

Quickscribe Reporter

Vol: XVI – Issue: IV – April 2017

QUICKSCRIBE NEWS:

Update Your Bookmark for Quickscribe

We recently upgraded our site from HTTP to HTTPS. Therefore, if you have our site bookmarked and do not automatically access the site via an intranet connection, we recommend updating your bookmark to reflect the following url: <https://www.quickscribe.bc.ca/login.html>.

Latest Annotations

New annotations have recently been added to the Quickscribe site. These annotations include contributions from:

- [Bill Buholzer](#), Young Anderson Barristers and Solicitors – [Local Government Act](#)
- [Peter Roberts](#), Lawson Lundell LLP – [Property Law Act](#)
- [Eileen Vanderburgh](#), Alexander Holburn + Lang LLP – [Freedom of Information and Protection of Privacy Act](#)
- [Stan Rule](#), Sabey Rule – [Wills, Estates and Succession Act](#)
- [Kimberly Jakeman](#), Harper Grey LLP – [Medicare Protection Act](#), [Health Care Costs Recovery Act](#)

Watch this 20-minute [YouTube video](#) to learn more about annotations and how to receive alerts when new annotations are published to the laws that matter most to you.

Tip: Log in to Quickscribe Online prior to clicking Reporter links...

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

[\[Previous Reporters \]](#)

CATEGORIES

COMPANY & FINANCE	LOCAL GOVERNMENT
ENERGY & MINES	MISCELLANEOUS
FAMILY & CHILDREN	MOTOR VEHICLE & TRAFFIC
FOREST & ENVIRONMENT	PROPERTY & REAL ESTATE
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COMPANY & FINANCE

Company and Finance News:

The Eco Oro Decision – OSC Draws the Line on Private Placements During Proxy Contests

The Ontario Securities Commission (OSC) has overturned a decision by the Toronto Stock Exchange (TSX)

conditionally approving a private placement of shares in the context of a proxy contest. The TSX approved the issuance of almost 10% of the common shares of Eco Oro Minerals Corp. (Eco Oro) to existing shareholders supportive of the incumbent board of directors just eight days prior to the record date for a shareholders meeting requisitioned to replace Eco Oro's board of directors. As a result of this decision, private placements in the context of an ongoing proxy contest and other contested situations may be subject to enhanced scrutiny by the TSX in determining whether the issuance should be subject to shareholder approval. The OSC's decision also effectively unwinds the private placement unless and until it is approved by Eco Oro's shareholders. The OSC's jurisdiction to make this kind of order has been the subject of considerable debate.

In a separate ruling issued on the day after the OSC's decision, the Supreme Court of British Columbia (the B.C. Court) dismissed a petition by Eco Oro shareholders to set aside the issuance of Eco Oro's shares on the basis of oppression. Read the [full article](#) by [Douglas Bryce](#), [Jeremy Frailberg](#), [Andrew MacDougall](#), and [Alex Gorka](#) of Osler LLP.

Mandatory Central Counterparty Clearing of OTC Derivatives in Canada – Update

In 2015, the Canadian Securities Administrators (CSA) proposed mandatory central counterparty clearing of certain standardized over-the-counter ("OTC") derivatives transactions consistent with its goal to improve transparency in the OTC derivatives market and enhance the overall mitigation of systemic risk: National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* and its related Companion Policy 94-101CP (NI 94-101) and National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions* and its related Companion Policy 94-102CP (NI 94-102).

NI 94-101 requires certain counterparties to clear specified standardized OTC derivatives through a central counterparty clearing agency, unless an exemption is available in the instrument. For a detailed overview of NI 94-101, we refer you to our previous article on NI 94-101.

NI 94-102 is designed to protect a local customer's positions and collateral when clearing OTC derivatives and to improve clearing agencies' resilience to default by a clearing intermediary: it includes requirements related to the segregation and portability of customer collateral and positions as well as detailed record-keeping, reporting and disclosure requirements. For a detailed overview of NI 94-102, we refer you to our previous article on NI 94-102.

