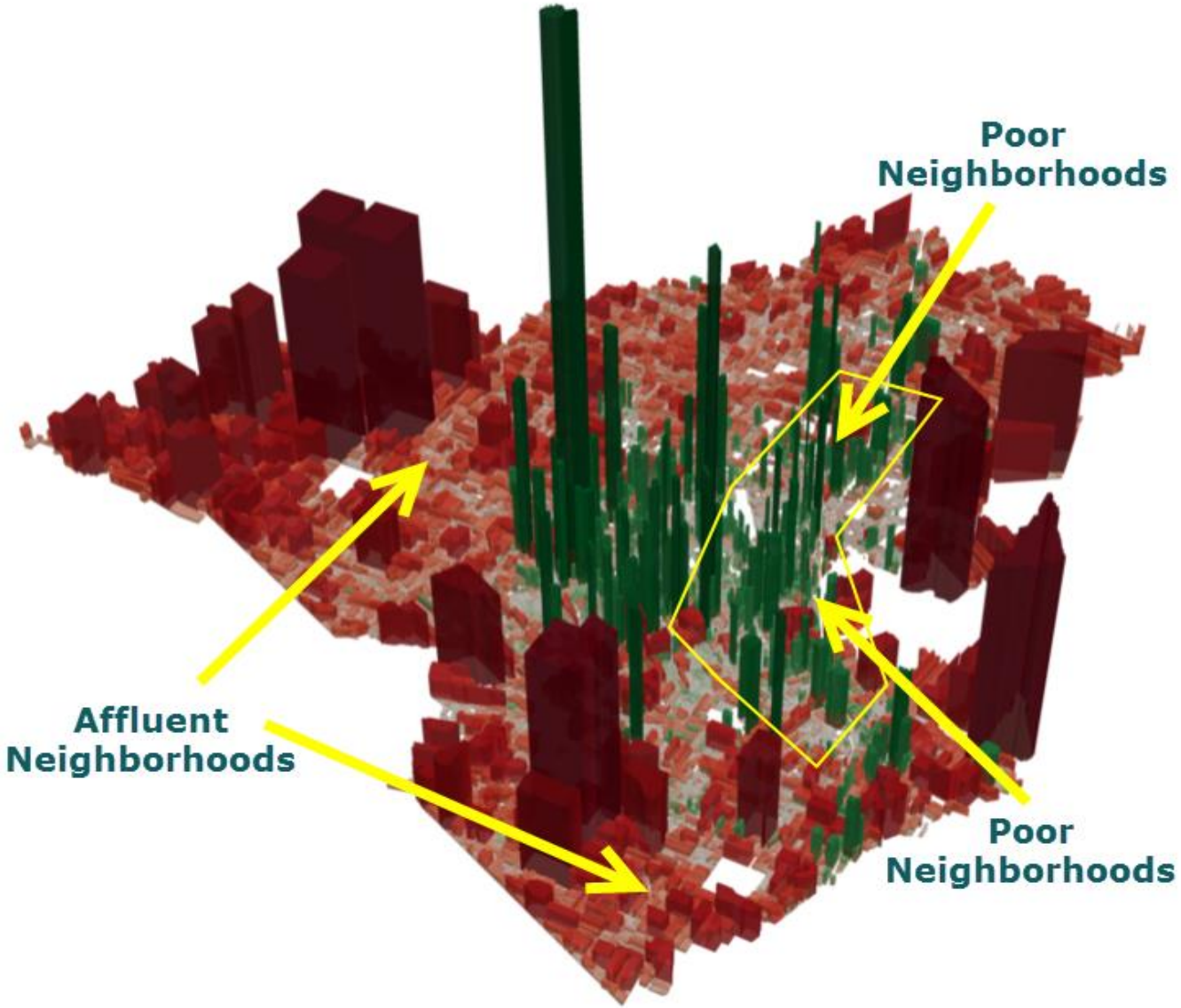
- Density and Mixed-Use Walkable Communities
- Procurement Rules
- Environmental Bylaws



Density and Walkable Communities

- Drastically reduce city emissions
- Health benefits
- Economic benefits
- Overall improved quality of life





Source: Urban3

Zoning Bylaws

- Minimum street widths
- Street Setback requirements
- Limit winding streets and cul-de-sacs
- Mixed residential commercial use
- Mix alternative styles of residential living
- Minimum off-street parking
- Minimum lot-sizes



Transit Policies

- Safe, convenient biking infrastructure
- Reliable transit
- Subsidized or fare-free transit
- Milton and Markham Ontario as examples



Procurement Rules



Canadian Business for Social Responsibility (CBSR) Leaderboard

Search...

Target Year

Scope

Interim Targets

☐ Yes ☐ No

Aligned with Science Based Target initiatives

☐ Yes ☐ No

<< Download data as spreadsheet >>

Company	Industry	Target	Scope	Interim Targets	Science-Based Targets Initiative	Data Source
Canada Post	Air Freight Transportation and Logistics	Net zero emissions by 2050	Scope 1, Scope 2, Scope 3*	Yes	Validated, Validated, 1.5°C	Canada Post Net Zero 2050 Roadmap
Canadian Pacific Railway Company	Transportation	Committed to science-based target in 2020	Unclear	Yes	Committed	SBTi Website
Capital Power	Utilities	Net carbon neutral by 2050	Scope 1	Yes	No	Capital Power Sustainability
Cascades Inc	Forests & Paper Products	Committed to science-based target in 2021	Scope 1, Scope 2, Scope 3*	No	Committed	Cascades Climate Commitment
Celestica	Manufacturing	Science-based target	Scope 1, Scope 2,	No	Validated, 1.5°C	SBTi Website

*Scope 3: Not all scope 3 emissions categories may be covered within the target. For details on which categories may be included, see data source.

Procurement of Goods



Grant Funding

- Green Municipal Fund
  - $950 million for sustainable infrastructure

- Investing in Canada Infrastructure Program (ICIP)
  - $134 million towards Clean BC Communities Fund (CCF)



Environmental Bylaws



Property Assessed Clean Energy Programs

- Clean Energy Improvement Program (CEIP)
- Alberta municipalities must pass a bylaw to use CEIP
- Energy Efficiency Alberta as program administrator
- City loan paid off through property taxes for energy upgrades



Waste Reduction Bylaws

- Mandatory recycling and composting
- Plastic bag bans
- Policy initiatives
  - Vancouver – Zero Waste 2040



Questions?

