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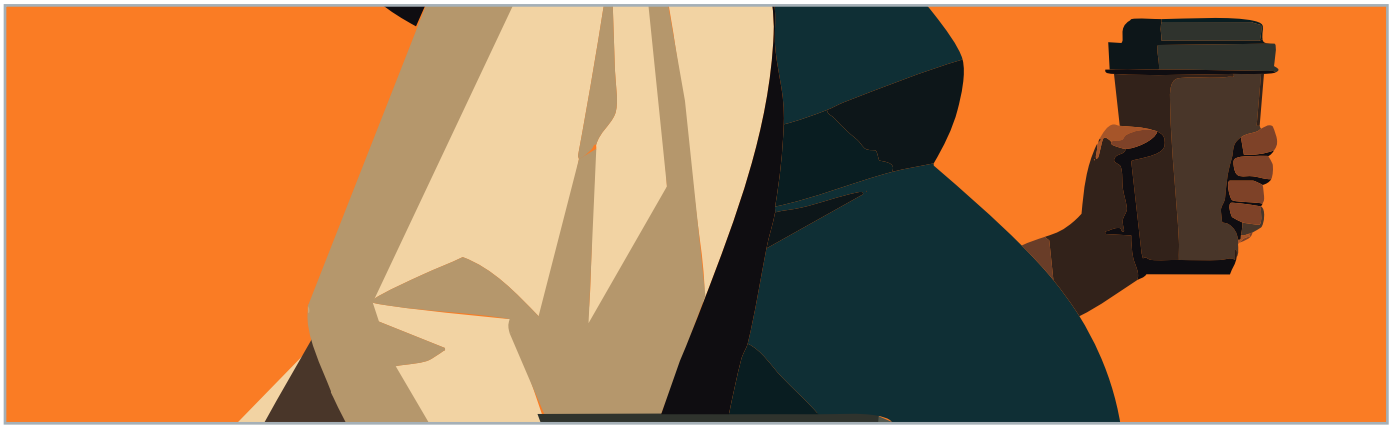
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LETTER FROM THE PRESIDENT

STRONGER TOGETHER:

The Power of Colleagues Supporting Each Other

In the hustle of professional life, deadlines and deliverables often take center stage. But behind every project completed and every milestone reached is a network of people – colleagues – who, when they support one another, become one of the most valuable assets a workplace can offer.

Support among professional colleagues goes far beyond the occasional helping hand or friendly chat over coffee. It's the quiet encouragement that turns self-doubt into confidence. It's the willingness to listen, to step in when someone is overwhelmed, and to celebrate others' successes as if they were your own. In a world that often glorifies individual achievement, we forget that collaboration and mutual support are what drive long-term success.

Consider the moments when a colleague offers to review your work before a big presentation, or when a team member notices you're off your game and checks in. These aren't just acts of kindness – they're acts of leadership. They create an environment where people feel safe, valued, and motivated to do their best work.

Support also fosters resilience. When challenges arise – and they always do – knowing that your team has your back can make all the difference. A culture of support helps transform failure into a learning opportunity rather than a source of shame. It builds trust, and trust builds teams that don't just work together, but grow together.

There's no one way to support a colleague. It might mean advocating for them in meetings, sharing credit, mentoring, or even just being a sounding board. What matters is the intention: choosing to lift others as we climb.

Let's normalize asking for help and offering it freely. Let's lead with empathy and show that professionalism and compassion are not mutually exclusive. Because at the end of the day, success tastes better when it's shared.

In supporting each other, we don't just become better professionals – we become better people.

IMLA fosters numerous opportunities for local government attorneys to participate as part of a mutually supportive professional community. One of those involves attendance at the highly anticipated annual conference each year. This year's conference will be held from October 17-21, 2025 in New Orleans, LA. Attendance at IMLA's annual conference provides the opportunity to learn from colleagues from throughout North America. It will also be a fabulous setting for folks to socialize with colleagues and friends. I hope to see you there!

On a personal note, I'll be passing the gavel at this year's conference to our incoming IMLA President, Susana Alcala Wood. It has been an incredible honor to serve as IMLA's President during the past year. I owe an immense debt of gratitude to so many people I've met through IMLA – colleagues who have helped me do a better job in my role as a city attorney and folks who have become true friends.

