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Quickscribe Reporter

Vol: XIV – Issue: VIII – August 2015

QUICKSCRIBE NEWS:

Fall Sitting Scheduled for September

Premier Clark has announced that Parliament will resume for a six-week session starting September 28th. Speculation is that some of the items on the table will include tougher distracted driving laws, new legislation regulating non-commercial drones and tougher laws penalizing individuals whose careless actions result in forest fires.

Quickscribe Survey – Your Input is Needed!

(Revised)

Please take a few minutes to fill out our [15-question survey](#). The survey will help us to further improve this service and will provide you with some insight as to future developments. (Note: For those who were unable to complete the survey due to a glitch, please try again with this revised edition.)

Reporter Available in PDF

A PDF version of the Reporter is now available via the link below.

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FEDERAL LEGISLATION – For notification of federal amendments, we recommend you use our [Section Tracking](#)  tool.

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COMPANY & FINANCE

Company and Finance News:

CSA Wants More Information on Exempt Distribution Reports

On August 13, 2015, the Canadian Securities Administrators ("CSA") proposed a new form 45-106F1 (the "Proposed 45-106F1"), which would replace both the current form 45-106F1 required in all provinces and the [form 45-106F6](#) currently required in British Columbia, both of which report on exempt distributions of securities. Exempt distributions include all sales of securities other than prospectus offerings. Currently,

BC has a second required form, form 45-106F6, as this jurisdiction alone has required more detail and much more information about the issuer and the investors in any exempt distribution conducted in or from BC. The Proposed 45-106F1 goes beyond either of the current exempt distribution report forms in respect of the detail required about the securities sale, including more information about the issuer, detailed information about the issuer's directors and their security holdings in the issuer (including amounts paid for these securities), information about the securities sold and any offering materials used to sell them, compensation to any party paid in connection with the offering, details about the purchasers of the securities, and specific details about which part of a prospectus exemption was relied upon. Read the [full article](#) by [Bernard Pinsky](#), Q.C. with Clark Wilson LLP.

IIROC releases finalized Guidance on Marketplace Thresholds

The Investment Industry Regulatory Organization of Canada (IIROC) has released its finalized [Guidance on Marketplace Thresholds](#). As discussed in the 2014 [post](#) on the draft version, the Guidance is intended to promote stable markets by controlling short-term price volatility and catching erroneous orders before they can be completed. The primary effect of the Guidance, which is to take effect on August 25, 2016, is to limit the amount by which the price to be paid in a trade in a security may vary from (a) the price paid in the most recent trade in that same security on that day (defined as the "national last sale price") and (b) the national last sale price as it stood at the most recent one-minute interval (defined as the "one minute reference price"). The threshold level depends largely on the price of the security and generally ranges between 10% and 20%, with the exception of securities trading between \$1 and \$5 (30%), between 50 cents and \$1 (50%) and below 50 cents (300%). Notwithstanding these limits, securities subject to Single Security Circuit Breakers (SSCBs) are subject to a 10% limit in all cases, as are Exchange-Traded Funds (ETFs). Exchange-listed debt is subject to a 20% limit in all cases. Read the [full article](#) published on Stikeman Elliott LLP website Canadian Securities Law.

Gowlings' Guide to the Proposed Initial Regulations

On August 25, 2015, the participating provinces and territory in the *Cooperative Capital Markets Regulatory System* achieved an important milestone towards implementation of the system by publishing a revised consultation draft of the uniform provincial and territorial capital markets act (now known as the *Capital Markets Act*), along with the drafts of the initial regulations proposed for adoption by the participating provinces and territory under the draft uniform act. These materials have been published for a 120-day public comment period. [Gowlings LLP has published their] *Guide to the Proposed Initial Regulations*. For information regarding the proposed initial regulations in the following areas (with particular focus on regulatory changes in British Columbia and Ontario), read the [full article](#) at Gowlings.

