

# Quickscribe Reporter

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Vol: XXI – Issue: 2 – February 2022

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## QUICKSCRIBE NEWS:

### Spring Session Highlights (Thus Far)

The BC Legislative Assembly resumed on February 8th and [Budget details](#) were announced February 22nd. The Budget highlighted several priorities for the government, including increased spending on childcare, healthcare and climate related initiatives. Housing, taxes, Indigenous reconciliation and emergency preparedness were also mentioned. Several new government bills have been introduced since the session began. These include:

- Bill 1 – [An Act to Ensure the Supremacy of Parliament](#)
- Bill 2 – [Municipalities Enabling and Validating \(No. 4\) Amendment Act, 2022](#)
- Bill 3 – [Protected Areas of British Columbia Amendment Act, 2022](#)
- Bill 4 – [Skilled Trades BC Act](#)
- Bill 5 – [Workers Compensation Amendment Act, 2022](#)
- Bill 6 – [Budget Measures Implementation Act, 2022](#)
- Bill 7 – [Coastal Ferry Amendment Act, 2022](#)
- Bill 8 – [Attorney General Statutes \(Hague Convention on Child and Family Support\) Amendment Act, 2022](#)
- Bill 9 – [Attorney General Statutes Amendment Act, 2022](#)

If you wish to be notified when these or other changes come into force, check out Quickscribe's customizable alerts via the [My Alerts](#) page. Quickscribe alerts are included with your subscription so feel free to select the alerts that work best for you!

### New Features on Quickscribe

Quickscribe recently introduced several new enhancements to Quickscribe Online 2.0. Bookmarks on the left navigation can now be moved by dragging and dropping the reference to the desired position. The viewing windows for [Hansard](#), Annotations and [Supplemental Notes](#) are no longer locked within the frame and can be moved so you can view the text of the sections these references are assigned to. Supplemental Notes are now indexed and will be included in keyword searches.

### Latest Annotations

New annotations were recently added to Quickscribe:

- [OnPoint Legal Research](#) – [Motor Vehicle Act](#), [Workers Compensation Act](#)

If you wish to be alerted when new annotations are published by our contributors, select "[My Alerts](#)" via the top navigation, then select the "View Expert Annotators". Here you can view and "follow" any contributor from the list.

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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:

#### **B.C. Introduces New Marketplace Facilitator Rules for Its Provincial Sales Tax**

In its 2022 [Budget and Fiscal Plan](#) [PDF], British Columbia proposed new rules for "marketplace facilitators," including making certain supplies by these entities, which are currently not subject to B.C. provincial sales tax (PST), taxable. While legislation has yet to be released, B.C. also issued new [Bulletin PST-142](#) [PDF] (the Bulletin), setting out some of the details of how the new rules will apply. These changes follow B.C.'s [recent expansion](#) of PST registration requirements as well as similar changes applicable to online platforms made by [Québec and Saskatchewan](#), [Manitoba](#) and the [Canadian federal government](#). Read the [full article](#) by [Roger Smith](#) and [Alan Kenigsberg](#) with Osler, Hoskin & Harcourt LLP.

#### **Tax Court of Canada Issues Order Allowing Parties to be Served by E-mail**

The Tax Court of Canada ("TCC") recently issued a Practice Direction and Order (the "Order") allowing parties to proceedings covered by the *Tax Court of Canada Rules (General Procedure)* to consent to be served by e-mail. The Order can be found [here](#). Read the [full article](#) by [Brendan Forrest](#) with Thorsteinssons.

#### **"Commercially Reasonable Best Efforts": B.C. Court Provides Guidance in Context of Purchase and Sale Contract**

In [Sutter Hill Management Corporation v. Mpire Capital Corporation](#) (*Sutter*), the British Columbia Court of Appeal found that the acquiror of an Abbotsford, B.C. care home had breached the purchase and sale agreement by failing to use "commercially reasonable best efforts" to obtain required regulatory approvals from a healthcare authority "as soon as possible". Because the delay resulted in part from a failure to engage a B.C. lawyer to handle a key regulatory matter until very late in the process, the ruling also has implications for the management of multi-jurisdictional transactions. Read the [full article](#) by [Alexandra Urbanski](#) with Stikeman Elliott LLP.

