LIDSTONE & COMPANY
Law Letter

In this issue

Bylaw Enforcement Principles Affirmed by Court

A recent B.C court decision confirms some important bylaw enforcement principles in favour of local governments. In *District of West Vancouver v. Morshedian* 2015 BCPC 368, the municipality brought charges under several of its bylaws, including the soil deposit bylaw, creeks bylaw and watercourse protection bylaw. The defendants argued that convictions should not be entered on each charge established, because they punished the same wrongful act. However, the court agreed with the municipality that redundant charges had not been brought, and that each bylaw charged had separate elements that protected distinct aspects of the land, environment and activities at issue.

The court imposed bylaw fines totaling $100,000.00, and affirmed that the fines must be paid in addition to the District's costs of acting in default of compliance with a remedial action order.

As well, the court made a number of key findings respecting the conduct of municipal employees and property owners:

- municipal employees can only be expected to answer the questions asked of them with respect to bylaw and permitting requirements
- when seeking information from municipal employees, property owners have an obligation to disclose the full extent of the work or activity they are considering undertaking
- where a bylaw applies to property owners, the legal obligation applies to all owners of the property—it is not a defence to plead reliance on another property owner

The case arose from unpermitted soil deposits by dump truck that had occurred almost daily over several weeks on a steep slope in West Vancouver. The accumulated soil eventually slid down the embankment, contaminating creeks below. Due to the extent of the operation and the

damage caused, the municipality proceeded with a Remedial Action Requirement (which resulted in the City's agents carrying out the remedial action at the cost of the property owners) and also brought a prosecution under several of its bylaws and the *Offence Act*.

The bylaw offences, in place to protect property and environment, were prosecuted as public welfare offences. The court held that the municipality successfully established beyond a reasonable doubt that the wrongful acts had been committed.

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The property owners relied in part on the defences of due diligence and officially induced error, arguing that one of the owners had gone to the municipal hall, had asked whether they needed any permits, and were told they did not. The court rejected this defence on the basis that the owner had materially misrepresented the scope of the work he intended to do. The court found that the owner had asked only about some topsoil deposits and landscaping and at no time divulged the full extent of the nature and type of soil deposit he intended. The judge said:

> "[549] I find unreservedly that the reasonable West Vancouver homeowner would have told the whole truth to the District. How could such a reasonable person expect to get accurate help from the District when he or she failed to tell the District employee the whole truth? This is what reasonable people seeking advice do in life. One can think of countless examples, such as a patient consulting a doctor, seeking a diagnosis, but failing to give the doctor all of his or her symptoms, or an automobile owner taking his vehicle to a mechanic complaining of a rattle in the steering and being annoyed that some unconnected mechanical problem was not diagnosed."

The judge held that the municipal employee had no duty to advise the defendant on specifics that were not asked (para. 550). The judge further said:

> "[537]…How can a property owner in West Vancouver seriously assert he has been diligent in relation to his fulfilment of bylaw requirements when he continually misrepresents the scope of the work he intends to do or is doing to the very entity which, pursuant to bylaws, has lawfully imposed legal obligations and requirements on him and any other owner?"

The property at issue was one of several owned in the municipality by the owners, a husband and wife. Except for the primary residence, the other

Bylaw Enforcement Principles (continued from page 2)

properties (including the one at issue) were used for revenue generation. Both owners were charged, as the relevant bylaws were directed at owners. While one owner testified that she had relied upon the other, and had not been involved in the soil deposit operation, the court nevertheless entered convictions against both owners, stating:

> "[214] In my view, municipal bylaws, insofar as they relate to property and, for example, what can be done on property, as here, are always focused on at least the owners of properties who surely have a responsibility as such to know and take reasonable steps to know what is going on on them that might or might not impact others or their lands and buildings. It makes absolutely no sense whatsoever, in my view, for an owner to be able to avoid the effect of a public welfare bylaw by saying, "I left it all to my husband", as here. Both rights and obligations come with property ownership, in my view, in the District of West Vancouver.
>
> [215] As in the *Sault Ste. Marie* case, "permitting" as used in these bylaws should, in my view, be interpreted as meaning or including homeowners' or property owners' passive lack of interference in what was or is going on at the property or their failure to prevent an occurrence which he or she ought to have foreseen or known about."

Maegen Giltrow

City of Abbotsford Shuts Down Weeds Dispensary

As has been occurring in other jurisdictions in BC, a number of marihuana dispensaries have recently opened for business in Abbotsford. The first dispensary to do so was recently the subject of litigation.

On January 11, 2016 we appeared in BC Supreme Court in order to obtain a statutory injunction requiring the dispensary located at 2451 Clearbrook Road to cease operating, as it did not have either a business licence or exemption from the requirement to obtain one. The Petition was heard by Mr. Justice Walker. In oral reasons for judgment pronounced at the conclusion of the hearing, Justice Walker issued the injunction sought, pursuant to s. 274 of the *Community Charter*.

During oral reasons, Justice Walker made the following comments:

1. The definition of "business" in the City's bylaw applied to the dispensary, and the bylaw prohibits the operation of a business without a licence or exemption;
2. No such exemption has been obtained and none of the possible exemptions in the bylaw applied in the circumstance;
3. While an application for a business licence was submitted, it was rejected and the City refunded the fee. The dispensary could not and would not receive a licence because dispensaries are not lawful;
4. The Respondents did not dispute that a licence or exemption was required;
5. The City had made several demands and threatened to obtain an injunction. The deadlines for compliance had come and gone, yet the dispensary continued to operate;
6. The City was right to bring the application. The Court was satisfied that an injunction should be granted in this case, and that the City met the requirements to engage the jurisdiction and support of the Court.

The operator has appealed the decision.

Sara Dubinsky

Limited Partnerships and Their Use by Local Governments

Introduction

A local government may decide, through its elected council or board, to enter into a business relationship with a private partner or first nation to accomplish some worthy municipal objective. When a private partner or first nation is involved in a business relationship with a local government, the local government will need to consider what type of business structure it wishes to have with the private partner in order to best address its needs including ease of organization, management and control, liability protection and issues related to income taxation. This article considers circumstances when a limited partnership may present itself as the preferred form of business structure and also highlights the basic elements of the limited partnership.