My fellow members of the IMLA board of directors include a collection of individuals who are immensely accomplished attorneys and committed public servants. More importantly, I have found them to be a group of kind and thoughtful people. I thank all of them for their contributions to, and support of, IMLA. Of course, the true stars of IMLA are the dedicated and talented staff. Amanda Karras, Jenny Ruhe, Caroline Storer, Erich Eiselt, Deanna Shahnami, Trina Shropshire-Paschal, Avery Morris, Carolina Moore, Christine Dodd, Sean Cooley, and Chuck Thompson form an amazing team who, collectively, help make IMLA the successful organization that it is.

To all IMLA Members, I hope that you have had an enjoyable summer and I look forward to seeing many of you at this year's Annual Conference in New Orleans!

JEFFREY DANA
City Solicitor,
Providence,
Rhode Island



AMANDA KARRAS

IMLA Executive Director, Rockville, Maryland

LETTER FROM THE EXECUTIVE EDITOR

FINDING BALANCE:

OPPORTUNITIES AND CHALLENGES

This past month, our eyes turned to the District of Columbia as the federal government sought to reduce crime by assuming control of the D.C.'s police force, placing federal law enforcement in the city, and deploying the National Guard. Although Congress enacted the District of Columbia Home Rule Act in 1973, which allows D.C. to maintain a form of local self-governance, D.C. has a special relationship with the federal government, which allows the President more latitude than he would enjoy in other jurisdictions.

The Act allows the President to assume emergency control of the police if the President determines "that special conditions of an emergency nature exist which require the use of the Metropolitan Police force for Federal purposes." Such a presidential takeover is limited to 30 days or until the end of the emergency, whichever comes first. D.C. sued the President to enjoin the takeover of the police, arguing the President and Attorney General Bondi have exceeded their authority under the Home Rule Act and have acted contrary to law in violation of the APA. That action is still pending as of this writing. And while the Home Rule Act creates unique challenges for D.C., the President also mentioned other cities when he made the announcement about the police takeover in Washington, including Chicago, Baltimore, Oakland, Los Angeles, and New York City. As of this writing, the President announced he plans to deploy the National Guard to Chicago, though it remains to be seen whether the President will employ similar actions in other communities.

The deployment of National Guard troops and federal law enforcement officers to help reduce crime in a city is a different legal matter than the takeover of D.C.'s police force. One of the efforts underway in Washington, with the influx of federal troops and law enforcement, is clearing homeless encampments. According to some reports, more than 48 encampments have been cleared in just a few weeks. D.C.'s Mayor has emphasized that there is indoor shelter space available for individuals experiencing homelessness, though it is unclear if people have moved indoors or moved to a new part of the city to create new encampments.

The decision to bring in federal troops and the National Guard to respond to public safety challenges—including encampments of unhoused individuals—raises fundamental questions about governance: Who should bear responsibility for public safety, and what happens when that responsibility shifts away from the local level?

At IMLA, we have long emphasized the importance of local autonomy. Local governments are closest to the people, best positioned to understand their communities' unique challenges. They are often tasked with balancing urgent public safety concerns with the rights of their residents. The recent developments in D.C. highlight what our members across the country already know: public safety is about much more than policing. It increasingly involves addressing homelessness, addiction, mental health, and social services—all of which demand nuanced, community-specific solutions.

Federal involvement in homelessness policy is not new, but it has intensified in recent months. For example, in addition to the actions taking place in D.C., President Trump issued an Executive Order on July 24, 2025, entitled "Ending Crime and Disorder on America's Streets," (the "Homelessness EO"). The Homelessness EO seeks to move away from a housing first model to one focused on civil commitment of individuals with mental illness or those who pose a risk to themselves or the public. It also directs several agencies to set up discretionary grants for States and local governments that have policies and practices in place, including those enforcing prohibitions against urban camping and open illegal drug use.

These actions create both opportunities and challenges for local governments. Federal resources can help communities, but they come with strings attached, compliance requirements, and potential litigation risks. Local governments must carefully navigate the balance between accepting federal assistance and retaining the flexibility needed to address their community's needs.