#### **Reduced Regulatory Burden for Investment Funds and Managers – Progress For 2022**

Recent rule amendments made by the Canadian Securities Administrators to various investment fund-related instruments represent a step in the right direction in reducing the regulatory burden for investment funds and their managers. These amendments are part of the long-standing regulatory burden reduction initiative of the Canadian Securities Administrators that commenced in 2017, known as Project RID. Read the [full article](#) by Roma Lotay, Whitney Wakeling and Rebecca A. Cowdery with Borden Ladner Gervais LLP.

#### **New Mandatory Tax Disclosure Rules Announced for 2022**

##### **I. Background**

As part of the 2021 Canadian federal budget, the government announced that it would be expanding the existing "mandatory disclosure rules" in the [Income Tax Act](#) (Canada) (the ITA) in accordance with the Organisation for Economic Co-operation and Development (OECD)'s Base Erosion Profit Shifting Action 12 Report. The budget proposals (the Proposals) included:

- a. Expanding existing "reportable transactions" rules in section 237.3 of the ITA;
  - b. Creating a new category of "notifiable transactions";
  - c. Requiring "certain corporations" to report "uncertain tax treatments";
  - d. Extending the normal reassessment period where there is non-compliance with reporting rules;
- and

e. Expanding penalties for non-compliance with reporting rules.

Read the [full article](#) by Mark Jadd, Brian Kearl and Keaton T. Buchberger with Dentons.

### CSA Provide Disclosure Guidance to Investment Funds Engaged in ESG Investing

On January 19, 2022, the Canadian Securities Administrators (CSA) published [CSA Staff Notice 81-334](#) (the "Staff Notice") to provide guidance to investment funds (funds) relating to environmental, social and governance (ESG) disclosure. According to the CSA, the Staff Notice is intended to clarify and explain how existing regulatory requirements apply to ESG-related fund disclosure, without creating any new obligations. The Staff Notice also provides best practices that "would enhance ESG-related disclosure and sales communications." Read the [full article](#) from Stikeman Elliott.

### BC Securities – Policies & Instruments

The following policies and instruments were recently published on the BCSC website:

- [51-107](#) – CSA Notice and Request for Comment Proposed National Instrument 51-107 Disclosure of Climate-related Matters
- [24-318](#) – Preparing for the Implementation of T+1 Settlement

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

Act or Regulation Affected	Effective Date	Amendment Information
Credit Union Incorporation Act	Feb. 17/22	by 2019 Bill 37, c. 29, sections 82 to 86, 88 to 91, 95, 96, 102 to 104, 106 to 110, 112 (a) (part), 113, 114, 116, 118 and 122 (a) only (in force by <a href="#">Reg 32/2022</a> ), <a href="#">Financial Institutions Amendment Act, 2019</a>
		by 2021 Bill 8, c. 2, section 144 (part) only (in force by <a href="#">Reg 32/2022</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Credit Union Incorporation Act Regulation (206/2012)	Feb. 17/22	by <a href="#">Reg 32/2022</a>
Credit Union Transactions Regulation (33/2022)	<b>NEW</b> Feb. 17/22	see <a href="#">Reg 33/2022</a>
Designated Accommodation Area Tax Regulation (93/2013)	Feb. 1/22	by <a href="#">Reg 251/2021</a>
	Mar. 1/22	by <a href="#">Reg 47/2022</a>
Education and Health Sector Organizations Regulation (53/2010)	Feb. 14/22	by <a href="#">Reg 22/2022</a>
Financial Institutions Act	Feb. 17/22	by 2019 Bill 37, c. 29, section 25 only (in force by <a href="#">Reg 33/2022</a> ), <a href="#">Financial Institutions Amendment Act, 2019</a>
		by 2019 Bill 37, c. 29, section 78 only (in force by <a href="#">Reg 32/2022</a> ), <a href="#">Financial Institutions Amendment Act, 2019</a>

		by 2021 Bill 8, c. 2, section 23 (b) only (in force by <a href="#">Reg 33/2022</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Interest on Overdue Accounts Payable Regulation (215/83)	Feb. 15/22	by <a href="#">Reg 30/2022</a>
Property Transfer Tax (Treaty Lands) Remission Regulation (41/2022)	<b>NEW</b> Feb. 22/22	see <a href="#">Reg 41/2022</a>
Societies Regulation (216/2015)	Feb. 28/22	by <a href="#">Reg 48/2022</a>