On January 19, 2017, the CSA announced that, subject to necessary approvals, NI 94-101 would come into force on April 4, 2017 and NI 94-102 would come into force on July 3, 2017. Read the [full article](#) by [Laurie Fouin](#), [Candace Pallone](#), [Mary Jeanne Phelan](#) and [Sonia Struthers](#) of McCarthy Tétrault LLP.

BC Securities – Policies & Instruments

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

- [93-101](#) – CSA Notice and Request for Comment - Proposed National Instrument 93-101 *Derivatives: Market Conduct* and related documents
- [94-101](#) – Adoption - Multilateral Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*
- [11-336](#) – CSA Staff Notice 11-336 – *Summary of CSA Roundtable on Responses to Cyber Security Incidents*
- [11-335](#) – CSA Staff Notice 11-335 *Notice of local amendments and changes in certain jurisdictions*
- [23-101](#) – Amendments to National Instrument 23-101 *Trading Rules* and its related Companion Policy
- [45-323](#) – CSA Staff Notice 45-323 *Update on Use of the Rights Offering Exemption in National Instrument 45-106 Prospectus Exemptions*
- [52-403](#) – CSA Consultation Paper 52-403 *Auditor Oversight Issues in Foreign Jurisdictions*
- [24-101](#) – CSA Notice: Amendments to National Instrument 24-101 *Institutional Trade Matching and Settlement* and its related Companion Policy

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Apr. 1/17	by Reg 41/2017

Fee Setting Criteria Regulation (292/2004)	Apr. 1/17	by Reg 104/2017
Interest Rate Regulation (75/2017)	NEW Apr. 1/17	see Reg 75/2017
Long Term Disability Fund Interest Regulation (51/2017)	NEW Apr. 1/17	see Reg 51/2017
National Instrument 23-101 <i>Trading Rules</i> (252/2001)	Apr. 10/17	by Reg 134/2017
Training Tax Credits Regulation	Apr. 6/17	by Reg 136/2017

ENERGY & MINES

Energy and Mines News:

Vaughn Palmer: Christy Clark Takes Firm Stand on U.S. Thermal Coal

On a campaign swing through south central BC, BC Liberal Leader Christy Clark stepped up her last-minute war against the shipment of thermal coal through ports on the BC Coast.

Clark launched the drive just last week, calling on Prime Minister Justin Trudeau to implement the ban. But in the absence of any action by Ottawa, Clark now says if the Liberals are re-elected, they will take immediate action on their own.

Though the BC Liberal cabinet crafted the move in retaliation to the U.S. decision to impose punitive duties on softwood lumber imports from Canada, the premier confirmed that the mechanism would apply equally to thermal coal from Canadian provinces as well as trans-shipments from the U.S.

She also announced the mechanism – a special carbon levy that would be imposed by regulation under the provincial [Greenhouse Gas Industrial Reporting and Control Act](#). Read the [full article](#) in *The Vancouver Sun*.

Approval of Mount Polley Mine Waste Dumping Irks Critics

Mount Polley Mining Corporation has been granted permission to drain treated mining waste water into Quesnel Lake, a massive glacial lake that provides drinking water to residents of Likely BC, northeast of Williams Lake.

Approval of the long-term waste water management plan came April 7, despite a disaster that put the water at risk in 2014 and a provincial investigation into the spill that is not yet complete.

"The timing is absolutely surprising," said Ugo Lapointe of Mining Watch Canada, who pointed out the news release came on a Friday afternoon before the launching of the BC election.

Quesnel Lake, famed for trophy-sized rainbow trout, is feared at risk by locals who describe it as the deepest fjord lake on earth, and who protest any dump of mining waste, treated or otherwise, which can carry toxic elements and heavy metals such as arsenic and lead or zinc.

"It's hard not to be cynical," said Lapointe who said locals opposing the plan felt ignored.

But Environment Minister Mary Polak told CBC the decision was made by neutral civil servants based on science that confirmed draining treated water into the river, as opposed to the lake, was riskier.