That balance was at the heart of *Grants Pass v. Johnson*, the Supreme Court homeless encampment case decided last June. IMLA was proud to advocate for

local governments in that case, filing an amicus brief that underscored the need for localities to retain authority over how best to address homelessness in their jurisdictions, including the ability to clear encampments. The Court's decision reaffirmed that these difficult policy choices belong to local communities—not to the federal judiciary. While no ruling eliminates the challenges communities face, *Grants Pass* made clear that local governments have the constitutional space to craft solutions. As Justice Gorsuch, who authored the opinion, explained:

> Instead of encouraging "productive dialogue" and "experimentation" through our democratic institutions, courts have frozen in place their own "formulas" by "fiat." Id., at 534, 537. Issued by federal courts removed from realities on the ground, those rules have produced confusion. And they have interfered with "essential considerations of federalism," taking from the people and their elected leaders difficult questions traditionally "thought to be the[ir] province."

Whether or not clearing encampments and requiring civil commitment of homeless individuals is good policy remains to be seen, and each community may seek to address homelessness in different and nuanced ways. The Homeless EO is incentivizing those policies through discretionary grants, which localities may choose to apply for. Incentives are one thing, but taking the homeless policy decisions away from D.C.'s elected officials and forcing the clearing of encampments within the District would seem to offer some of the same problems that we saw in *Grants Pass* when the federal judiciary had prevented localities from clearing encampments in the Ninth Circuit. IMLA maintains that local elected leaders are in the best position to come up with solutions to the difficult problem of homelessness in their communities.

These developments remind us why IMLA exists: to equip local government lawyers with the tools they need to navigate evolving legal landscapes, assert local authority, and serve their communities effectively. Through our conferences, webinars, working groups, and other resources, we provide education on public safety, homelessness, federal grant compliance, and intergovernmental relations. And through our advocacy, we continue to speak collectively for local governments when the stakes are highest.

As we look ahead to our upcoming Conference in New Orleans, these themes will be front and center. From sessions on homelessness to panels on public safety, immigration, federal funding, and constitutional law, we will explore the most pressing challenges facing our members. I encourage you to join us, connect with colleagues, and share your own experiences.

Local government lawyers stand on the frontlines of some of the most complex and consequential issues of our time. Whether in Washington, D.C., Grants Pass, Oregon, or your own community, the questions of public safety, homelessness, and local autonomy are deeply intertwined. At IMLA, we are here to support you as you address them.

Warm regards,
Amanda Karras
Executive Director, IMLA



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INSIDE CANADA

Contributed by partners
Margo Hoffner, Cathryn Duxbury, and Marta Caufield
with MCM Consulting and Legal Services



Procedural Fairness Owed May Vary Depending Whether Decision or Recommendation Made.

Halifax (Regional Municipality) v. Dalhousie University
2025 NSCA 33
https://canlii.ca/t/kc690

Dalhousie University ("Dalhousie") purchased a residential lot in Halifax containing a house built in 1897 ("property") which was not subject to any heritage designation at the time of purchase. Dalhousie applied to Halifax (Regional Municipality) ("HRM") for a demolition permit. The Halifax University Neighborhood Association ("HUNA") learned of Dalhousie's intention to demolish the house, and made an application under the *Heritage Property Act*, R.S.N.S. 1989, c. 199 ("Act") to have the property registered as a heritage property. Upon receipt, HRM heritage staff reviewed the application and prepared a report to the Heritage Advisory Committee ("HAC") to assist in its evaluation. A meeting of the HAC was expedited over concerns by HUNA that the house would be demolished before the HAC would otherwise meet. The HAC recommended registration. HRM Council ("Council") acted on the recommendation and registered the property as a municipal heritage property. Dalhousie sought judicial

review of Council's decision for several reasons, including that it was denied procedural fairness at both the HAC and Council level. The reviewing judge agreed with Dalhousie, quashed Council's decision, and ordered the property be removed from the municipal registry of heritage properties. HRM appealed.

HELD: Appeal allowed, heritage designation restored.