## ENERGY & MINES

### Energy and Mines News:

#### Power Perspectives 2022 – British Columbia Regional Overview

In 2021, several long-awaited developments occurred that will lay the groundwork for BC's energy future. With the completion of Phase 2 of its comprehensive review of BC Hydro and the release of its CleanBC Roadmap to 2030, the province has signalled its core energy priorities and outlined key measures to achieve them. Meanwhile, the submission by BC Hydro of a new integrated resources plan – its first in almost a decade – sheds new light on the province's anticipated load-resource profile and implications for market participants, including independent power producers (IPPs). Read the [full article](#) by [Alexandra Comber](#), [Maureen Gillis](#), [Genevieve Loxley](#), [Sven O. Milelli](#) and Erin O'Callaghan with McCarthy Tétrault LLP.

#### Changes to Environmental Assessment Certificate for Trans Mountain

Changes to the Environmental Assessment Certificate for the Trans Mountain Expansion Project, and recommendations to other agencies, have been made by George Heyman, Minister of Environment and Climate Change Strategy, and Bruce Ralston, Minister of Energy, Mines and Low Carbon Innovation, for the pipeline project that runs between Edmonton and Burnaby.

This provincial reconsideration process was a result of a federal Court of Appeal decision in 2018, and associated decisions by the B.C. Court of Appeal in 2019. Following the 2018 federal Court of Appeal determination that the National Energy Board (NEB) excluded project-related marine shipping from aspects of its review, the NEB undertook a reconsideration process and released a reconsideration report. The federal government then used this 2019 reconsideration report to inform its decision to approve the project again. Read the government [news release](#).

#### Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletins:

- [INDB 2022-04](#) – Disposal Well Dashboard Surveillance, Compliance, and Forecast Tool Now Available
- [INDB 2022-05](#) – Implementing Permittee Capability Assessment

Visit the [BCOGC website](#) to view this and other bulletins.

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

## FAMILY & CHILDREN

### Family and Children News:

### **Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act**

Bill 8, the [Attorney General Statutes \(Hague Convention on Child and Family Support\) Amendment Act](#) was introduced on March 2<sup>nd</sup>. The bill proposes amendments to the [Interjurisdictional Support Orders Act](#) in order to implement the 2007 Hague Child Support Convention, which applies to cross-border child support duties. The bill also makes changes to the [Family Law Act](#) to provide for the expansion of the Child Support Recalculation Service.

### **Residence In Foreign Country, Pandemic Restrictions Not Reasons to Deny Divorce**

*Denying divorce should not be used as means to force settlement between parties: court*

The Court of Appeal for British Columbia has ruled that residence in a foreign country, the pandemic circumstances, and difficulty in communicating with counsel do not establish "potential risk of prejudice" to deny a divorce application. The court also ruled that denying such an application should not be used as a means to force a settlement.

In *Gill v. Benipal*, [2022 BCCA 49](#), Gill and Benipal married in India in 2016. Gill stayed in India until mid-2017, when he returned to Canada. He did not return to India after that and his efforts to sponsor Benipal's immigration to Canada were unsuccessful. In 2020, Gill filed for divorce, claiming that he and Benipal had been living apart since 2019. Benipal opposed the divorce solely on the basis that there was a possibility of reconciliation. Read the [full article](#) by Jason Tan, published in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Family Law Act Regulation (347/2012)	Mar. 1/22	by <a href="#">Reg 14/2022</a>
Representative for Children and Youth Act	Feb. 28/22	by 2021 Bill 21, c. 27, sections 17 to 19 only (in force by <a href="#">Reg 46/2022</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>

## **FOREST & ENVIRONMENT**

### **Forest and Environment News:**

#### **B.C. Government Reorganizes Ministries, Creates Ministry of Land, Water and Resource Stewardship**

The British Columbia government is reorganizing several of its natural resource ministries to create the new Ministry of Land, Water and Resource Stewardship.