"These decisions do not cross any politicians desk. In fact if I was to interfere with the decision I could be in some very serious legal trouble," Polak told CBC. "That is one of the ways we ensure that there is never any influence by companies that might donate to political parties." Read the [full article](#) at *CBC News*.

Effective

Act or Regulation Affected	Date	Amendment Information
First Nations Clean Energy Business Fund Regulation (377/2010)	Apr. 1/17	by Reg 7/2017

FAMILY & CHILDREN

Family and Children News:

Youth Custody Regulation Amended

Effective April 1, 2017, the [Youth Custody Regulation](#), B.C. Reg. 137/2005, was amended by [B.C. Reg. 11/2017](#). Many of the amendments serve to shift emphasis away from discipline for infractions and towards behaviour support and management, and provide for the emotional and personal development of youth. New provisions were added regarding reports written by a person who orders a behaviour management consequence as a result of an infraction, and the review of these reports by the person in charge of the youth custody centre. The section on separate confinement was repealed and a new one introduced, which expands the list of reasonable grounds for confinement, and redefines the different periods of confinement.

Act or Regulation Affected	Effective Date	Amendment Information
Youth Custody Regulation (137/2005)	Apr. 1/17	by Reg 11/2017

FOREST & ENVIRONMENT

Forest and Environment News:

Fallout from U.S. Tariff on Canadian Softwood Won't be Immediate, BC Industry Leaders Say

Steep tariffs imposed on Canadian softwood lumber exports to the United States are not expected to create immediate problems for B.C. sawmills because demand remains robust and prices are high. That short-term reality, however, hasn't quelled concern in forestry communities and among industry workers.

There is not likely to be any immediate fallout because the tariff has already been absorbed in the price of lumber in the U.S. due to a 30-per-cent rise in the past three months, Interfor president and CEO Duncan Davies said Tuesday [April 25th] during an industry news conference.

Canadian producers are also helped by a Canadian dollar that is much lower than the U.S. currency, as lumber is priced in U.S. dollars.

"For us, (the new tariff is) a negative on our business, but the real loser in all of this is the U.S. homebuilder and the U.S. consumer," said Davies, chair of the lumber trade council.

However, Davies said while many large firms like his own are in good financial shape to weather the duties in the short-term, he is concerned about smaller operators who don't have large cash reserves.

B.C. Lumber Trade Council president Susan Yurkovich said: "We don't know what the actual impact on the B.C. industry in total will be – and we expect there will be some over time. It depends how long the dispute will go on."

The lumber trade council represents major producers in BC, including West Fraser, Canfor and Tolko, assigned individual preliminary duties of 24.12, 20.26 and 19.5 per cent, respectively. Other BC companies have been assigned a duty of 19.88 per cent. West Fraser and Canfor declined comment and Tolko did not respond to a request for comment. More than half of BC softwood lumber exports go to the U.S., the remainder largely to Japan and other countries in Asia. Read *The Vancouver Sun* [article](#).

Environmental Lawsuit Against Province Over Jet Fuel Spill Approved by BC Court

A British Columbia Supreme Court judge has approved a class-action lawsuit against the provincial government over a fuel spill that forced the evacuation of thousands of residents in the Slocan Valley four years ago.

The law firm representing 2,500 residents says it's the first such environmental lawsuit certified by the court against the province of BC.

The firm, Rosenberg Kosakoski Litigation, says in a statement the tanker truck that overturned, spilling 35,000 litres of jet fuel into the Slocan River water system was part of a province-led refuelling operation for firefighting helicopters.

The action alleges the province caused the disaster because of operational mismanagement and then failed to adequately respond to the spill, which resulted in millions of dollars in damages to private property and the ecosystem.

At the time, residents were evacuated and a do-not-use water order was put into effect as the fuel moved from Lemon Creek into the Slocan River. Read the [CBC article](#).

A Quick Overview of November 1, 2017 Changes to the Contaminated Sites Regulation

Developers will be pleased to learn that there is some relief in the upcoming changes to the [Contaminated Sites Regulation](#). Here is a high level summary of what is changing (and what is not).