DISCUSSION: Considering the factors set out by the Supreme Court of Canada in *Baker v. Canada (Minister of Citizenship & Immigration)*, 1999 SCC 699 ("the *Baker* factors") regarding the content of the duty of fairness owed by a public body, at the Council hearing Dalhousie was owed a level of procedural fairness on the high end of the spectrum. Council did not provide reasons for its decision and the parties agreed that they were not required to, given the format of its adjudication of the matter. Dalhousie had notice of the hearing, the hearing was conducted by Council during a regularly scheduled meeting, and the process accorded with their established practice. Council received evidence and submissions, debated the matter, and then voted. Dalhousie was entitled to a contextually fair procedure, not a perfect one. The Court held that there was no breach of procedural fairness before Council, that any irregularities were not material, and that the reviewing judge was incorrect to have concluded otherwise. Considering the *Baker* factors regarding the content of the duty of fairness owed at the HAC level, Dalhousie was owed a lower level of fairness. The HAC only makes a recommendation to Council regarding the registration of a municipal heritage property. The decision whether to register a property is made by Council and any shortcomings at the HAC level were rectified during the hearing *de novo* before Council where Dalhousie had meaningful participatory rights it exercised. The Legislature clearly did not intend for there to be full participatory rights by the property owner at the committee level as it expressly provided a full right of participation to the property owner at the hearing before Council.

Right to Information Authorized by Statute Cannot be Used to Redress Other Wrongs

Craft v. Town of Grand Bay-Westfield
2025 NBKB 021
https://canlii.ca/t/k95sb

This case involved a referral under the *Right to Information and Protection of Privacy Act,* S.N.B. 2009, c. R-10.6 ("Act") arising out of a request by Craft to the Town of Grand Bay-Westfield for access to information pertaining to any bylaw infractions at her home, correspondence between bylaw officers and a number of individuals, and all related information, including the name of the complainant. The Town identified the relevant documents and reviewed them to determine which ones or parts thereof should be disclosed, and which should be withheld or redacted under the Act. Some information in the documents was redacted pursuant to s. 16 of the Act (not relevant), s. 18(1) (provided in confidence), ss. 21(1)(2) (unreasonable invasion of a third party's privacy), s. 22.1 (solicitor-client privilege), and s. 26(1)(a) (could reveal advice, opinions, proposals or recommendations developed by or for the public body). Craft filed a referral to the Court of King's Bench objecting to the reasons given for withholding and redacting documents. She alleged that she had been harassed by the complainant since moving into her home five years prior, and that the bylaw complaints made lead to her receiving an eviction notice from Habitat for Humanity, who financed her purchase of the property. She argued that the information redacted was required to stop the constant harassment and for the eviction hearing.

HELD: Some valid issues were raised by Ms. Craft.

DISCUSSION: While the Act permits disclosure of third party personal information if the third party consents, failure of the third party to object to disclosure does not equate to consent. The Court held that while Ms. Craft raised some valid issues which would be considered as the Court reviewed the redactions, some of her other submissions were rejected. The Court found that the Act is designed to protect personal privacy, and not to redress other wrongs. An application such as this, which is authorized by statute, must be kept within the boundaries of the enabling statute and expanding it beyond those boundaries would be an error in law. If the information redacted is critical to the eviction application, Craft could pursue the documents in that proceeding.

The Power to Purchase Land Comes with the Corresponding Power to Divest it.

Davies v. Bowen Island Municipality
2025 BCSC 1381
https://canlii.ca/t/kd9fs

In 1969, Munro Davies transferred land to the Bowen Island Fire Protection District ("BIFPD") for the construction of a fire hall. The BIFPD was incorporated under the *Water Act*, R.S.B.C. 1960, c. 405, and Order in Council 2940-68, with the power to purchase land. Mr. Davies entered into several agreements with the BIFPD in 1969, which referred

"Intermunicipal services" should be interpreted to include services for which a municipality is responsible even though a third party is involved in the delivery of the service to the residents

to the transfer alternatively as "selling" and "donating". On the same date that the transfer deed was signed, sealed, and one dollar in consideration exchanged, an agreement was also created between Mr. Davies and the trustees of the BIFPD stipulating that if the fire hall was not built on the land within a year, the land would be reconveyed to him. The fire hall was built within the year and operated by BIFPD. Bowen Island Municipality ("BIM") was incorporated in 1999 by letters patent under what was then referred to as the *Municipal Act*. The municipal letters patent provided for the transfer of the assets and liabilities of the BIFPD to BIM. The fire hall continued to be operated on the land until the Fall of 2022, when the fire hall was relocated. BIM intended to sell the property to purchase a fire truck. Until then, the land was being leased out. Mr. Davies' estate ("Estate") commenced an action against BIM, arguing that the land reverted back to the Estate when the land was no longer used for a fire hall.