Premier John Horgan has appointed Josie Osborne as the new minister for the department as well as for fisheries.

Horgan says the new ministry will focus on reconciliation with Indigenous Peoples along with economic and environmental stability.

The government says in a statement the natural resource sector ministries, including forests, environment, agriculture and energy, are not set up to implement the [Declaration on the Rights of Indigenous Peoples Act](#), which aims to advance reconciliation and share decision-making with First Nations. Read the full [Chek news article](#).

#### **War Disrupts Forestry Markets**

A sudden increased global demand and higher prices for Canadian logs, lumber, pulp and wood pellets could result from a dramatic disruption in wood markets, due to Russia's invasion of Ukraine.

The Western world has moved with swift and dramatic sanctions against Russia for its invasion of Ukraine. Russia is a commodities giant. In addition to being a major oil, natural gas and potash producer, it is also a major exporter of logs, lumber, pulp and pellets. Read the *BIV* [article](#).

### "Climate-Washing" Risks and How to Mitigate Them

More and more companies are taking positive action on climate change and are seeking to communicate their climate strategies, performance and targets to customers, investors and the broader public. But external scrutiny of corporate climate initiatives is also increasing. This puts corporate leaders in a potential double-bind: say too little on climate, and risk being accused of inaction; say too much, and risk being accused of "greenwashing" or "climate-washing."

The goal of this bulletin is to assist companies to understand and mitigate greenwashing risks related to making climate-related claims. First, we discuss the legal test to be applied to greenwashing, properly understood, based in laws relating to deceptive marketing claims. We then apply those legal concepts to three common areas where corporate communications on climate issues give rise to allegations of greenwashing: corporate "Net Zero" commitments, public market disclosures related to climate, and the purchase and sale of voluntary carbon offsets. Read the [full article](#) by [Kai Alderson](#), [Antonio Di Domenico](#) and [Ron Ezekiel](#) with Fasken Martineau DuMoulin LLP.

### New Indigenous-Led Planning Process Launched for TFL 44 on Vancouver Island

A new Indigenous-led approach to resource planning has launched on Vancouver Island that will be co-ordinated by C̓awak ʔqin Forestry Limited Partnership, formerly named TFL 44 LP.

C̓awak ʔqin Forestry will work with nations on whose traditional territories Tree Farm Licence (TFL) 44 is located to develop an Integrated Resource Management Plan (IRMP) for forest and ecosystem management. The TFL 44 IRMP will consider the present and future needs of the nations and ecosystems while bringing together the teachings of the nations' ancestors, the wisdom of the nations' elders and the input of the nations' citizens and members. Read the [full article](#) published by *Canadian Forest Industries*.

### Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

#### [Water Sustainability Act](#)

- [Gwiyeehl \(also known as Brian Williams\): Niisgimiinu \(also known as Robert Campbell\): Wii Muugulsxw \(also known as Art Wilson\): Moolaxan \(also known as Norman Moore\): Gwis Gyeen \(also known as Robin Alexander\): Sakxum Hiiqookw \(also known as Vernon Smith\): Wii Minosik \(also known as Larry Skulsh\): and Gitxsan Nation Crisis Management Team v. Water Manager](#) [Decision on Costs Application – Denied]

#### [Water Users' Communities Act](#)

- [The Nature Trust of British Columbia v. Comptroller of Water Rights, Ministry of Forests, Lands, Natural Resource Operations and Rural Development](#) [Final Decision – Allowed in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Code of Practice for Industrial Non-Hazardous Waste Landfills Incidental to the Wood Processing Industry (263/2010)	Feb. 18/22	by <a href="#">Reg 35/2022</a>
Greenhouse Gas Emission Reporting Regulation (249/2015)	Feb. 22/22	by <a href="#">Reg 42/2022</a>
Integrated Pest Management Regulation (604/2004)	Feb. 2/22	by <a href="#">Reg 18/2022</a>
	Feb. 7/22	by <a href="#">Reg 19/2022</a>
Professional Governance Act	Feb. 5/22	by 2018 Bill 49, c. 47, section 32 (7) (c) only (in

		force by <a href="#">Reg 11/2021</a> ), <a href="#">Professional Governance Act</a>
Recycling Regulation (449/2004)	Feb. 1/22	by <a href="#">Reg 162/2020</a>