A limited partnership is a special kind of partnership that is governed by Part 3 of the *Partnership Act* (BC). It consists of one or more persons or corporations who are general partners and one or more persons who are limited partners. General partners have unlimited liability while the liability of limited partners is limited to their investment in the limited partnership. In circumstances where a local government becomes party to a limited partnership, it does so in two capacities, as a limited partner and as an equal shareholder in a corporate entity established to act as the general partner. The general partner is governed by a shareholders' agreement between the local government and other shareholders while the partnership is governed by a partnership agreement between the general partner, the local government as limited partner and the other limited partners. The limited partnership is formed when the general partner(s) and limited partner(s) enter into the partnership agreement and a limited partnership certificate is filed with the registrar in accordance with s. 51 of the *Partnership Act*. The partnership agreement specifies their rights and obligations, including their respective voting rights, financial and other contributions and sharing of expenses and profits.

As an example, a BC municipality known as A enters into a limited partnership with a private entity known as B for the purpose of achieving some worthwhile municipal objective. As part of the limited partnership structure, a general partner, C, is incorporated and each of A and B own an equal number of shares in C with their rights and obligations set out in a shareholders' agreement between them. A, B and C also enter into a limited partnership agreement that sets out their respective rights and responsibilities and when the limited partnership is established, it is known as C Limited Partnership with C as general partner and A and B as limited partners. C carries on the active management and operation of the limited partnership and is the party that enters into any contracts on behalf of the limited partnership while A and B remain passive partners whose role is to provide property or capital to the limited partnership.

Limited partnerships are often used by local governments in circumstances where:

1. limited liability protection is needed;
2. most of the income from the business venture will be located outside the geographical boundaries of the local government and
3. there are potential income tax implications for the local government from the business venture.

For example, a local government may wish to enter into a business relationship with a neighboring first nation in order to jointly manage a community forest outside the boundaries of the local government. Alternatively, a local government may consider entering generation project with a private partner that is also located outside the boundaries of the local government. In

these or other comparable circumstances, a limited partnership will usually best address a local government's concerns with respect to limiting liability and ensuring there are no adverse income tax consequences from the business venture.

Limited Liability Protection

Limited liability protection is usually achieved by local governments through the use of local government corporations. A local government corporation is a corporation incorporated under the *Business Corporations Act* (BC) or the *Canada Business Corporations Act* in which all of the issued and outstanding shares of the corporation are owned by the local government. Local government corporations are governed by their articles of incorporation and bylaws and by the *Business Corporations Act* under which they are incorporated. Local government corporations are also subject to regulation by s. 185 of the *Community Charter*. In particular, a local government may only incorporate a corporation or acquire shares in a corporation with the approval of the inspector. Once approval is granted and the local government corporation is incorporated, a local government is able to use its control of the local government to appoint directors and carry on business while limiting its liability to its investment in the corporation. Given these advantages of limited liability protection, local government corporations are frequently used by local governments for a wide variety of programs, projects and ventures in which limitation of liability is a priority.

A limited partnership also provides the advantages of limited liability protection by making the general partner the partner that has unlimited liability for the debts and obligations of the partnership while limiting the liability of the limited partners to their respective investments of money and other property in the limited partnership. Under s. 56 of the *Partnership Act* a general partner is an active partner that is able to carry on the business of the limited partnership and contract with third parties. A general partner "has all the rights and powers and is subject to all the restrictions and liabilities of a partner" except those acts proscribed by s. 56(a)-(e). In contrast, limited partners are passive partners and their role in the limited partnership is to "contribute money and other property to the limited partnership, but not services." In return for their passive contribution of monies and other property, they are not liable for the obligations of the limited partnership except in respect of the amount of property they contribute or agree to contribute to the capital of the limited partnership. To preserve its limited liability protection, a local government must not take an active role in the operation and affairs of the limited partnership; however, it will take an indirect role in the operation and management of the limited partnership through its ownership of shares in the general partner and through the directors it appoints to the board of the general partner.

Income tax considerations

Section 149(1)(c) of the *Income Tax Act* (Canada) ("**ITA**") provides that a municipality in Canada, or a municipal or public body performing a function of government in Canada is exempt from income taxation. Similarly, corporations owned and controlled by local governments, including local government corporations, are also exempt from income taxation provided they satisfy two tests consisting of a capital test and an income test. Under section 149(1)(d.5) of the ITA, at least 90% of the capital of the business entity must be owned by the public body to maintain tax exempt status. Likewise, subject to certain exceptions, the entity must earn no more than 10% of its income from a source outside its geographical boundaries to maintain tax exempt status. It is important to note that the income test does not apply to certain provincially regulated activities, including

the production and distribution of electrical energy or natural gas.

In consequence of the applicable ITA rules, a local government corporation will not provide a suitable business structure for income tax purposes when: 1) there is a reasonable prospect that the venture will earn income; and 2) more than 10% of the income from the venture will be earned outside the geographic boundaries of the local government. In those circumstances, a limited partnership can take advantage of the income tax exemption under s. 149(1)(c) of the *Income Tax Act* by virtue of the way that income is accounted for in the limited partnership. In limited partnerships, most of the income generated by the limited partnership flows through the general partner to the limited partners who are subject to taxation in their individual capacities and not as part of the limited partnership. A local government that is a limited partner can therefore take advantage of the income tax exemption available to local governments under s. 149(1)(c) of the ITA. At the same time, the local government is provided with limited liability protection as it is the general partner that assumes full liability for the obligations of the limited partnership.

In summary, the limited partnership structure combines elements of both partnerships and corporations. They provide limited liability protection and potential income tax exemptions in circumstance where limited liability protection is desired, income is expected to be earned from a venture and most of the income is earned outside the geographic boundaries of the local government. In these circumstances, limited partnerships provide a useful alternative business structure for local governments to consider in entering into business relationships with first nations and private partners.

Lindsay Parcells

Duty to Create Records Responsive to FOI Requests

One of the stated purposes in section 2 of the *Freedom of Information and Protection of Privacy Act* ("FIPPA") is to make public bodies more accountable to the public by giving the public a right of access to records. In facilitating access to records that are not protected from disclosure, public bodies are required by s. 6(1) to "make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely". In some circumstances, this broad right of access even imposes a duty on public bodies to create records. Section 6(2) of FIPPA provides that a public body must create a record for an applicant if:

(a) the record can be created from a machine readable record in the custody or under the control of the public body using its normal computer hardware and software and technical expertise, and

(b) creating the record would not unreasonably interfere with the operations of the public body.

With respect to s. 6(2)(a), the cases confirm that there is no obligation to manually create records if they do not exist or cannot be created in a "machine readable" format. For example, in Order No. 211-1998 (*Re: City of Vancouver),* the applicant sought records pertaining to his labour grievance, including a copy of the terms of the settlement offer made to his Union. The City advised that there was no written record of an offer that had been made, but acknowledged that there may have been an oral offer. The adjudicator agreed with the City that since there was no written record of an offer being made, there was no requirement to create such a record under s. 6(2).