New Categories of Land Uses

Residential land use will now be split into two categories: High Density and Low Density.

High density includes multi-unit buildings over three stories. Based on the theory that there is less human contact with soil in high density development, the standards of acceptable levels of contaminants will generally be higher than the current residential standards. There will, however, be prohibitions on uses such as vegetable gardens.

Low Density Residential standards will be substantially the same as the current Residential standards.

An altogether new category known as "Wildlands Land Use" including "Natural Wildlands Land Use" and "Reverted Wildlands Land Use" will be introduced, which will be helpful in rural areas.

Read the [full article](#) by [Darren Donnelly](#) of Clark Wilson.

Beyond Borders: BC Court Rules U.S. Resident Has Aboriginal Right to Hunt in Canada

On March 27, 2017, in an unprecedented decision, the Provincial Court of British Columbia (Court) ruled in [R. v. DeSautel \(DeSautel\)](#) to recognize the aboriginal rights of a First Nation whose members reside in the United States and to allow for the exercise of those rights in Canada.

Background

On October 1, 2010, the defendant, Mr. DeSautel, shot an elk for ceremonial meat near Castlegar, B.C. He was charged with two offences under the BC [Wildlife Act](#): hunting without a licence and hunting big game while not being a resident.

Mr. DeSautel is a U.S. citizen and resident of the Colville Indian Reserve in Washington State. As a member of the Lakes Tribe, Mr. DeSautel's ancestors are the Sinixt people whose traditional territory spans the U.S.-Canadian border. The northern boundary is in the Kootenay region, near Revelstoke, B.C.

Mr. DeSautel argued that he had an aboriginal right to hunt in the Sinixt traditional territory.

Read the [full article](#) by [Sarah Nykolaishen](#), [Roy Millen](#), and [Sandy Carpenter](#) on *Blakes Business Class*.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were released in the month of March:

[Environmental Management Act](#)

- [Harvest Fraser Richmond Organics Ltd. v. District Director, Environmental Management Act, \(City of Richmond, Third Party\), \(Participants\)](#) [Stay Decision – Denied]

- [Revolution Organics, Limited Partnership v. Director, Environmental Management Act](#) [Preliminary Issues of Jurisdiction – Granted in Part]

[Water Act](#)

- [Thomas Hobby and SC Ventures Inc. v. Assistant Regional Water Manager](#) (0716880 B.C. Ltd.; 071886 B.C. Ltd.; 0716892 B.C. Ltd.; 0716927 B.C. Ltd.; 0716930 B.C. Ltd.; 0716945 B.C. Ltd.; 0716961 B.C. Ltd.; 0716967 B.C. Ltd.; 1028706 B.C. Ltd.; Malahat First Nation, Participants) [Consent Order – Costs Settlement]

[Wildlife Act](#)

- [Kim Sedrovic; Gordon Silverthorne vs. Regional Manager, Recreational Fisheries and Wildlife Program](#) [Final Decision – Appeals Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Cattle Industry Development Council Regulation (240/94)	Apr. 1/17	by Reg 112/2017
Closed Areas Regulation (76/84)	Apr. 5/17	by Reg 135/2017
Designation and Exemption Regulation (168/90)	Apr. 5/17	by Reg135 /2017
North American Gypsy Moth Eradication Regulation, 2017 (86/2017)	NEW Apr. 15/17	see Reg 86/2017
Public Access Prohibition Regulation (187/2003)	Apr. 4/17	by Reg 133/2017

HEALTH

Health News:

Purdue Pharma Agrees to Settle OxyContin Class-action Suit

The pharmaceutical giant behind the blockbuster pain pill that triggered Canada's deadly opioid crisis has agreed to pay \$20-million to settle a long-standing class-action lawsuit.

The proposed national settlement caps a legal battle that began a decade ago between Purdue Pharma, the maker of OxyContin, and lawyers representing as many as 2,000 Canadians who got hooked on the drug after their doctors prescribed it. The country's opioid epidemic traces its roots to the introduction of the prescription painkiller 21 years ago. From 2000 to 2015, more than 6,300 died in Ontario alone from overdoses related to opioids.