## HEALTH

### Health News:

#### **B.C. Expands Health-Care Vaccine Mandate to Include Doctors, Dentists and Other Regulated Professionals [March 24 Vaccination Deadline]**

B.C. Provincial Health Officer Dr. Bonnie Henry has announced that the province's vaccine mandate for health-care workers will now include dentists, chiropractors and other health practitioners regulated by B.C.'s health-care colleges.

Henry made the announcement at a news conference on Wednesday [February 9]. The vaccination deadline under the new order is Mar. 24 for all health-care practitioners who were not covered by [an initial order on Oct. 26](#). Read the *CBC* [article](#).

#### **A First Step to National Pharmacare? CADTH Invites Stakeholders to Comment on Potential Pan-Canadian Formulary Framework**

In Canada, coverage for prescription drugs currently exists through an array of public and private drug plans. To ensure accessibility of drugs to all Canadians, the federal government is exploring national pharmacare. As part of this effort and as previously reported in our [2019 Federal Budget Life Sciences Highlights](#), the Advisory Council on the Implementation of National Pharmacare recommended the development of a national formulary, as well as a national drug agency and investment into drug and information technology systems. Read the [full article](#) by [Dara Jospé](#) and [Lina Bensaidane](#) with Fasken Martineau DuMoulin LLP.

#### **Why Independent Legal Advice Services Matter for People Detained under the *Mental Health Act***

Imagine you were detained in a hospital against your will or a loved one you support is taken to a care facility without your consent. The facility staff say the [Mental Health Act](#) allows this detention as well as providing psychiatric treatment without consent. The immediate questions that come to your mind might be anything from "how long can the detention last?" to "can I challenge that decision?" – but everyone would have questions. Now imagine there is no established legal advice service to turn to with those questions. Read the [full article](#) by [Laura Johnston](#), published by the BC Law Institute.

Act or Regulation Affected	Effective Date	Amendment Information
Emergency Medical Assistants Regulation (210/2010)	Feb. 14/22	by <a href="#">Reg 27/2022</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### ***Skilled Trades BC Act* Introduced**

The [Skilled Trades BC Act](#) was introduced on February 14. If passed, this act will replace the current [Industry Training Authority Act](#). The bill introduces a framework to support compulsory skilled trades certification in 10 initial mechanical, electrical and automotive trades, and will change the Industry Training Authority to SkilledTradesBC.

#### **Oops, I Did It Again: Proposed Amendments Relating to the Correction of Contribution Errors to Defined Contribution Pension Plans**

On February 4, 2021, the Department of Finance Canada released [draft legislation](#) (Draft Legislation) which



would amend the [Income Tax Act](#) (Canada) (ITA) and the [Income Tax Regulations](#) (Regulations) to provide for, among other things, provisions relating to the correction of contribution errors to defined contribution pension plans (DCPPs) and taxes applicable to registered investments. The Department of Finance has indicated that comments on the Draft Legislation relating to registered pension plans and taxes applicable to registered investments should be received by March 7, 2022, and April 5, 2022, respectively. Comments may be sent to [Consultation-Legislation@fin.gc.ca](mailto:Consultation-Legislation@fin.gc.ca). Read the [full article](#) published by the Pensions, Benefits & Executive Compensation group with Blake, Cassels & Graydon LLP.

### **B.C. Begins 'Transition of Employees Back Into the Workplace'**

Employers in British Columbia are no longer required to allow their workers to work from home following a change to the province's COVID-19 protocols.

According to a Feb. 17 [news release](#), B.C. public health officer (PHO) Dr. Bonnie Henry has made the adjustment to the *Provincial Health Officer Order on Workplace Safety* "to support the transition of employees back into the workplace." Read the [full article](#) by Terry Davidson at *The Lawyer's Daily*.