HELD: Action dismissed.

DISCUSSION: The Court did not accept that the legislation and letters patent could be read as providing the BIFPD with the power to purchase land without the corresponding power to divest land. Such interpretation was inconsistent with a fair, large, and liberal reading of the statutes and letters patent expressly required by the BIFPD letters patent. The objective of the BIFPD was to provide fire protection. The Court agreed with the Estate that this does not include entering into the commercial leasing business to finance fire protection, but this was not what was being done here. The stated intention was to sell the property to purchase a fire truck, and the land was being leased only in the meantime. In the Court's view, the BIFPD acquired a fee-simple interest in land but simply lacked the power to use the land for purposes outside of the object of their letters patent. When the municipality acquired the land from the BIFPD, it received a fee-simple interest in the land subject to any relevant legislative restrictions imposed on the municipality.

Allegation of Bias Cannot be Raised for the First Time on Judicial Review.

Robinson v. Pickering (City) 2025 ONSC 3233
https://canlii.ca/t/kccb1

Robinson was an elected member of the city council of the City of Pickering ("City"). She sought judicial review of two decisions of council in which they unanimously voted to suspend her salary for 30 days in the first instance, and for 60 days in the second. Both suspensions were based on recommendations provided by the City's integrity commissioner ("Commissioner") who determined, following investigation of various complaints, that Robinson had violated council's code of conduct. Robinson was found to have made social media posts that publicly named residents who were in opposition to her personal minor variance application to the City and promoted motions and conduct that was considered homophobic and transphobic at public event. One of Robinson's arguments was that the Commissioner was biased, and because they were exercising an adjudicative function, there is a lower threshold for establishing bias.

HELD: Application dismissed.

DISCUSSION: The Commissioner is responsible for performing in an independent manner various functions assigned by the municipality, including conducting an inquiry in respect of a request or complaint by a member of council or the public as to whether any member of council has contravened the City's Code of Conduct, and then reporting to City council. The Commissioner's role in this case was to investigative issues and provide opinions to City council, and not to adjudicate or give binding decisions. City council had the discretion to consider whether to accept or reject the Commissioner's recommendations, and whether to impose sanctions on Robinson. Council members received the Commissioner's two reports separately at two different meetings, had an opportunity to ask questions of the Commissioner, and

debated on motions to impose the recommended sanctions. The Court found that there was no basis to conclude that the Commissioner was biased, and in any event, an allegation of bias must be raised before the person who is alleged to be biased and cannot be raised for the first time on judicial review as was done in relation to the Commissioner's first report.

Defining "Intermunicipal Services"

Woodlands (County) v. Whitecourt (Town) 2024 ABKB 388
https://canlii.ca/t/k5gm4

Woodlands ("County") and Whitecourt ("Town") had common boundaries. They were unable to agree to a required intermunicipal collaboration framework ("ICF") and proceeded to arbitration pursuant to the *Municipal Government Act*, R.S.A. 2000, c. M-26, where a framework was established. The County brought an application for judicial review on the basis that the arbitrator erred in finding certain matters to be "intermunicipal services", and in directions made involving costs related to services provided by third parties such as library, police, rail, and recreation services.

HELD: Application dismissed, with one minor exception

DISCUSSION: The arbitrator was empowered to bind the parties with respect to the responsibility for providing, delivering, and funding intermunicipal services. The Court held that the arbitrator properly found that intermunicipal services can be planned, delivered, and funded; they must benefit residents of more than one municipality party to the framework; they may be provided in only part of a party municipality; they must be the responsibility of a municipality, and they must be capable of being described as to how they will be delivered and funded. Intermunicipal services are things the public needs or public activities or commodities delivered by or on behalf of one municipality that benefits residents of one or more other municipalities. As a matter of plain or ordinary meaning, "intermunicipal" denotes service between or among municipalities, carried on between municipalities, occurring between municipalities, or shared by municipalities. The Court concluded that arbitrator's definition of "intermunicipal services" was not only reasonable but correct. "Intermunicipal services" should be interpreted to include services for which a municipality is responsible even though a third party is involved in the delivery of the service to the residents of the municipalities party to the ICF, so long as the service is not one that is "uniquely" and autonomously provided by a third party. The arbitrator's direction that "library services" be included in the ICF conflicted with subsequent caselaw and was quashed. However, the arbitrator's direction that the services of providing and maintaining the library building in the ICF as an intermunicipal service was appropriate.