"We're happy we at least have something to offer to the class members after all this time," Halifax lawyer Ray Wagner said. Read *The Globe and Mail* [article](#) by Karen Howlett.

Thousands of X-rays and Scans Read in BC's Interior May Have "Inaccuracies"

Visiting radiologist's work from May of 2011 and June of 2014 to be reviewed

Another health authority in BC is calling into question the work of a radiologist who was responsible for reading thousands of X-rays and scans over a two-month period.

Interior Health says it will be reviewing nearly 2,200 X-rays, CT scans, ultrasound and diagnostic mammography

reports read by a doctor who was working temporarily in the Kootenay-Boundary region in May of 2011 and June of 2014.

"The concern has been raised the interpretations may not have been complete reporting or had inaccuracies," said Dr. Ron Collins from the health agency.

The news comes a day after 700 patients in northwestern B.C. were informed of errors in the analysis of their scans at a Terrace hospital. More than 8,400 images from 5,278 patients were reviewed in that case.

This latest incident impacts 1,790 patients who visited hospitals and health centres from Nakusp, B.C. to Grand Forks who may have had a range of medical issues.

"It could be anything from soft tissue injury related to sports up to something much more serious," said Collins. Read the full *CBC News* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Drug Price Regulation (344/2012)	Apr. 1/17	by Reg 266/2016
Health Professions Designation Regulation	Apr. 3/17	by Reg 132/2017

LABOUR & EMPLOYMENT

Labour and Employment News:

Proposed Leave for British Columbia Victims of Domestic or Sexual Violence

[Employment Standards \(Domestic Violence Leave\) Amendment Act, 2017](#) proposes amendments to the British Columbia [Employment Standards Act](#) ("ESA") which would provide leave for BC victims of domestic or sexual violence.

Proposed Changes

If enacted, an employee who requests leave under proposed section 52.3 of the ESA will be entitled to up to 10 days of paid leave, and up to 17 weeks of unpaid leave, if the employee or the employee's child has experienced domestic violence or sexual violence.

It is expected that "domestic violence" will be defined as (a) an act of abuse between an individual and a current or former intimate partner, between an individual and a child who resides with the individual, or between an individual and an adult who resides with the individual and who is related to the individual by blood, marriage, foster care or adoption, whether the abuse is physical, sexual, emotional or psychological, and may include an act of coercion, stalking, harassment or financial control, or (b) a threat or attempt to do an act described in (a).

Read the [full article](#) by [Natalie Cuthill](#) of McMillan LLP.

BC Bans Mandatory High Heels in the Workplace

The BC government has followed through on its commitment to ban mandatory high heels in the workplace, announced Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour, Shirley Bond.

The requirement to wear high heels in some workplaces is a workplace health and safety issue. There is a risk of physical injury from slipping or falling, as well as possible damage to the feet, legs and back from prolonged wearing of high heels while at work.

The change was made by amending the existing footwear regulation ([section 8.22](#)) of the [Occupational Health and Safety Regulation](#), under the [Workers Compensation Act](#). Read the full government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
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Employment and Assistance Regulation (263/2002)	Apr. 1/17	by Regs 96/2017 and 118/2017
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Apr. 1/17	by Regs 95/2017 , 96/2017 and 118/2017
Long Term Disability Fund Interest Regulation (51/2017)	NEW Apr. 1/17	see Reg 51/2017
Occupational Health and Safety Regulation (296/97)	Apr. 3/17	by Reg 312/2016
	Apr. 7/17	by Reg 140/2017
	May 1/17	by Reg 9/2017
Public Service Benefit Plan Act	Apr. 1/17	by 2016 Bill 10, c. 3, sections 13 and 14 only (in force by Royal Assent), Budget Measures Implementation Act, 2016

LOCAL GOVERNMENT

Local Government News:

Update on Marijuana Legalization

UBCM has met with Bill Blair, Parliamentary Secretary to the Minister of Justice and Attorney General, to discuss the federal government initiative to legalize and regulate marijuana. In June 2016, Blair was tasked with overseeing the federal Task Force on Cannabis Legalization and Regulation.