BC Securities – Policies & Instruments

The following policies and instruments were published on the BCSC website in the month of August:

- [45-106](#) – CSA Notice and Request for Comment – Proposed Amendments to National Instrument 45-106 *Prospectus Exemptions* relating to Reports of Exempt Distribution
The proposed amendments would introduce a new harmonized report of exempt distribution. The comment period ends on October 13, 2015.

For more information visit the BC Securities [website](#).

Act or Regulation Affected	Effective Date	Amendment Information
Provincial Sales Tax Act	Sept. 1/15	by 2015 Bill 10, c. 9, sections 44, 55, 57, 59 and 60 only (in force by Royal Assent), Budget Measures Implementation Act, 2015
Retention of Fees for Attendance at Training Program Regulation (145/2009)	REPEALED Aug. 14/15	by Reg 167/2015
Retention of Fees for Training Program Regulation (167/2015) (replaces Reg 145/2009)	NEW Aug. 14/15	see Reg 167/2015

ENERGY & MINES

Energy and Mines News:

All Shook Up: New Amendments to BC's Drilling and Production Regulation Requiring Seismic Event Reporting

On August 6, 2015, the B.C. Oil and Gas Commission (the "OGC") announced that it had approved [amendments](#) to the Drilling and Production Regulation that would, among other things, regulate the reporting requirements of permit holders relating to seismic events. Previously, the regulations did not require permit holders to report seismic events. However, some permit holders were required to report seismic activity as a term of their permit, particularly those involved in fracturing and disposal activities in the Horn River Basin. In December 2014, the OGC released its [Investigation of Observed Seismicity in the Montney Trend](#) report (the "Seismicity Report"), which concluded that fluid injection during fracturing operations in the Montney Trend had caused low-level seismic activity. The Seismicity Report also linked waste water disposal in the area to seismic activity. These findings caused the OGC to conclude that induced seismic activity was not limited to the Horn River Basin, and that therefore "a more uniform application of regulations is appropriate". Read the [full article](#) by Rick Williams and Tim Pritchard with Borden Ladner Gervais.

Act or Regulation Affected	Effective Date	Amendment Information
Drilling and Production Regulation (282/2010)	Aug. 7/15	by Reg 165/2015

FAMILY & CHILDREN

Family and Children News:

How to Send Kids Away to Go to School in British Columbia: Appointing a Guardian or Making a Temporary Authorization

The question about what to do when sending a child away to study has come up twice for me in the past month, and I thought I'd write about the problem because there seems to be some confusion about how it is handled under the new [Family Law Act](#). Quite often a parent will want a child to go to school somewhere in British Columbia, perhaps because the school has a special academic or sports program, but won't be able to move to live with the child. There's nothing wrong with this, of course, but parents do need to figure out how the child will be cared for, especially in case of emergencies, and how decisions about health care, schooling, extracurricular activities and so forth will be made. Most of the time, parents arrange for the child to live with a relative or friend, and trust the relative or friend to do what needs to be done and make the proper decisions at the proper time. There's nothing wrong with this either, but it does raise the legal issue of how the important people who might be involved in the child's life – teachers, principals, doctors, nurses, dentists, counsellors, therapists, coaches, police officers, border guards and the like – will know that the relative or friend has the right to not only have the child with him or her but to make decisions on the child's behalf. Under the old *Family Relations Act*, parents would typically apply to have the relative or friend appointed as the child's guardian. This was relatively simple, could be done in the Provincial Court at no cost and could be arranged by a simple consent order. The order could be made for a limited period of time, or, when the need for the appointment had concluded, could be cancelled by a consent order. Under the new *Family Law Act*, however, things are a bit different, largely because the act's concept of guardianship is a lot more weighty than the concept of guardianship under the *Family Relations Act*. Read the [full post](#) by JP Boyd on *the Blog*.

Act or Regulation Affected	Effective Date	Amendment Information
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There were no amendments this month.