Adjacent Does Not Mean Near

9165-0937 ***Quebec inc. v. City of Sherbrooke*** 2025 QCCS 171
https://canlii.ca/t/k99hv

The plaintiffs, 9165-0937 Quebec inc. (the "owners"), owned a building in the City of Sherbrooke, Quebec, located in an industrial park owned by the City. There was no possible access to the owners' building from the motorway which it bordered and the only way to envision that it would not be landlocked would be to access it from Hector-Brien street.

Although discissions and negotiations took place between the owners and the City since 2012, when the owners purchased the building, related to the development of the owners' property, including the possibility of the City extending Hector-Brien street onto the owners' building and exchanging land with the plaintiffs, the plaintiff owners had always been informed by the defendant City that their land could not yet be developed since it was, among other things, not adjacent to a public street. According to the City, Hector-Brien street ended at the end of the registered lot which bore the number 4 599 668. The plaintiffs asserted that the driveable surface of Hector-Brien street ended less than 2 metres from the lot line of their building and that the underground municipal services, which were installed in the street right-of-way, ended less than 4 metres from this same lot line.

The owners sought a site preparation and development permit from the City. The City the refused the request because the parcel of land was not adjacent to a public street. The owners brought a motion for a declaration that the parcel of land was adjacent to a public street. The plaintiffs argued that the portion of Hector-Brien street that is adjacent to their building must be considered a public street since it has been developed and passable since at least 2013.

The City argued that the plaintiffs' appeal was theoretical since whatever conclusion the court might reach regarding whether or not the building is adjacent to a public street, this would not have the effect of allowing them to obtain a building permit for that building. Even without taking the adjacency of the land to a public street into account, it would not be possible for the plaintiffs to obtain such a permit because of Interim Control Bylaw 1274, which was aimed at the protection of natural environments of conservation interest.

Furthermore, the City stated that even if the concept of adjacency or the term "adjacent" was not defined, the usual definitions of these terms refer

Court found that the City was entitled to cancel the permit and prohibit the festival from continuing on the basis of a good faith conclusion that continuing the event would pose a material risk to public safety

to something contiguous, or touching, or adjoining. The City added that on several occasions, the courts have ruled that the concept of adjacency implies access, direct frontage on a public street and have rejected the concept of proximity. The City stated that when land is separated from a public street by a strip of land, even if this strip belongs to the municipality, this has the consequence that it is not adjacent to this street.

HELD: Motion dismissed.

DISCUSSION: The Superior Court of Quebec found that the bylaw, called Regulation 1203, clearly required that the parcel of land be adjacent to a public street. The Court acknowledged that this requirement has been declared valid by the courts on numerous occasions, including the Court of Appeal, in order to give municipalities the possibility of controlling the sequence of development in their territory and of making municipal services profitable.

The Court found that the term "Public street", as defined in Regulation 1200, means a street that belongs to the City of Sherbrooke or to a government. Any thoroughfare that was not the subject of a specific cadastral description was not a public street. The evidence showed that the public roadway extended into the parcel of land. However, the street inside of the parcel of land was not described in a cadastral plan. This meant that the only conclusion that could be found was that the street was outside of the cadastral limit of the parcel of land. Therefore, the Court declared that the owners' parcel of land was not adjacent to the public street.

Purpose of Court of Appeal is Not to Relitigate

Chitaroni Estate v. Coleman (Township)
2025 ONCA 424
https://canlii.ca/t/kclfc

This was an appeal of three decisions arising from a single summary judgment motion related to a disputed portion of road. The underlying issue related to a claim by the appellants for a declaration that a disputed portion of a specific road ("Road A") connecting to a developed subdivision was either a public road, a common road, or an access road. The declaration was intended to enable a long-pending approval of a plan of subdivision. The appellants also claimed damages against the Town of Coleman for alleged public misfeasance/malfeasance in not taking certain steps to assume the disputed portion of Road A earlier.