In Order F10-16 (*Ministry of Finance*), two Vancouver Sun journalists had requested, in standard electronic database format, the name, title, department, salary and expenses for all B.C. government staff who had earned more than $75,000 in the previous fiscal year. The Ministry advised that it could not create a single record, electronic or otherwise, that encompassed the five requested fields. It noted that it had two sets of records, one of which contained employee names and salaries, and the other which contained names and expenses. The Ministry advised that it could not marry those record sets because there was no common employee identifier for those two databases. The Ministry indicated that extensive manual processing was the only way to create records and that s. 6(2)(a) did not create such an obligation. The adjudicator agreed that the City could not create the single record requested by the applicant using its normal computer hardware, software or technical expertise. Further, the adjudicator noted that without an employee identifier common to both databases, only considerable manual processing could link the salaries and the expenses to create the requested record. The adjudicator agreed with the Ministry's submission that s. 6(2)(a) does not impose this obligation on the part of a public body.

Turning to s. 6(2)(b), the question of what constitutes an unreasonable interference with the operations of a public body depends on an objective assessment of the facts. In *Crocker v. British Columbia (Information and Privacy Commissioner)* (1998), 155 D.L.R. (4th) 220 (BCSC), the judge stated that what constitutes an unreasonable interference "will vary depending on the size and nature of the operation". The judge also stated that a public body "should not be able to defeat the public access objectives of the Act by providing insufficient resources to its freedom of information officers". In Order No. 03-19, *British Columbia (Ministry of Health Services*), the adjudicator added that a relevant factor "will be the burden that creating the record will place on a public body's information systems resources measured in relation to its total resources of that nature. The size of the task, and its complexity, will be relevant to this assessment" (at para. 21).

In Order No. 03-19, the applicant was a reporter with the Province newspaper. She had made an access request to the Ministry of Health for records of prescription patterns for specified drugs over a 12-month period. The Ministry advised that the requested records did not exist and that the creation of the records would require the use of a significant amount of contractor services, which would unreasonably interfere with Ministry operations. For example, the Ministry estimated it would cost an additional 48 hours of programmer time (approximately $5,280) to process the request which would be money the Ministry could not spend on its other responsibilities and which would delay other Ministry work. The Commissioner concluded that, on the evidence, the Ministry already devoted some 900 or 1000 hours of programmer time. The amount of time and effort to process the applicant's request did not "approach the degree or nature of effort that could be said, in light of the Ministry's (overall or related) operations, to unnecessarily interfere with Ministry operations" (at para. 28). The Commissioner was similarly not persuaded by the Ministry's arguments as to the effect that responding to the request might have on its other tasks or projects. Therefore, the Ministry was obliged to create the records.

Although the obligations under s. 6(2) can be seen as onerous in certain circumstances (particularly for smaller local governments), there are some options for the designated head under FIPPA:

- Consider whether you are entitled to extend the time for responding to a request under s. 10(1). One of the factors that can trigger an extension is if a large number of records are requested or must

be searched and meeting the time limit would unreasonably interfere with the operations of the public body;

- Remember that you are entitled to charge fees for locating, retrieving and producing records (and other aspects of preparing records, in accordance with s. 75). In some cases, applicants may narrow the scope of their request after receiving a fee estimate (such as by narrowing the time frame within which they are seeking certain documents, for example); and

- If creating a record would require extensive manual processing and might also unreasonably interfere with your operations, consider whether you might instead be able to provide 'raw data' to the applicant, from which he or she can create the records in question. Adjudicators have made such rulings in some cases.

Looking forward, it is possible that the requirements around record creation will change. On November 18, 2015, the Privacy Commissioner issued a special report which made 20 recommendations for legislative changes to FIPPA.

One of those recommendations was to impose clear and positive duties on all public bodies to create records. Specifically, the Commissioner recommended that public bodies be required to create records of decisions by public bodies **FOI** respecting a course of action that directly affects a person or the operations of the government and to create records that document or support the public body's organization, policies, procedures, transactions or operations. For now, s. 6 is as far as FIPPA goes in terms of imposing a positive obligation to create records. Time will tell if that duty is expanded.

Marisa Cruickshank

Local governments and the TPP and CETA

Investor-state chapters of free-trade agreements are controversial. Both the proposed Trans-Pacific Partnership (TPP) and Comprehensive Economic and Trade Agreement (CETA) contain investor-state chapters. Canada has signed both agreements, subject to ratification. The agreements will not be binding until ratified.
Under the investor-state dispute settlement provisions of the TPP and CETA, *private investors* who are not parties to the trade agreements (as opposed to countries) may commence proceedings against Canada and claim compensation for contraventions of the TPP or CETA by Canada *or by entities for which Canada is responsible (including municipalities)*.

Investor-state provisions have substantive implications for municipalities. The Federation of Canadian Municipalities has adopted the following policy on topic:

> A dispute-resolution process, like the one in NAFTA, may require a careful review of the municipal role in that process so they can appropriately defend their policies and bylaws as an order of government.

On November 17, 2015, Vancouver City Council formally expressed its opposition to the TPP and communicated this to Prime Minister Trudeau, Cabinet Ministers and every Member of Parliament. Vancouver's opposition is primarily in relation to the TPP's investor-state dispute settlement provision, and supports US cities' motions opposed to fast-tracking the TPP. Several cities in the United States, including San Francisco and Seattle, opposed the fast-tracking and content of the TPP and some such as New York City and Berkeley established local "TPP-Free Zones".

Germany has opposed the CETA on the basis of concerns about the investor-state provisions, particularly in relation to protecting domestic environmental regulation and economic development.

The investor-state chapter of NAFTA came to the attention of municipalities as a result of the statement by Mr. Justice Tysoe in the NAFTA *United Mexican States v Metalclad* case that:

> The tribunal gave an extremely broad definition of expropriation for the purposes of Article 1110. In addition to the more conventional notion of expropriation involving a taking of property, the tribunal held expropriation under NAFTA includes covert or incidental interference with the use of property which has the effect of depriving the owner, in whole or in significant part, of the use or reasonably to be expected economic benefit of property. This definition is sufficiently broad to include a legitimate rezoning of property by a municipality or other zoning authority.

Even if measures that are the equivalent of expropriation (including regulatory takings) may be for a *public purpose*, carried out on a *non-discriminatory basis*, and be taken in accordance with the *process of law*, NAFTA may still require market value compensation to be paid.