### **Department of Finance Extends Expanded Access to Local Lockdown Program and Canada Worker Lockdown Benefit**

In a [news release](#) dated February 9, 2022, Canada's Department of Finance announced its intention to extend enhanced key support programs to aid workers and businesses through ongoing public health restrictions.

Using regulatory authority provided in Bill C-2, the federal government intends to extend expanded access to the Local Lockdown Program (the "LLD") and the Canada Worker Lockdown Benefit (the "CWLBB") through March 12, 2022. This would extend the expanded access to the LLD and CWLBB for one month beyond its originally proposed expiration as set forth in the Department of Finance's December 22, 2021 [news release](#). Read the [full article](#) prepared by [Brendan Forrest](#) with Thorsteinssons.

### **Million Dollar Judgement Includes British Columbia's Highest-Ever Award for Injury to Dignity**

In *Francis v. Ministry of Justice*, the Human Rights Tribunal awarded \$964,197.24 to a complainant, LF. This award included \$176,000 for injury to dignity, which is the highest ever award for this category in BC. This decision serves as a reminder that workplace discrimination poses a significant and increasing financial risk to employers.

#### **The Discrimination**

In a previous decision, the Tribunal found that LF, who was a corrections officer, had been discriminated against nine times. When he complained, his supervisors retaliated against him with additional discrimination. LF was stereotyped by supervisors and officers as being "slow" and "lazy". A supervisor referred to him as a "lazy Black man". Another supervisor disparaged him by attributing poor performance to his race before an audience of inmates and officers. LF also heard other officers being called racial slurs. LF reported many such incidents over the years, however, the complaints were not addressed by his supervisors. Instead, LF was accused of "playing the race card" to manipulate his co-workers.

Read the [full article](#) by [Jordan Thompson](#) and Nicolas Kasting (Articling Student) with Fasken Martineau DuMoulin LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Standards of Conduct for Political Staff Regulation (67/2014)	Feb. 14/22	by <a href="#">Reg 25/2022</a>
Workers Compensation Act	Feb. 14/22	by <a href="#">Reg 26/2022</a>
<b>LOCAL GOVERNMENT</b>		

#### **Local Government News:**



## **Further Amendments to Local Government Legislation Now in Effect [Feb 28]**

In a [previous bulletin](#) we reviewed legislative changes to be introduced by the [Municipal Affairs Statutes Amendment Act \(No. 2\), 2021](#) (the "Amendment Act"), the status of which at that time was still "proposed". A month later (November 25, 2021) the Amendment Act received royal assent, but the "commencement" section (s. 57, in case you were wondering) meant that only the following key changes were given immediate effect:

- the option to waive the public hearing for a zoning bylaw that is consistent with an official community plan has been repackaged as an option to decide not to hold a public hearing, with notice to be given before first reading of the bylaw; and
- allowing the delegation of decisions on "minor" development variance permits, as long as the bylaw delegating the decision includes criteria for determining whether the variance is minor, and guidelines for the delegate to consider when making the decision whether to issue the development variance permit.

Read the [full article](#) by [Guy Patterson](#) and James Barth, Articled Student with Young Anderson Barristers & Solicitors.

## **B.C. Gives Lytton OK to Rewrite Its Bylaws After Governance Records Destroyed in Wildfire**

The mayor of the fire-ravaged community of Lytton, B.C., says rewriting the village's bylaws from scratch will be about as entertaining as going to the dentist – but it's another step in the massive rebuilding effort.

The village's records and backup servers were lost in last summer's wildfire, with the contents of many of its bylaws now left unknown, Mayor Jan Polderman said Wednesday [February 9]. Read the [CBC article](#).

## **B.C. Amends Agricultural Land Reserve Regulations to Promote Vertical Farming**

The B.C. government is making changes to [regulations](#) governing Agricultural Land Reserve (ALR) that will allow a more densified form of farming.

The changes [in force August 31, 2022 by [B.C. Reg. 36/2022](#)] will allow a process known as "vertical farming" on ALR land, which involves crops grown in vertically-stacked layers.

The process allows producers to maximize space while reducing greenhouse gas emissions and energy costs, according to the Ministry of Agriculture. Read the [Global News article](#).