The Township brought a motion for summary judgment which the motion judge heard in three parts, with each part resulting in a final determination. In Part 1, dated January 7, 2022, the motion judge determined that summary judgment was the appropriate process, addressed the use of partial summary judgment and dismissed the appellants' claim for a declaration that the disputed portion of Road A is a public road. Further submissions were directed to be filed with respect to the issue of whether the damages claim required a trial. In Part 2, dated April 20, 2023, the motion judge dismissed the appellants' claim that the disputed portion of Road A was a common road, while permitting the access road and misfeasance claims to proceed to trial. He also sought particulars of certain allegations made by the appellants to support the claim for damages.

In Part 3, dated October 25, 2023, the motion judge made rulings with respect to specific allegations related to the access road issue and the misfeasance claim, both of which had already been ordered to proceed to trial. Some of the rulings specified that the appellants were precluded from advancing aspects of their misfeasance claim at trial. On April 17, 2024, costs were ordered in the amount of $33,000 payable to the Township.

The appeal was commenced by the appellants after the Part 3 decision was rendered.

HELD: Appeal dismissed.

DISCUSSION: The appellants argued that the motion judge erred in determining that this matter was appropriate for partial summary judgment, and in

concluding that the disputed portion of Road A is neither a public road nor a common road. The appellants asked the Court of Appeal to set aside the motion judge's order and to remit all issues in the proceeding to trial.

The appellants argued that they were entitled to a declaration that the disputed portion of Road A was a public road based on the common law doctrine of dedication and acceptance, which applied until 2003, when the *Municipal Act, 2001* (Ontario) came into effect. The Court of Appeal found that the motion judge recognized that the parties advanced conflicting positions concerning the required elements of the acceptance branch of the test. Furthermore, however the test was formulated, the appellants claim was found to have failed because the appellants could not show acceptance by the Township or by the public, nor could it show dedication.

The Court of Appeal found that the appellants effectively sought to relitigate this issue on appeal, which is not the function of the Court of Appeal. The Court of Appeal confirmed that the motion judge correctly set out the law, considered the breadth of authorities and conflicting positions on the law that were advanced, made findings of fact fully available to him on evidence, and reasonably applied the law to those facts. The motion judge determined that the evidence did not show intention to dedicate, because the owner was unaware that he owned it, and this reflected neither error of law nor of fact.

Municipality May Revoke Special Events Permit

Eritrean Cultural Centre v. Toronto (City) 2025 ONSC 3672
https://canlii.ca/t/kctkw

The applicants ran an annual three-day community event called "Festival Eritrea" in Toronto since the year 2000. The City of Toronto granted the applicants a special use permit for their August 5-7, 2023 festival. The first day of the festival, on August 5, was interrupted by violent protests resulting in numerous injuries requiring multiple people to be treated at hospital, including one reported stabbing.

At 10:00 p.m. on August 5, 2023, the City revoked the special event permit on public safety grounds. The applicants immediately requested reconsideration, but the City did not respond. As a result, the balance of the 2023 festival was cancelled.
On September 1, 2023, the applicants brought an application for a judicial review seeking to quash City's revocation decision and for related relief.

HELD: Application dismissed as moot.

DISCUSSION: The Superior Court of Justice found that it was apparent that the application was moot on its face. The permit for the 2023 festival was revoked, the balance of the festival was cancelled, and these events cannot be undone by a decision of the Court. The applicants argued that declaratory relief was warranted in order to prevent recurrence in the future. However, the Court found that such an argument is not available. The events of 2023 did not preclude an application for a permit for the 2024 festival – that permit was granted and the festival took place without incident.

Furthermore, the Court found that the City was entitled to cancel the permit and prohibit the festival from continuing on the basis of a good faith conclusion that continuing the event would pose a material risk to public safety. The Court found that the impugned decision was reasonable in substance, given the apprehended risk to public safety.