FOREST & ENVIRONMENT

Forest and Environment News:

**BC Forest Stewardship Plans Fail to Offer Enforceable Results: Report
Forest Practices Board said plans are important because they are the main avenue for public comment**

Forest stewardship plans intended to guide logging in British Columbia and offer transparency about forestry activities are failing to deliver results that are enforceable and do not provide information to the public that is meaningful, the province's forestry watchdog said [August 19th]. Forest licensees are supposed to spell out in the plans how they will meet provincial objectives to protect environmental values such as biodiversity and water quality [or] declare what measurable, verifiable results they will achieve. The requirement to produce the five-year plans was introduced in 2004 as part of the [Forest and Range \[Practices\] Act](#). However, after a decade of experience, the Forest Practices Board studied a sample of 43 of the plans and issued a report saying they "do not meet the public's needs, are not enforceable by government and provide little in the way of innovative forest management." Read [The Vancouver Sun article](#).

Proposed Policies for Implementing BC's New Water Sustainability Act Available for Comment

On July 30, 2015, the British Columbia government released [four discussion papers](#) for public comment outlining proposed new policies for regulations under the [Water Sustainability Act](#). These papers are important as much of the detail on how the new water regime will work will be contained in the regulations. Moreover, these papers signal the government's current direction on groundwater licensing, dam safety, groundwater protection, and compliance and enforcement. Comments on all four papers will be accepted until September 8, 2015.

Background

BC's *Water Sustainability Act* (Act) was passed in May 2014 and is anticipated to come into force in 2016. The Act will replace the existing [Water Act](#), implement a new groundwater licensing scheme and update the water regulatory regime generally. The delay in implementation is due to the need to revise and align the existing regulations with the new Act, as well as to establish processes for the new requirements. Currently, the government estimates the regulations will be completed in early 2016. The four papers released on July 30 discuss key policies the government is considering for incorporation into the existing or new regulations.

Read the [full article](#) by [Tony Crossman](#), [Janice Walton](#) and [Nardia Chernawsky](#) with Blakes LLP.

Environmental Appeal Board Decisions

There were three Environmental Appeal Board decisions released in the month of August:

[Wildlife Act](#)

- [Ross Goodwin v. Regional Manager Fish and Wildlife](#) [Final Decision – Appeal Allowed]
- [Brent D. Smith v. Deputy Regional Manager](#) [Final Decision – Appeal Dismissed]

[Water Act](#)

- [Michael and Joaney Lindelauf; Jill Fitzpatrick; William Switzer v. Assistant Regional Water Manager](#) [Final Decision – Appeals Dismissed]

Visit the Environmental Appeal Board [website](#) for more information.

Act or Regulation Affected	Effective Date	Amendment Information
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There were no amendments this month.

HEALTH

Health News:

Should Proof of Vaccinations be

Required for School Entry in BC?

Call by Canada's doctors supported by provincial health officer

BC's provincial health officer says he supports a call by Canada's doctors for every elementary and high school in the country to require parents to provide proof their child has received up-to-date immunizations for school entry. Dr. Perry Kendall said he'd like to see BC follow the lead of Ontario and New Brunswick, where parents are required to show proof of a child's immunization status upon entry to the school system. Parents can exempt their children from the policy on medical, religious or conscientious grounds. Public health officials can then use that information to contact parents and discuss any concerns, while schools can require unimmunized students to stay at home in the event of a communicable disease outbreak, Kendall added. Read *The Vancouver Sun* [article](#).

BC Company to Launch DNA Testing Service

Scrutiny by government and College of Physicians and Surgeons being considered

The College of Physicians and Surgeons of BC is grappling with regulatory and accreditation issues for a private Richmond laboratory company planning to launch the first BC-based direct-to-consumer DNA testing service. The company, GenomeMe, will test saliva samples sent in by individuals seeking personalized reports predicting which diseases and traits they may inherit, cancers they're susceptible to, and even prescription medications they either shouldn't take or use in different dosages. College registrar Dr. Heidi Oetter said GenomeMe may be the first direct-to-consumer (DTC) Canadian company of its kind. She said the College has sought advice from the provincial government for guidance on how to approach the oversight and regulations of such a business. Read *The Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
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There were no amendments this month.

