

## Local Government Prosecutions

Effective January 1, 2005, justices hearing local government prosecutions will have additional sentencing powers related to injunctions, penalties and compensation at their disposal as a result of the *Local Government Bylaw Notice Enforcement Act*.

### Injunction Orders

Currently local government *Offence Act* prosecutions and civil proceedings are heard in different Courts - *Offence Act* prosecutions (also known as long-form Informations) are heard in Provincial Court, while civil proceedings to obtain injunctions are heard in Supreme Court. As a result, the judge or JJP hearing the case on a long-form Information would not have the authority to impose an order prohibiting a person from continuing the offence and the local government would be required to commence two separate proceedings to address the first instance and prevent further contraventions.

Under new provisions added to the *Community Charter, Local Government Act* and *Vancouver Charter*, at sentencing for the bylaw offence the Provincial Court may make orders:

- prohibiting the person from doing any act or engaging in any activity that may continue or repeat the offence, and
- directing the person to remedy the harm that resulted from the commission of the offence.

Contravention of such an order is an offence and the fine on conviction for breaching the order may be up to \$10 000, payable to the local government that initiated the long-form Information.

### Penalties and Compensation

In an *Offence Act* prosecution for an offence against a local government bylaw, currently the justice or court may impose all or part of the penalty or punishment authorized by the bylaw, this Act or the *Offence Act*, together with the costs of prosecution. In addition, the new provisions allow the judge or JJP to augment the fine for the offence with orders that compensation be paid

- to the local government or a third party for any damage or loss sustained because of the commission of the offence, and
- to the local government for the costs of investigating the allegation and prosecuting the person.

The Lieutenant Governor in Council may, on the recommendation of the Attorney General, prescribe by regulations a schedule of costs to be used to determine compensation for costs incurred in the investigation and prosecution.

These new provisions also apply to the enforcement of the bylaws of local trust committees of the Islands Trust.