In regard to the investor-state provisions of the TPP, the CETA and NAFTA, Canada has stated that free trade agreements do not allow investors or companies to force Canada to change its laws and regulations. What they do is provide for mechanisms for establishing liability and the requirement to pay compensation beyond what would be applicable under domestic law. It should be noted that free trade agreements do not require foreign investors or companies to resort to remedies and processes under *domestic law* (that is, Canadian laws) prior to exercising rights under the investor-state provisions.

Much of the media commentary with respect to municipalities and the TPP critiques the ISDS provision in the TPP. Maude Barlow in her blog dated January 20, 2016 wrote a piece entitled "*When Corporations Sue Countries, No one Wins*":

> In Digby, Nova Scotia, a picturesque fishing town near the Bay of Fundy, a joint federal-provincial panel rejected a quarry after an exhaustive environmental review. The Canadian government paid the price: Bilcon, the U.S. company behind the project, won an ISDS lawsuit. True, ISDS mechanisms cannot rewrite legislation, but they pose severe threats. Governments will hesitate to enact legislation that creates a risk of millions or billions of dollars in ISDS lawsuits. This creates a serious chill effect.

The concerns of municipalities are well founded: under the CETA, municipalities are expressly included in the procurement and other Canadian commitments. In the CETA, although municipalities are not expressly included in the commitments, Canada can have a claim against it from a private investor if municipal measures offend the agreement. Also in regard to the TPP:

1. in order to comply with the TPP, Canada and the Province can include compliance with the TPP thresholds and other provisions (and other thresholds) in contracts with municipalities related to grants, loans, equity infusions, guarantees, subsidies, fiscal incentives, sponsorship arrangements and other programs; and

2. it is very likely there will be pressure on the nation state parties to include municipalities under TPP procurement commitments in the next three years.

To date, Canada has not confirmed whether they would or would not seek compensation from a municipality that contravenes Canada's commitments under a trade agreement, where

these lead ultimately to Canada being penalized. FCM has taken the position that there should be verbal or public warnings before moving to financial penalties, and Canada should recognize and not penalize inadvertent non-compliance, particularly in cases where municipalities do not have the expertise to appropriately apply the rules.

Don Lidstone

Local Governments and the Syrian Refugee Crisis

In the wake of the on-going Syrian refugee crisis, the crucial role that local governments play in resettlement of newcomers to Canada has become more apparent. Local governments across the country have taken a number of steps to assist in the crisis, and the Federation of Canadian Municipalities has established the Task Force on Syrian Refugee Resettlement to coordinate with provincial, territorial and federal governments and amplify the effectiveness of efforts by individual local governments.

From adopting motions to donating land to providing refugee resettlement services, local governments in British Columbia have a variety of options when it comes to assisting in the refugee crisis. We outline a number of these options below.

Resolutions

Local governments across the country have adopted declarations and motions recognizing the urgency of the situation and committing to provide a welcoming environment for refugees.

Information

Several local governments, including the City of Vancouver, have held public meetings to discuss a local response and to provide residents with information on how they can assist refugees directly. Many local governments have also created informational websites, including lists of non-profit organizations working with refugees and encouraging residents to donate directly to these organizations or become involved in private sponsorship.

Services

Municipalities have broad powers under section 8(2) of the *Community Charter* to "provide any service that the council considers necessary or desirable, and may do this directly or through another public authority or another person or organization." Service is broadly defined as an activity, work or facility undertaken or provided by or on behalf of the municipality. Services undertaken by municipalities should be consistent with the municipal purposes set out in section 7 of the *Community Charter*, which include providing for services and other matters for community benefit, providing for stewardship of public assets and fostering the well-being of the community. For example, in order to assist refugees, municipalities might establish settlement services or provide affordable housing. As set out above, these services can be provided by the municipality directly or through another person or organization. It is important to note that Regional Districts do not have the same broad service-related powers.

Services provided by municipalities may be funded in a variety of ways, including by donations. If a local government is registered as a qualified donee under the *Income Tax Act*, it is eligible to issue official donation receipts for donations and receive gifts from registered charities. See http://www.cra-arc.gc.ca/chrts-gvng/qlfd-dns/mncplpblcbds-eng.html for more information on registering as a qualified donee.

Assistance to Non-Profit Organizations

In addition to encouraging contributions to organizations providing services to refugees, local

governments may decide to provide assistance directly to these organizations.

One potential option for providing assistance to non-profit organizations is to accept donations on behalf of these groups. However, while those local governments that are registered with CRA are able to issue charitable tax receipts for donations made to the local government, they may not issue charitable tax receipts for donations accepted on behalf of a separate corporate entity, such as a non-profit. As a result, donations given directly to a non-profit must be processed through the non-profit.

Alternatively, it may be possible for municipalities to establish reserve funds for donations to non-profit organizations. Pursuant to section 144 of the *Community Charter*, municipalities may set up reserve funds for a specific purpose and direct that money be placed to the credit of the reserve fund. Once established, if a municipality receives donations for inclusion in the reserve fund, it may issue charitable tax receipts (provided the municipality is registered as a qualified donee) and hold the money in reserve for the non-profit. Money in the fund, and interest earned on it, may be used only for the purpose for which the fund was established. In conjunction with the establishment of a reserve funds, local governments may establish partnering agreements pursuant to section 21 of the *Community Charter* in order to establish how funds are to be transferred and other contractual terms for the relationship between the local government and the non-profit entity.

Local governments may also provide assistance to non-profit organizations directly. For example, in some cases, municipalities may provide financial grants or sell or lease municipally-owned land or buildings to a non-profit organization for less than market value, provided it meets the requirements set out in the *Community Charter*.

While assistance to charities and non-profit entities will generally be excluded from the application of the assistance to business prohibition in section 25 of the *Community Charter,* municipalities should be wary of the provision when providing assistance to any external organization. Pursuant to section 25, council must not provide a grant, benefit, advantage or other form of assistance to a business, defined broadly as any person or organization that is "(a) carrying on a commercial or industrial activity or undertaking of any kind, and (b) providing professional, personal or other services for the purpose of gain or profit". Even if the prohibition in section 25 does not apply, municipalities may still be required to provide public notice of their intention to provide assistance pursuant to section 24 of the *Community Charter*. A similar prohibition against assistance to business exists for regional districts in Division 4 of Part 8 of the *Local Government Act.*

Sponsorship

Some local governments have considered becoming Sponsorship Agreement Holders ("SAHs"). SAHs can support refugees directly or work with others in the community, called "constituent groups", who sponsor refugees under the main agreement held by the SAH. Although it appears that a municipality could qualify as sponsorship agreement holder and would have the power to enter into such agreements pursuant to the *Community Charter*, SAHs typically have sponsorship experience and expect to sponsor more than two refugee cases per year. Further, becoming an SAH requires the sponsoring organization to take on financial and logistical responsibility for sponsored refugees, including those sponsored by constituent groups under the main agreement.