LABOUR & EMPLOYMENT

Labour and Employment News:

WorkSafeBC Requirements: New Mandatory Timelines for Employers to Conduct Investigations

In early 2012, two sawmill explosions in northern British Columbia caused four deaths and dozens of injuries. The explosions, as determined by WorkSafeBC, were caused by improper management of wood dust in the mills and were preventable. In both cases, however, the Crown declined to lay criminal charges against the employers, citing problems with WorkSafeBC's investigation process. WorkSafeBC conducted an internal review with appointed administrator, Gordon Macatee, submitting a report (the "[Macatee Report](#)") that outlines 43 recommendations to strengthen WorkSafeBC's ability to protect workers in British Columbia. On July 15, 2014, the government accepted all 43 recommendations, and the [July 30, 2014 bulletin](#) outlined some of the proposed recommendations. Twelve recommendations required legislative changes, which resulted in [Bill 9](#), the *Workers Compensation Amendment Act*. On May 14, 2015, Bill 9 received royal assent and made the following immediate changes: Read the [full article](#) by [Mark Hamata](#) of DLA Piper.

Wrongful Termination Claim Results in \$84.5K Award

Most people change their jobs multiple times throughout their lives. The reasons that prompt someone to seek a new job vary widely. Sometimes it occurs because a worker chooses this course of action, and leaves a previous job. Other times however it is because their previous employment was terminated. While under some circumstances the termination of a worker's job may be legal, in other situations, this course of action could be against the law. Individuals who believe that they have been wrongfully dismissed from their jobs may opt to take legal action. A man, who previously worked as a senior pastor in the Vancouver Chinese Baptist Church, recently did this very thing. The man, who moved to Vancouver from Hong Kong, was employed as senior pastor for more than two years. His dismissal followed disagreements between the man and two associate pastors. Those problems allegedly had to do with communication and management issues. At the time of his termination he was offered six months pay in lieu of notice. Following his dismissal, the man took legal action. Read the [full article](#) – on behalf of [Preston Parsons](#) of Overholt Law, posted in [Wrongful Termination](#) on Saturday, August 29, 2015.

Is One Year Paid Parental Leave the New Norm?

On Tuesday, August 4, the same day that Netflix stock hit a record high, the company announced a decision through its blog to provide paid maternity and paternity leave for its employees, up to one year. Netflix stated: We're introducing an unlimited leave policy for new moms and dads that allows them to take off as much time as they want during the first year after a child's birth or adoption. We want employees to have the flexibility and confidence to balance the needs of their growing families without worrying about work or finances. Parents can return part-time, full-time, or return and then go back out as needed. The company's decision is ground-breaking in many ways. It also reflects the desire of many new parents, in the US and Canada, for flexibility to focus on nurturing their newborn without financial stress. While on its surface the institution of fully-paid and flexible parental leave was largely applauded in the media, some writers have questioned its practical application. Read the [full article](#) published by [Vey Willetts LLP](#) and published on *First Reference Talks*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Act	Aug. 1/15	by 2015 Bill 23, c. 23, sections 54 to 57 only (in force by Reg 149/2015), Miscellaneous Statutes Amendment Act, 2015
Employment and Assistance for Persons with Disabilities Act	Aug. 1/15	by 2015 Bill 23, c. 23, sections 58 to 61 only (in force by Reg 149/2015), Miscellaneous Statutes Amendment Act, 2015
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Aug. 1/15	by Reg 149/2015
	Sept. 1/15	by Regs. 145/2015 and 148/2015
Employment and Assistance Regulation (263/2002)	Aug. 1/15	by Reg 149/2015
Forms Regulation (166/2015) <i>(replaces Reg 95/2012)</i>	NEW Sept. 1/15	see Reg 166/2015
Forms Regulation (95/2012)	REPEALED Sept. 1/15	by Reg 166/2015
Occupational Health and Safety Regulation (296/97)	Aug. 4/15	by Reg 30/2015
Workers Compensation Amendment Act, 2015	Aug. 4/15	by 2015 Bill 9, c. 22, sections 5, 6, 13 and 15 only (in force by Reg 164/2015), Workers Compensation Amendment Act, 2015