Mr. Blair conveyed the federal government's next steps in the legalization process, including the impending legislation, which he described as "imminent". In particular, Blair discussed the necessity for communication between all three orders of government, as well as the need to provide local governments the resources they need to manage responsibilities under the regime for legalized marijuana. Read the [full article](#) on the Union of BC Municipalities website

Liquor Control & Licensing Regulation – Charitable Purposes

Recent amendments to the [Liquor Control and Licensing Regulation](#) include a new section dealing with special event permits for charitable purposes. The section establishes rules for a permittee who holds a special event permit and sells a drink containing liquor at a price exceeding that set out in the cost recovery price list. The profits made from these events must be donated to or used by a non-profit organization or corporation to carry out charitable purposes.

Act or Regulation Affected	Effective Date	Amendment Information
British Columbia Building Code Regulation (264/2012)	Apr. 7/17	by Reg 138/2017
Building Act General Regulation (131/2016)	Apr. 1/17	by Reg 52/2017
	Apr. 7/17	by Reg 139/2017
Electoral Districts Act	NEW	c. 39 [SBC 2015], Bill 42 , whole Act in force on

(replaces former Electoral Districts Act)	Apr. 11/17	dissolution of 40th Parliament
Electoral Districts Act	REPEALED Apr. 11/17	by 2015 Bill 42, c. 39, section 5 only (in force on dissolution of 40th Parliament), Electoral Districts Act
Liquor Control and Licensing Regulation (241/2016)	Apr. 7/17	by Reg 137/2017
Taxation (Rural Area) Act Regulation	Apr. 10/17	by Reg 141/2017

MISCELLANEOUS

Miscellaneous News:

New Electoral Districts Act

The new [Electoral Districts Act](#) came into force on April 11, 2017, granting effect to the Legislative Assembly's approval of the [Electoral Boundaries Commission's 2015 report](#). The Act establishes two additional electoral districts in Richmond and Surrey, thereby increasing the number of electoral districts within British Columbia from 85 to 87. Substantial changes were also made to the Fraser-Nicola and the Boundary-Similkameen districts, while the Comox Valley and mid-Vancouver Island areas were redistributed to form the Mid Island-Pacific Rim electoral district. These and other relatively minor changes are intended to rebalance populations within communities while also providing representation of communities of interest.

Act or Regulation Affected	Effective Date	Amendment Information
Electoral Districts Act (replaces former Electoral Districts Act)	NEW Apr. 11/17	c. 39 [SBC 2015], Bill 42 , whole Act in force on dissolution of 40th Parliament
Electoral Districts Act	REPEALED Apr. 11/17	by 2015 Bill 42, c. 39, section 5 only (in force on dissolution of 40th Parliament), Electoral Districts Act

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Crash Victim's Court Award for Surrogacy Fees Believed to be a 1st in Canada

Mikaela Wilhelmson was in the back seat when a head-on crash changed her life forever. Six years ago, a head-on car crash in Surrey, B.C., left Mikaela Wilhelmson's bones and future shattered. A witness at the scene remembers her saying: "I don't want to die. I don't want to die."

Since then, the young woman had been fighting for compensation. Recently she was awarded a \$4 million settlement from the Insurance Corporation of British Columbia (ICBC), along with a precedent-setting \$100,000 award to be used for the future cost of surrogacy because her massive injuries left her unable to bear children.

"That had never been done before in Canada," said Wilhelmson's lawyer Conrad Margolis.

B.C. Supreme Court Justice Neena Sharma considered everything in her ruling – from lost financial potential, to lost fertility in the case that pushes the limits on personal injury awards for the young woman's lost potential. Several personal injury lawyers told the CBC they believe the award for future surrogacy is a first in Canada. Read the full [CBC article](#) by Yvette Brand.