We recommend that any local government that is considering entering into a sponsorship agreement conduct further investigations into its

potential for liability under the agreement. Further, when considering this option and others, it is important for local governments to ensure compliance with all statutory obligations, including financial and budgetary obligations and the provision of public notice.

Rachel Vallance

Legal Lens on Using Photos of People

Many local governments use photographs of people for advertising various programs and services, or in campaigns to promote their region. There are several considerations to factor in when using photos on websites and in promotional material.

Two pieces of legislation provide a framework of rules that must be followed when taking and using photos of people: the BC *Freedom of Information and Protection of Privacy Act* ("FIPPA") and the *Privacy Act*.

(1) FIPPA

Part 3 of *FIPPA* governs the protection of privacy, which includes how local governments collect and use personal information. The Office of the Information and Privacy Commissioner has stated, "There is no doubt that a digital photograph of an individual is that individual's personal information".[1]

(a) *Collecting a Photo*

Section 26 sets out when a public body may collect personal information, including a photo of an identifiable person. Of relevance here is the following:

- If the collection is expressly authorized under an Act;
- The collection is for law enforcement purposes;
- The photo relates to and is necessary for a program or activity, or for planning or evaluating a program or activity of the local government;
- The photo is collected by observation at a presentation, ceremony, performance, sports meet, or similar event which is open to the public and where the individual voluntarily appears.[2]

In other words, local governments cannot use a consent form as authority for collecting a person's photo under FIPPA. Local governments must first ensure that they are authorized to collect the photo under section 26, and then determine whether they can use the photo.

(b) Using and Disclosing a Photo

The most straightforward approach under FIPPA is to obtain the person's consent to use and disclose that photo. The OIPC has emphasized that public bodies must limit their use of photos to the purposes originally identified unless FIPPA permits a change in use:

With the proliferation of new technologies, personal information collected for one purpose may be used to meet new and possiblyunanticipated purposes with breathtaking speed and ease. If we are to maintain robust

[1] Investigation Report F12-01; British Columbia (Insurance Corp.) (Re) Re: Use of Facial Recognition Technology by the Insurance Corporation of British Columbia [2012] B.C.I.P.C.D. No. 5

[2] Section 26 (d) says that local governments can collect personal information for a "prescribed purpose" where the individual has consented and the collection is appropriate. However, the "prescribed purposes" are only in relation to recording or updating a person's contact information where their name has changed, or to allow the public body to receive notification of a death in particular circumstances (BC Reg 155/2012).

privacy rights, great care must be taken in evaluating proposed changes in use".[3]

When consent is obtained to use a photo, it is important that the local government is clear and transparent about how the photo will be used. For example, consenting to have one's photo used in a print magazine is very different from consenting to having the photo shared on social media sites such as Twitter or Instagram.

A photo can be collected and disclosed without consent if the photo was collected by observation at a presentation, ceremony, performance, sports meet or similar event that was open to the public and at which the individual voluntarily appeared. However, the *Privacy Act* should be considered in terms of group photos.

(2) Privacy Act

The *Privacy Act* makes it a tort (i.e. a wrongful act) to use the name or "portrait" of another person for the purpose of advertising or promoting the sale of, or other trading, in property or services (s. 3). The term "portrait" includes a still or moving likeness of a person, thus, photographs that identify a person fall under this tort. A person making this type of statutory tort claim does not have to prove that they have suffered any damages.

There have been no reported cases against a local government in BC under section 3 of the *Privacy Act,* so it remains an open question as to whether and to what extent a local government's promotional activities would be captured under the Act.[4] The cases to date suggest that there needs to be a commercial purpose to using the photo for a tort claim to succeed. However, it is conceivable that local government advertisements or promotions that are not purely commercial could be included. This accords with the more broadly worded section 1 of the Act, which makes it a tort to wilfully and without a claim of right, violate the privacy of another.

There are two exceptions where a *Privacy Act* claim for the wrongful use of a person's photo may fail: 1) if the person has consented to the use of their portrait for the purpose of the advertisement or promotion, or 2) if the photo is of a group or gathering, unless the composition of the photo emphasizes one person, or the person is recognizable and the local government intended to exploit the person's name or reputation in its promotions.

(a) *Consent*

In *Poirier v. Wal-Mart Canada Corp.* 2006 BCSC 1138, Wal-Mart terminated Poirier's employment with just cause. Five weeks after he was fired, Wal-Mart initiated an advertising flyer campaign to promote the opening of its new store in New Westminster. The flyer displayed a picture of Poirier in conjunction with a message attributed to him, welcoming the public to the new store. Poirier's name and former title appeared in the caption of the photograph. Wal-Mart distributed the flyers to over 29,000 homes.

Poirier claimed that Wal-Mart had violated his privacy under s. 3 of the *Privacy Act* because

although he had consented to the use of his photo while he was still employed, his termination vitiated that consent. The court agreed, stating that it was unreasonable for Wal-Mart to assume

[3] *Ibid* at para 4.

[4] In the case *Demcak v. Vo* 2013 BCSC 899, the plaintiffs made a common law privacy invasion tort claim against the City of Richmond for inspecting their property; however, no pleadings were made against the City under the *Privacy Act* and the court held that the inspection fell outside the scope of the *Act.*

that the consent to portray Poirier's identity and image in the advertisement continued after his termination, in the absence of an express confirmation to that effect, which in any event was not sought by Wal-Mart. Poirier was awarded $15,000 in damages for the violation to his privacy.

Thus, consent to the use of a photo can expire when a certain event occurs, such as an employee resigning or being terminated. Consent can also be rendered invalid where the consent form is unclear, the person does not understand what they are signing, or the local government uses the photo in other ways or on other forums that the person did not consent to.

(b) ***Group or gathering***

The *Privacy Act* does not provide a definition of "group" or "gathering". In one tax law case, a judge said the ordinary meaning of group refers to any number of persons from two to infinity.[5] While there is no clear definition as to how many people form a "group", the generally accepted threshold is four. The consensus is that two people is not quite a group; four people could be a group and three is borderline.

However, if one person particularly stands out due to the composition of a group photo, or the user intended to exploit the person's name or reputation by having them in the photo, then a person could claim that their privacy has been violated if consent was not obtained.