LOCAL GOVERNMENT

Local Government News:

Local Government Perspectives on AGLG Operations

A new report prepared by the Union of BC Municipalities examines the impact of the operations of the Auditor General for Local Government (AGLG) on audited communities. The [report](#) is based on a survey of local government staff that participated in audits with the AGLG. The Executive of UBCM directed staff to undertake the survey in April of this year to complement an [independent review](#) of AGLG operations by Mr. Chris Trumpy. No local governments were interviewed as part of the independent review. "The Executive was pleased to see an independent review of AGLG operations get underway," said UBCM president Sav Dhaliwal. "Our concern was that by not requiring the reviewer to interview communities that had been

audited, the Province was missing an opportunity to hear from those who deal directly with the office." Read the [full article](#) on the UBCM website.

Tax Exemption Proposed for Independent Schools

A Bill introduced by Honourable Michael de Jong, Minister of Finance, during the current session of the Legislative Assembly would expand the mandatory tax exemption provided to independent schools in the [Community Charter](#) and [Taxation \(Rural Area\) Act](#). If the amendments ([Bill 29 – Property Taxation \(Exemptions\) Statutes Amendment Act, 2015](#)) are enacted, the mandatory property tax exemption will be expanded to include the land and improvements surrounding an exempt building provided they are reasonably necessary for the independent school's purposes. Read the full UBCM [article](#).

Water Rights and the Importance of Due Diligence

A recent decision of the British Columbia Environmental Appeal Board in [Michael and Joaney Lindelauf; Jill Fitzpatrick; William Switzer v. Assistant Regional Water Manager](#) (issued on August 15, 2015) serves as a reminder that (quoting the Board): "any person buying rural property must do their research regarding water rights and water availability, just as they must investigate and confirm where the property boundaries are". In this case, the appellant property owners did not do their research. They admitted to the Board that they bought their properties assuming that if there was a stream on the property, it would always be there, and they could always use it for domestic purposes whenever they liked. They did not acquire water licenses to the stream. It turned out that the stream in question was an unauthorized diversion of a creek called Robbins Creek, which did not originally flow through the appellants' properties. After numerous complaints from property owners who benefitted from the original Creek, the Ministry of Environment decided to re-divert the Creek to its original route. The Ministry obtained an approval pursuant to [section 9](#) of the [Water Act](#) (changes in and about a stream) to carry out the diversion (the "Approval"). Read the [full article](#) by Olga Rivkin with Bull Housser LLP.

New Fee Listing for Land Title and Survey Authority

On July 9, 2015, the Land Title and Survey Authority of British Columbia (LTSA) previewed the new fee listing for its land title and survey services. The new fees will be in effect in early November 2015. The new regulated fee structure, which reflects Provincial legislative action and a determination by an independent Fee Commissioner, reduces the number of LTSA fee categories and better aligns the level of effort with the cost of the service. Read the full UBCM [article](#).

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There were no amendments this month.