Vacancy Tax Properly Issued by Municipality

Lin v. Vancouver (City) 2025 BCSC 976
https://canlii.ca/t/kcbq8

The City of Vancouver's *Vacancy Tax Bylaw* provides that a property is considered "vacant" if it has been



unoccupied for more than six months of the year. An "unoccupied" property is one that is not the occupier's principal residence. The City determined that a property owned by Lin is subject to a vacancy tax and disused a supplementary vacancy tax notice, but Lin declared that the property in issue was her principal residence for more than six months in 2018. Lin applied for judicial review to the British Columbia Supreme Court for the following remedies: an order that the supplementary vacancy tax notice be vacated and quashed on the basis that Lin was not liable for vacancy tax for 2018; an order quashing the decisions of the Vacancy Tax Review Officer ("review officer") and the Vacancy Tax Review Panel ("panel"); or an order that this matter be retuned to the panel for reconsideration and redetermination on the issue of whether the supplementary tax notice issued in this case was valid.

HELD: Petition dismissed.

DISCUSSION: The Court found that the onus was on the petitioning homeowner, Lin, to demonstrate that the review officer and panel's decisions were unreasonable and to establish that the property was "not unoccupied" at the relevant time. The panel accurately set out how tax was assessed and imposed under the bylaw wherein the notice that was issued for the given tax year always imposed tax for vacancy in the year that was earlier than the tax year. The Court found that the panel engaged in the kind of contextual and purposeful interpretation of the bylaw endorsed by Supreme Court authority. It was determined that 2019 was the applicable tax year for the 2018 vacancy period. The review officer cited several reasons to find that the homeowner principally lived at her husband's other residence in the City. The Court found that the panel's findings were consistent with the purpose of the legislation. It was determined that the supplementary vacancy tax notice was not statute-barred and the decision of the panel regarding liability for tax was reasonable.

Enforcement of Municipality's Zoning Bylaw

The Corporation of the District of Saanich v. Kinney 2025 BCSC 1132
https://canlii.ca/t/kcs37

In this petition proceeding, the District of Saanich in British Columbia sought declarations, injunctions, and various other orders enforcing bylaws they alleged were violated by the respondent, Kinney. All of the relief sought involved a 17-acre rural lot, owned and occupied by Kinney, located on Old East Road in Saanich (the "property").
The property was located within Agricultural Land Reserve (ALR) and was designated by the municipality's zoning bylaw as A-1 Rural. There were 11 structures on the property, including a large house, a covered riding ring, a small building with a washer, dryer, toilet, and shower, several small buildings used for storage, a metal workshop, a woodworking shop, and two garages. The municipality claimed

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that the property was being used in five prohibited ways. In particular, the municipality claimed that Kinney was allowing unpermitted and unlicensed businesses to operate on the property; was allowing use of trailers, motor vehicles, or recreational vehicles for lodging, sleeping, accommodation or residences; was permitting secondary suites on the property; was permitting occupancy of a building, or parts of a building, on the property, without a subsisting occupancy permit; and had constructed or altered use or occupancy of buildings or structures on the property without valid and subsisting permits, and not in conformity with the British Columbia Building Code.

HELD: Petition granted in part.

DISCUSSION: Section 274(1) of the *Community Charter* provides that a municipality may, by a proceeding brought in Supreme Court, enforce, prevent, or restrain the contravention of a bylaw. Once a municipality establishes a clear breach of a bylaw, the Court should grant the injunction, barring exceptional circumstances. Five examples of exceptional circumstances are: where there is a right that pre-existed the enactment contravened; where there is a clear and unequivocal expression that the unlawful conduct will not continue; where there is such uncertainty that it can be said that the breach is not being flouted; where the events do not give rise to the mischief the enactment was intended to preclude; or where the respondent has ceased the majority of its offending activities and carried on, only in a limited way, with activity that is not harmful in the way that the bylaw was intended to prevent.

To the extent that the respondent may suffer hardship from the imposition and enforcement of an injunction, that will not outweigh the public interest in having the law obeyed.
The Court found that the property was being used for business purposes not related to farming, including parking of recreational vehicles, cars, and trucks parked inside the covered riding ring, and operation of a metal workshop. Kinney was using recreational vehicles on the property for lodging or accommodation in contravention of the Zoning Bylaw. The Court also found that Kinney was providing more than one secondary suite on the property in contravention of the Zoning Bylaw. Kinney was only permitted to have one secondary suite on the Property. However, the Court also found that the municipality failed to present evidence that the structures on the property were constructed without appropriate permits or were not in compliance with the Building Code.

A permanent injunction was granted prohibiting Kinney from having more than one secondary suite, using the property for business purposes not related to farming, and permitting use of recreational vehicles on the property for lodging or accommodation. ML





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