(c) ***Additional factors***

Claimants have not succeeded in privacy invasion tort claims under similar provincial statutes or common law where:

- The person was not readily identifiable in the photo;
- The advertisement or promotion did not depict any aspect of the person's name, reputation, likeness, individuality or personality;
- The photo was of a body part such as a torso, which did not identify the person;
- No inference could be made from the advertisement that the individual was personally endorsing the product in any way; and
- A commercial promoting a festival that used the image of an entertainer who performed in previous festivals did not associate his persona to the festival.

(3) General Guidelines

Generally, in order to avoid running afoul of both the *Privacy Act* and *FIPPA,* a local government must first ensure that it is authorized to collect the photo under *FIPPA.* If it is authorized and wishes to use the photo, then consent should be obtained where people in the photo are readily identifiable. Consent is not required in crowd shots where a person is not identifiable. Nor is it required in a group shot of more than 3 people taken by observation at a presentation, ceremony, performance, sports meet or similar event that was open to the public and at which the individual voluntarily appeared.

Local governments should ensure that consent forms are sufficiently clear and transparent, they have procedures in place for individuals to provide consent, and retain proof that consent has been obtained for the purpose that the photo is being used for. Extra precautions need to be taken when

[5] (*Buckerfield's Ltd. v. Minister of National Revenue* (1964), [1965] 1 Ex. C.R. 299, [1964] C.T.C. 504, 1964 CarswellNat 351, 64 D.T.C. 5301 (Can. Ex. Ct.) at para. 16 Jackett P.)

using children's photos – ensure the legal guardian understands the implications of giving consent.

Finally, do not assume that just because a person consented once to a particular use of their image, that this extends to using the photo in other ways, on other forums, or in perpetuity.

Carrie Moffatt

Funding impacts of major projects

Local governments across British Columbia face fiscal challenges accommodating community impacts triggered by new commercial and industrial economic development in their communities. In some parts of the province, such as Northwest BC, the tools available to fund new infrastructure, upgrade community services and deal with backlogs from previous boom and bust cycles are limited or unavailable. Often this is because the commercial or industrial economic development is located partially, or wholly, outside of municipal boundaries.

In the past, local governments could look to the company itself to provide needed infrastructure or services, or to the provincial government to provide significant financial and other support. In an era of global free trade, balanced budgets and turbulent economic times, however, these traditional back up plans are severely diminished.

Local governments are therefore left to identify and adopt self-help measures to cover funding shortfalls or live with the political, social and economic fallout from deficient infrastructure and woefully inadequate community programs and services.

Sustainable local communities are, however, the foundation of future economic growth in British Columbia. What then, are self-help measures a local government can turn to either a) generate the much needed revenue from industry or b) encourage senior government to treat the sustainability of local communities as a provincial funding priority?

Section 7 of the *Community Charter* mandates local government with important responsibilities. To carry out these responsibilities, provincial legislation provides local government with several tools to assert greater control over the nature and pace of development, and to generate revenue streams, as well as motivate industry and government to engage meaningfully with the local government. The selection of appropriate tools will depend upon careful research and considered implementation, with the benefit of legal advice where appropriate.

In our experience, while a local government may already employ many of the following tools, a detailed review of a local government's particular circumstances will almost always reveal tools that have not been used or have not been used to their full potential.

(a) Land Use Regulation

Local governments may wish to consider zoning or rezoning areas suitable for development to provide for limited rural uses and large minimum parcel sizes. Developers who wish to use this land will then be forced to engage with the local government. In addition, the council or board may have authority to obtain amenities or works and services at the time of rezoning. The council or board should ensure that it complies with all statutory requirements and acts reasonably, in good faith, and for proper planning purposes, particularly where it is downzoning property.

Local governments also have the authority to designate development permit areas in their OCP for one or more of the legislated purposes, including protection of the natural environment. Where a development permit area is designated,

subdivision, construction, and the alteration of land must not occur unless the owner either obtains a development permit or the owner is exempted.

(b) Environmental Impact Assessments

Local governments have the authority to require applicants for rezoning, temporary use permits, and development permits to prepare, at their own expense, impact assessments regarding the affect of proposed development on matters such as transportation patterns, local infrastructure, and the natural environment. To exercise this power, local governments must specify in their OCP the areas or circumstances within which development approval information ("DAI") may be required. While projects that are "reviewable projects" as defined in the *Environmental Assessment Act* are exempt from the requirement to provide DAI, there may well be related or affiliated projects and developments which are not. DAI is a powerful and broad tool for identifying community impacts that require mitigation, as well as to inform the use of other tools set out in this article.

(c) Services

Both municipalities and regional districts have broad authority to provide services. Local governments may use this power to establish services in areas that may be subject to future development.

Local governments also have the power to require the provision of works and services, including excess or extended services, in connection with the approval of a subdivision plan or the issuance of a building permit.

(d) Amenities, Charges and Fees

Zoning may give local governments the occasion to obtain community amenity contributions. While local governments often leverage the provision of CACs by developers in the context of the ad hoc approval process, this practice poses certain risks. There are two ways that these negotiations can be carried out appropriately: local governments can validly enact bylaws which incorporate amenity zoning pursuant to s. 904 of the LGA and can enter into phased development agreements pursuant to s. 905.1 LGA.

Development cost charges are another standard tool for local governments to finance the cost of development.

Local governments may also consider establishing or expanding their fees and charges bylaw. Fees for local government services, as well as rezoning or OCP amendments, temporary use permits, and development permits may assist local governments in recovering the costs associated with services and approvals.

Municipalities, but not regional districts, have the authority to regulate in relation to highways within their boundaries. For example, municipalities may regulate truck traffic by establishing different classes of vehicle based on weight and prohibiting the use of some highways by certain classes of vehicles. Where a municipality has regulated or prohibited extraordinary traffic, it also has the power to enter into an agreement with a person for the payment of compensation for damage to the highway caused by the extraordinary traffic.

When designated under the *Designated Accommodation Area Tax Regulation* of the *Provincial Sales Tax Act*, local governments may be entitled to receive up to 3% on the purchase of accommodation within their boundaries.

Municipalities may also enter into franchise agreements that provide 3% of gross revenues to the municipality, as in the case of natural gas franchise agreements.

(e) Conclusion

The tools listed above provide a few of the opportunities for local governments to assume some control and mitigate the impact of new commercial and industrial economic development on their communities. These self-help measures enable local governments to fund important physical and social infrastructure needs to grow sustainable communities that support the long term attraction and retention of working families, a community's lifeblood.