MISCELLANEOUS

Miscellaneous News:

Lawrie McFarlane: BC Needs Clearer Privacy Legislation

British Columbia's privacy commissioner says we're falling behind the rest of Canada in mandatory reporting of privacy breaches. As Elizabeth Denham notes, most other provinces have legislation that compels both public- and private-sector agencies to report such breaches. We do not. This is indeed an issue. But before we add the additional element of compulsion to our statutes, it's vital to look more closely at the problem. Our existing privacy legislation is a total shambles. For years, we had the worst record in Canada for getting health data into the hands of university researchers. There has been some improvement of late, but the fundamental difficulty remains. No one knows what the rules actually demand or permit. We saw a striking example of this confusion in the recent ombudsperson drama. Jay Chalke, newly appointed to the office, was asked to investigate the firings three years ago at the Health Ministry. Read the *Times Colonist* [article](#).

Law that Gives Locations of Mentally Ill Offenders Questioned after BC Man Threatened

Man found not criminally responsible for a violent crime threatened with vigilante violence

Threats of violence against a Kamloops, B.C., man found not criminally responsible for a violent crime have led the B.C. Review Board to question [Conservative legislation](#) that gave the victim the location of his mentally ill attacker. Chair Bernd Walter says the board was troubled by the unique case pitting the rights

of a deeply traumatized victim known as D.E. against those of Erik Konrad William Nelson, the bipolar man who shot him in May 2013. Nelson, who is remorseful and has been deemed a low risk to re-offend, says he wouldn't even recognize D.E. if he ran across him. But D.E. told the board Nelson was "in danger" of a vigilante attack. "I think it begs some discussion of the wisdom of an amendment that discloses the location of a discharged mental patient," Walter told CBC News. "That person has been treated. The objective is to reintegrate them as a functioning member of society, and to that extent, they too are a member of the public who deserves to be protected from harms." Read the CBC [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Commissioners for Taking Affidavits for British Columbia Regulation (142/2015)	NEW Sept. 1/15	see Reg.142/2015

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

BC Bus Crash Injuries Drive up 60%: ICBC

The number of people getting hurt by transit-bus involved crashes has increased 60% over the course of three years in British Columbia, according to data from ICBC. The data was the most recent available from the insurance corporation and showed increasing rates of injury each year. But a Vancouver lawyer says the data, which reported 86 people injured in 2013 – up from 52 in 2010 – doesn't capture the full picture of the number of people hurt. Often, said personal injury lawyer Farouk Jiwa, people report injuries even when there is no crash. Many of the cases he's dealing with involve passengers falling over when buses abruptly stop, or when buses suddenly accelerate. "What I've seen an increase of is actually injuries sustained by passengers just riding the bus, not involved with other vehicles," he said. Read the [full article](#) by [Michael Mui](#), 24 Hours Vancouver.

New Cab Guard Guideline released by WorkSafeBC on August 12, 2015

The guideline assists parties to determine if a cab guard complies with section [26.65](#) of the [Occupational Health and Safety Regulation](#). It includes the method to determine cab guard height and width and structural requirements. The guideline also discusses WorkSafeBC's approach to cab guards that aren't compliant with certain requirements of section 26.65. The cab guard must be 15cm (6 Inches) taller than the cab area of the log truck under section 26.62 (2)(A), or as tall as the cab area for a self-loading log truck under section 26.65 (3). Read the [full article](#) in *Rumblings!* at the BC Forest Safety website.

CVSE Bulletins & Notices

A number of important bulletins and notices have been posted by CVSE in August. These include:

- [NSC Bulletin 02-15](#) – Post-trip inspections under Division 37 Motor Vehicle Act Regulations and electronic reports
- [CVSE1001](#) – Routes Pre-Approved for 5.0 m OAW
- [CVSE1012](#) – Routes for Wood Chip & Residual

For more information on these and other items, visit the CVSE [website](#).

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There were no amendments this month.

PROPERTY & REAL ESTATE

Property and Real Estate News:

New Fee Listing for Land Title and Survey Authority

On July 9, 2015, the Land Title and Survey Authority of British Columbia (LTSA) previewed the new fee
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listing for its land title and survey services. The new fees will be in effect in early November 2015. The new regulated fee structure, which reflects Provincial legislative action and a determination by an independent Fee Commissioner, reduces the number of LTSA fee categories and better aligns the level of effort with the cost of the service. Read the full UBCM [article](#).