High Proportion of Young Adults Who Consume Pot are Driving: BC Study

A major BC study has found that a high proportion of young adults who consume marijuana admit they either drive while stoned or get into vehicles with drivers who've used marijuana.

Canadian studies have shown increased crash risks when drivers consume pot, and the high frequency of risky behaviour in the current study demonstrates a failure of approaches and the need for urgent action on the prevention and public-awareness front, the study says. This is especially relevant because of Canada's plan to legalize recreational marijuana, according to lead author Bonnie Leadbeater, a University of Victoria psychology professor whose study is published in the journal *Paediatrics and Child Health*.

Vancouver General Hospital's Jeff Brubacher, an emergency-room doctor and co-author of the current study, told Postmedia News recently that when marijuana is legalized, "there will be an increase in crashes, injuries and fatalities." Read *The Vancouver Sun* [article](#) by Pamela Fayerman.

Proven Cases of ICBC Fraud Almost Non Existent

Insurance Companies often talk about the high cost of fraud and ever rising claim rates. These discussions are often abstract or accompanied with large numbers. When you look behind the data there is often little to substantiate the numbers.

This pattern seems to be the case with ICBC's claims that fraud costs policy holders \$600 million per year. The reality, however, is there is no data to substantiate this.

Recently ICBC revealed, pursuant to an information request, the number of successful convictions against fraudsters. The numbers are negligible.

Richard McCandless, a self described "retired senior BC government public servant" made an information request for the number of fraud charges laid and the number of resulting convictions. ICBC replied and the data revealed that there are very few successful prosecutions and the trend, if anything, is moving downward. Read the [full article](#) by [Erik Magraken](#) on his *BC Injury Law and ICBC Claims Blog*.

CVSE Bulletins & Notices

The following circulars have been posted in April by CVSE:

- [CVSE1001](#) – Routes Pre-Approved for 5.0 m OAW (April 2017)
- [Notice NSC 01-17](#) – Changes to Bulk Abstract Request Process

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

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

PROPERTY & REAL ESTATE

Property and Real Estate News:

Saskatchewan Courts Tackle Cost Sharing in Condominiums

Late last month, Saskatchewan's Court of Queen's Bench issued two judgments examining cost sharing in a condominium property. Cost sharing has been front and centre in recent work in BCLI's Strata Property Law Project, culminating in the publication of the *Consultation Paper on Complex Stratas*. The consultation paper examined how British Columbia's legislation and regulations enabling sections and types can take the pressure off apportioning common expenses in a strata property strictly by reference to strata lots' unit entitlements. The Saskatchewan cases took on issues arising from two condominium properties' (the Saskatchewan equivalent of a strata property) attempts to vary this basic rule of sharing expenses.

BC's [Strata Property Act](#) generally requires a strata corporation to determine "a strata lot's share of the contribution to the operating fund and contingency reserve fund" by applying the following formula: unit entitlement of strata lot/total unit entitlement of all strata lots x total contribution. Section 100 allows the eligible voters of a strata corporation to "agree to use one or more different formulas," but only so long as their agreement is evidenced by a resolution passed by a unanimous vote. Read the [full BCLI article](#) by Kevin Zakreski.

Highest Priced Houses in Metro Vancouver belong to the Lowest Income Earners, Study Finds

A new study says the highest priced houses in municipalities Metro Vancouver are owned by those with the lowest median household incomes.

The study – by the consultant group Site Economics Ltd. – took data from the Canada Revenue Agency and the Vancouver Real Estate Board. It found annual taxable median household incomes are not associated with median home prices in different municipalities in Metro Vancouver.

"Port Moody now has the highest median taxable income in Metro Vancouver, yet only average house prices, and Richmond has the lowest median taxable income, yet some of the highest house prices," it stated.

Richard Wozny, a longtime real estate developer and the principal for Site Economics Ltd., believes this discrepancy between incomes and housing prices in Vancouver is the result of the owners of high-priced homes under reporting their actual income – though the claim is an extrapolation, as the report doesn't show any specific evidence of this.