Rob Botterell and Rachel Vallance

Case Law Update

Thompson v Corp. of the District of Saanich, 2015 BCSC 1750

The then 11 year old plaintiff was enrolled in an art and drama day camp offered by the District for children between 8 and 12. The structured activities were conducted indoors but there were recesses during which the children were allowed to play outside. The children frequently played a form of tag, improvised and organized by the children themselves. During one game, the plaintiff slipped from a piece of playground equipment and hit her head, leading to a claim for negligence and under the *Occupiers Liability Act*.

The main issue was not whether, in permitting the game to be played, the District's employees exposed the plaintiff to any risk, but whether the risk exposure was unreasonable. In the Court's opinion the game fell within an everyday and reasonably safe range of playground activity for someone of the plaintiff's age and experience. Specifically, there was nothing inherently dangerous about the game such that special instruction or supervision was required. The plaintiff played voluntarily, had experience playing the game and knew how to do so safely, including on the playground equipment in question. Further, the evidence demonstrated that the children were adequately supervised. The District's duty did not include the removal of every possible danger that might arise while the plaintiff was in the care of its employees, but only to protect from unreasonable risk of harm. The action was dismissed.

The City of Calgary v Trevor Arthur John Gold et al., 2015 ABQB

The City applied for an interim injunction to stop Uber from operating in Calgary for violating the City's livery transport bylaw. The City was able to provide satisfactory evidence that the respondents had breached the bylaw by charging a fee to carry passengers. More importantly, through this evidence the Court inferred that there was a continuous contravention of the bylaw and the respondents were either aware or should have been aware of the City's position. The Court did not require the City to demonstrate that there was a continuous breach of the bylaw by each respondent as that would "present a practically insurmountable hurdle for any application in this type of situation under section 554 of the *Municipal Government Act*." This section of the Alberta *Municipal Government Act* is similar in form and function to section 274 of the *Community Charter*.

The respondents countered that because City Council had requested a bylaw change proposal to accommodate applications similar in nature to Uber, the interim injunction should be denied. Although the Court outlined that "injunctions before trial are often said to be extraordinary remedies to be granted only when equitable principles have been satisfied", it highlighted that in this case "there is a legally binding bylaw that precludes what the respondents, on the evidence, have been doing. It is being contravened deliberately and continuously. The respondents do not get to choose which bylaws are out of date and can be ignored." Accordingly the Court

granted the interim injunction, which applied to all Uber drivers in Calgary.

Pruden v Gagnon, 2015 BCSC 2029

This case concerned a slip and fall outside the defendant's residence while the plaintiff was dropping their child off to the defendant's daycare. In addition to the *Occupiers Liability Act*, the suit cited a municipal bylaw requiring owners or occupants of property abutting a sidewalk in a commercially zoned area to keep the sidewalk clear of snow and ice. The plaintiff argued that the bylaw applied because by virtue of their babysitting arrangement, the parties were in a commercial relationship. In dismissing the action, the Court set out that commercially zoned areas did not include "commercial uses" outside those areas.

Tappay v City of North Vancouver, 2015 BCHRT 179

The plaintiff worked for the City as a crisis intervention worker for fifteen years and went on sick leave after being diagnosed with post-traumatic stress disorder. The City received a letter advising that the plaintiff was permanently disabled from her position and required a "medical accommodation" with the limitation of "no crisis intervention work, including 911 operator". During the plaintiff's leave, she was sent an email from a City employee that she claimed expressed falsehoods and stereotypes about her and her condition. In denying discrimination, the City asserted that its response to the email was prompt and appropriate, and that it had properly attempted to accommodate the plaintiff.

Citing *Williamson v Mount Seymour Housing Co-operative*, 2005 BCHRT 334, the Tribunal set out that a complaint may be dismissed under the Tribunal is satisfied that the issue was dealt with promptly and in a manner consistent with the Code's purposes. The City had a duty to accommodate the plaintiff's medical requirements and provide a new work position that did not involve crisis intervention if one was available. By providing the medical leave required by the plaintiff's doctor and taking immediate action when the plaintiff complained about the email, the Tribunal found that the City's response was sufficient.

Robert Sroka

Legislation Update

Charities' Limited Partnership Holdings

The Canada Revenue Agency (the "CRA") has announced that registered charities must now report their holdings in limited partnerships. Although the CRA announcement is dated December 1, 2015, notice of the new requirement was only circulated with the CRA's January 25, 2016 publication, titled "Charities and giving – What's new".

The limited partnership reporting requirement stems from the 2015 Federal Budget proposal (which has not yet been legislated). This indicates that a registered charity would not be considered to be carrying out business by virtue of certain investments in limited partnerships. In order to fit charity investment in a limited partnership within the Budget proposal, a charity must be a limited partner (not a general partner) and must deal at arm's length with every general partner, as well as the fair market value of its interest (and any interests of the charity's extended entities) must not exceed 20%.

Information on New Societies Act Now Available On BC Registry Services Website

The new Societies Act will come into force on November 28, 2016.

The BC Corporate Registry recently added a number of informative documents regarding the Societies Act to its website, including:

http://www.bcregistryservices.gov.bc.ca/bcreg/societiesact/index.page.

We recommended that societies regularly visit this site as additional information concerning the new Societies Act and transition requirements will be posted as it becomes available.

With the exception of a few sections named in the Act, the requirements set out in the Societies Act will be enforced to all BC societies by November 28, 2016. Until then, the BC Corporate Registry advises societies to continue following the same corporate procedures and filings, while ensuring each society's office address and annual report filings are up to date. In addition, the BC Corporate Registry requests that every society provide an e-mail address for future direct communication.

As previously reported, the Societies Act provides a transitional period of two years for existing societies to enter their constitution and bylaws into the electronic filing system. However, provisions within the constitution and bylaws of societies that do not comply with the new Act will be "of no effect" as of November 28, 2016.

British Columbia Transit Act

The British Columbia Transit Act was amended to preclude Section 33 of the *Community Charter*, Section 292 of the *Local Government Act* and Section 541 of the *Vancouver Charter.* The additions to the Act were applied in respect of land affected by the planning, acquisition, construction, maintenance or operation of a rail transit under the Act.

Property tax exemption to independent schools

Bill 29 has passed a third reading, and amended Section 220 (1)(l) of the *Community Charter*, S.B.C. 2003, and Section 15 (1)(o) of the Taxation (Rural Area) Act, R.S.B.C. 1996, to extend the property tax exemption status to the buildings and lands of independent schools.