Completion of Sales of Units in New Buildings: The Developer's Lawyer's Perspective and Builders Liens

From [CLEBC](#) website – Practice Points, Norman Chow's paper from *Advanced Conveyancing for Paralegals and Legal Support Staff* (June 2015) summarizes the role of the developer's lawyer in completing sales of units in newly constructed or renovated residential buildings to separate purchasers. This paper may be of interest to both legal support staff and lawyers practicing in real estate. Click [here](#) to view the paper.

Daphne Bramham: BC's Two-tier System of Rent Control Needs to Change

Opinion:

It's nonsensical that the BC's [Residential Tenancy Act](#) doesn't protect renters with fixed-term leases from exorbitant annual rate hikes. It would be one thing if, on principle, the government refused to control residential rents. But it doesn't and it hasn't. Since 2002, British Columbia has had a two-tiered system where fixed-term renters get no protection, while those who rent month-to-month do. The legislation restricts landlords with monthly renters to a set annual increase. This year, the cap is 2.5 per cent. Yet landlords who have the benefit of long-term tenants get the added bonus of being able to set whatever price they want when the term is up. It can lead to gouging, particularly now when the vacancy rate in Vancouver is virtually zero. Read *The Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
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There were no amendments this month.

WILLS & ESTATES

Wills and Estates News:

Application of WESA: Date of Death or Date of Will?

Since March 31, 2014, the [Wills, Estates and Succession Act](#) ("WESA") has been the applicable legislation regarding wills and estates matters in British Columbia. WESA gives the courts the power to "cure" deficiencies in Wills that would formerly have been invalid for failure to comply with the required formalities under the less forgiving *Wills Act* (repealed by WESA). Can the courts "cure" a deficient Will made prior to the WESA regime? The general application of WESA is that it applies if the death of the person whose Will and/estate is at issue occurred on or after March 31, 2014. As such, the courts do have the power to "cure" a deficient Will as long as the will-maker passed away after WESA came into effect. The recent decision in [British Columbia v. Sheaffer](#) ("Sheaffer") is an example of the Court drawing a hard line in terms of the March 31, 2014 cut-off date for the application of WESA. Read the [full article](#) by [Lauren Liang](#) with Clark Wilson LLP.

Mutual Will Severs Joint Tenancy

While mutual wills are rare, consideration should be given whenever reviewing them as to whether any prior property owned in joint tenancy has been severed by the execution of mutual wills. That was the situation in *Szabo v. Boros*, 58 WWR 247, where joint tenants of real property, orally agreed in the presence of the plaintiff, to make wills by which each would leave his or her interest to his or her daughter, subject to a life interest to the other testator. The joint tenants then went and executed wills in accordance with the verbal agreement. It was held that the oral agreement, followed by the mutual wills, operated to sever the joint tenancy in the real property which existed prior to the mutual wills, which in themselves created a trust in favour of the plaintiff in respect of one half interest in the property. Read the [full article](#) by Trevor Todd, a lawyer with Disinherited, Estate Disputes and Contested Wills.

Gifts Void Against Public Policy: McCorkill Estate

The usual rule in Canada is that a will-maker may leave wealth to whom he or she chooses. This is subject to claims of a spouse or children under various wills variation or dependent relief legislation, which varies from province to province, but apart from such legislation, it is generally true that a will-maker may choose his or her beneficiaries. Though not common, there is another exception to the usual rule. A court may

find a gift to be void as being contrary to public policy. Harry Robert McCorkill, who died on February 20, 2004, left his estate to the National Alliance, a white supremacist organization based in the United States. His sister challenged the gift on the grounds that it was against public policy. If successful, she and her brother would inherit the estate as Harry McCorkill's next-of-kin (he did not have a spouse or children). Read the [full article](#) by [Stan Rule](#) on his blog *Rule of Law*.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

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