Wozny says these owners – who are subject to property taxes – are not paying enough income tax needed to support the infrastructure and neighbourhood services that make the city so desirable, which in turn leads to higher house prices.

"Growth is not being required to pay for itself," he said. "It seems like politicians have been too timid to ask for something."

Wozny says if incomes are no longer a reliable source of taxes, there needs to be substantial tax reforms – property tax, for example – to better capture the wealth in the real estate market.

Tsur Somerville, a professor at the University of British Columbia's Sauder School of Business, says while this particular discrepancy of low incomes, high house prices has been raised in the past, there's a problem with these studies. Read more of the [CBC article](#) by Roshini Nair.

Act or Regulation Affected	Effective Date	Amendment Information
Interest Rate Regulation (75/2017)	NEW Apr. 1/17	see Reg 75/2017
Real Estate Services Regulation (506/2004)	Apr. 1/17	by Reg 3/2017

WILLS & ESTATES

Wills and Estates News:

Legal Trend: Evidence of Testamentary Intent Can "Save" otherwise Invalid Wills or Gifts

The recently reported case of [Bach Estate \(Re\)](#) is the first decision to rule on [section 43](#) of the [Wills, Estates and Succession Act](#) (the "WESA") and also epitomizes a recent trend in BC estate law: otherwise invalid testamentary documents or gifts can be "saved" where there is evidence of testamentary intent.

This trend has been seen in [section 58](#) of the WESA, which allows a court to cure deficiencies in an otherwise invalid will where that will is found to encapsulate the testamentary intent of the deceased. This trend is also found in the wording of section 43 of the WESA which allows a court to declare that a gift to a witness of a will or to a spouse of a witness (which, prior to the WESA, was automatically void) is valid if it was the will-maker's intention to make the gift to that person.

Otherwise invalid wills have been cured by BC courts under section 58 of the WESA in cases like [Yaremkevich Estate \(Re\)](#). [Bach Estate](#) represents the first ruling where a court has saved an otherwise invalid gift to a witness or witness' spouse under section 43. Read the [full article](#) by [Daniel Paperny](#) and [Mark Weintraub](#), Q.C. of Clark Wilson LLP.

Supreme Court of B.C Decision Lends Support to Use of Multiple Wills to Reduce Probate Fees

A recent Supreme Court of British Columbia decision has lent support to the strategy of reducing probate fees by making two wills in British Columbia, one that deals with those assets that may be transferred to your personal representative without a grant of probate, and the other that deals with assets requiring a grant of probate. This strategy of probate fee reduction has been successfully employed in Ontario, and because of wording changes to the legislation in British Columbia when the [Wills, Estates and Succession Act](#) came into effect, is utilized more frequently in British Columbia. Read the [full article](#) by [Stan Rule](#) on his blog *Rule of Law*.

Ian Mulgrew: As If Death Weren't Bad Enough – Fraudulent Wills

The B.C. inheritance-and-estate law brought in two years ago has increased the risk of forged and fraudulent wills, says a lawyer involved in the debate about its creation.

Trevor Todd, who runs [disinherited.com](#), said the situation is worrying given that in his 40-year practice he previously saw only one forged will – in the late-1970s.

That case involved a nightclub doorman and his legal-secretary girlfriend taking advantage of the chronically drunk bar owner with a will that left everything to the bouncer. The club owner's widow hired a handwriting expert and the case was settled out-of-court when the will was unveiled as a fake.

The old rules required that a will be in writing, signed by the testator and two witnesses, all in the presence of each other, and neither of whom nor their spouses could inherit as a beneficiary.

(The doorman used two bar flies as witnesses – the girlfriend having alerted him to the perils of signing the phoney document.)

Most forged-wills cases involve handwritten documents, known as holographs, putatively signed by the deceased with no witnesses.

Several decisions since the [Wills, Estates and Succession Act](#) (WESA) came into effect March 31, 2014, however, have allowed wills that previously would have been ruled invalid to be probated despite irregularities such as the lack of witnesses. Read *The Vancouver Sun* [article](#).

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

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