Local Government Act requires installation of smoke alarm to rental property

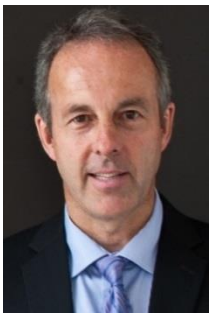
Section 694 (1)(l), (n) and (n.1) of the *Local Government Act* has been repealed and substituted with a requirement to install smoke alarms in all residential rental units.

Jagmohan Singh
Articled Student

Lidstone & Company *acts primarily for municipalities and regional districts. The firm also acts for entities that serve special local government purposes, including local government associations, and local government authorities, boards, commissions, corporations, societies, or agencies, including police forces and library boards. Lidstone & Company has been selected by the Municipal Insurance Association of British Columbia to be the provider of its Casual Legal Services available to MIABC Casual Legal Services subscribers.*

Paul Hildebrand is Associate Counsel at Lidstone & Company. Paul is the head of the law firm's Litigation Department. He won the Gold Medal in law at the University of British Columbia in 1980. Paul has a Doctorate in Economics in addition to his Law Degree and Master of Science degree in mathematics. For nearly 29 years, Paul Hildebrand has practiced law in the area of complex litigation, including a 12 year stint with McAlpine &

Company, one of the leading complex litigation firms in Canada. Paul is responsible for the conduct of our local government clients' litigation matters, including defense of claims, insurance matters, suing other parties, injunctions, appeals, and other litigation related matters. He also has expertise in regard to arbitration, mediation and conciliation. He has done securities work, including financings for public and private companies, and real estate transactions.



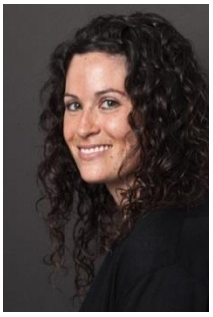
Lindsay Parcells practices municipal law with a particular interest in land use, real property, corporate, commercial, mediation and environmental matters. Lindsay has 20 years of legal experience. He was called to the Alberta bar in 1992 and the British Columbia bar in 1995. Lindsay completed a Masters degree in Municipal Law from Osgoode Hall Law School in 2009 and a combined Bachelors of Laws and Masters of Business Administration degree from Dalhousie University in 1991. Before attending Law School, he served for one year as a legislative intern at the Alberta Provincial Legislature. Lindsay is currently Co- Chair of the Municipal Law Section of the BC Branch of the Canadian Bar Association.

Rob Botterell focuses on major project negotiations for local governments (such as in relation to pipelines, LNG, dams and reservoirs, mines, oil and gas, and similar matters). He also deals with law drafting as well as local government matters in relation to aboriginal and resource law. Rob also advocates on behalf of local governments. Rob led a team that put together the Freedom of Information and Protection of Privacy legislation and advised on the Personal Property Security Act and others. He negotiated the key provisions of the Maa-nulth Treaty for Huu-ay-aht, has drafted over 500 pages of laws, and has negotiated with all levels of government and industry on major projects. He was a Trustee of the Islands Trust and in 2012 chaired a panel at the UBCM annual convention on "Voting on the Internet". Rob has an LL.B. from UVic and MBA from UBC, and is a Fellow of Institute of Canadian Bankers after having been the TD Bank Regional Comptroller in the 1980's. Rob has practiced law in British Columbia for 20 years.

Maegen Giltrow practices in the areas of governance, bylaw drafting, environmental law and administrative law. She is also a well-known practitioner in the area of aboriginal law, and negotiated a treaty and worked on the Constitution, land use and registration laws and regulatory bylaws for a number of First Nations before she entered the practice of municipal law. Maegen clerked with the British Columbia Court of Appeal after graduating from Dalhousie Law School in 2003.

Don Lidstone Q.C. has practiced generally in the area of local government law since 1980. His municipal law focus is in the areas of constitutional, administrative, and environmental law, particularly in respect of governance, land use/sustainable development, regulatory approvals, and legislative drafting. Invited to speak regularly at conferences, symposia and universities, he has chaired the Sustainable Region Initiative (Governance and Finance), Liquid Waste Expert Review Panel, Fire Services Review Panel, Whistler Waste Blue Ribbon Panel, and the Municipal Law Section of the British Columbia Branch of the Canadian Bar Association. Don has published numerous papers and manuals and consulted on the development of the *Community Charter* and other municipal statutes in a number

of provinces. He was designated Queen's Counsel in 2008.



Sara Dubinsky is a litigation lawyer and handles bylaw enforcement matters. She also provides legal opinions on a wide variety of issues, and is the go-to person in our firm for conflict of interest opinions. Sara is a graduate of the University of Victoria Faculty of Law. Sara summered with a boutique litigation firm in Vancouver and appeared at the Braidwood Commissions of Inquiry on behalf of the British Columbia Civil Liberties Association, where she articled. Sara received three awards in law school for her performance in the Wilson Moot Competition.

Marisa Cruickshank advises local governments in relation to a variety of matters, with an emphasis on labour and employment, constitutional, administrative and environmental law issues. Marisa completed her law degree at the University of Victoria. She was awarded five major scholarships and academic awards. She also served as a judicial law clerk in the British Columbia Court of Appeal.

Carrie Moffatt is a research and opinions lawyer in the areas of municipal law, land use, administrative law and environmental matters. Carrie graduated from the University of Victoria Faculty of Law in the spring of 2013, and commenced the Professional Legal Training Course shortly thereafter. Carrie was selected as a top applicant from her first year law class for a fellowship to generate research reports on debt regulation. Carrie's legal academic paper on the legal consequences of failing to regionalize BC's police forces was nominated for a law faculty writing award. Carrie has received numerous other awards throughout her academic career.

Rachel Vallance provides legal opinions, agreements and bylaws on all local government matters. She completed her degree at the Unversity of Victoria, where she participated in the law co-op program. Rachel has worked at the Ontario Securities Commission in Toronto, The Ministry of Justice in Victoria, Chimo Community Services in Richmond, and Chandler & Thong-Ek, a business law firm with offices in Thailand and Myanmar. During law school, Rachel received awards both for academic performance and involvement in student affairs. Prior to her law degree, Rachel completed an Honours BSc in Psychology and Ethics, Society & Law at the University of Toronto.

Robert Sroka provides legal opinions and drafts agreements on all local government matters with an active interest in land use planning and real estate development. Robert came to Lidstone & Company from The City of Calgary Law Department, where he served as a bylaw prosecutor, drafted real estate transactions, and advised on planning issues. Robert obtained his JD from The University of British Columbia and spent two summers as an Ottawa intern in the offices of federal cabinet ministers. He is currently a LLM Candidate at the University of Calgary, where his work on urban brownfield redevelopment financing has been presented at several law conferences.