## **Be Sure To "Notice" The Notice Provisions in Your Construction Contracts**

Typical construction contracts contain various provisions with respect to the contractor providing notice relating to time and/or price, for example, events or circumstances surrounding potential losses or claims for realized losses. The purposes of the provisions are to minimize such losses as much as practicably possible. Notice provisions are applicable to sub-contractors as well, depending on the language included in their respective contracts. Such provisions usually require that the provision of notice is the first necessary step in order to make a claim. Read the [full article](#) by [Navneet Ghoman](#) with Civic Legal.

## **Funding Intake Addressing Unsheltered Homelessness**

A second intake of the Strengthening Communities' Services Program, a component of the Canada-BC Safe Restart Agreement, has been [announced](#). The program aims to address unsheltered homelessness that has been exacerbated by COVID-19 and related community impacts.

With the second intake, some changes have been made to the program and potential eligible applicants are encouraged to review the [Program & Application Guide](#) for further information. Eligible applicants include local governments (municipalities, regional districts and the Islands Trust) and Treaty First Nations in BC. Read the UBCM [article](#).

## **Important Local Government Legislative Changes on February 28**

As mentioned in the [previous Reporter](#), sections of [Bill 26 – Municipal Affairs Statutes Amendment Act \(No. 2\), 2021](#) came into force by [regulation](#) on February 28. These amendments, which impact the [Local Government Act](#), the [Community Charter](#), the [Islands Trust Act](#) and the [Vancouver Charter](#), include enabling local governments to determine specific notice methods for public notice requirements.

Act or Regulation Affected	Effective Date	Amendment Information
Alternative Safety Approaches Regulation (49/2011)	Feb. 9/22	by <a href="#">Reg 21/2022</a>
By-Election Exemption (Local Emergency) Regulation (2/2022)	<b>REPEALED</b> Feb. 28/22	by Reg 2/2022
Bylaw Notice Enforcement Regulation (175/2004)	Feb. 16/22	by <a href="#">Reg 23/2022</a>
Community Charter	Feb. 28/22	by 2021 Bill 26, c. 30, sections 2 to 4 and 7 only (in force by <a href="#">Reg 17/2022</a> ), <a href="#">Municipal Affairs Statutes Amendment Act (No. 2), 2021</a>
Dispute Resolution Regulation (42/2006)	Feb. 24/22	by <a href="#">Reg 45/2022</a>
Islands Trust Act	Feb. 28/22	by 2021 Bill 26, c. 30, sections 12 and 14 only (in force by <a href="#">Reg 17/2022</a> ), <a href="#">Municipal Affairs Statutes Amendment Act (No. 2), 2021</a>
Local Government Act	Feb. 28/22	by 2021 Bill 26, c. 30, sections 16, 17, 19, 21 to 25, 29, 31, 34 and 38 to 40 only (in force by <a href="#">Reg 17/2022</a> ), <a href="#">Municipal Affairs Statutes Amendment Act (No. 2), 2021</a>
Municipal Replotting Act	Feb. 28/22	by 2021 Bill 26, c. 30, section 42 only (in force by <a href="#">Reg 17/2022</a> ), <a href="#">Municipal Affairs Statutes Amendment Act (No. 2), 2021</a>
Public Notice Regulation (52/2022)	<b>NEW</b> Mar. 1/22	see <a href="#">Reg 52/2022</a>
Public Notice ( <i>Vancouver Charter</i> ) Regulation (53/2022)	<b>NEW</b> Mar. 1/22	see <a href="#">Reg 53/2022</a>
Regional District Special Voting Regulation (41/91)	Feb. 24/22	by <a href="#">Reg 45/2022</a>
School Calendar Regulation (314/2012)	Feb. 9/22	by <a href="#">Reg 20/2022</a>
Subdivision Regulations (262/70)	Feb. 24/22	by <a href="#">Reg 45/2022</a>
University Endowment Land Act	Feb. 28/22	by 2021 Bill 26, c. 30, section 48 only (in force by <a href="#">Reg 17/2022</a> ), <a href="#">Municipal Affairs Statutes Amendment Act (No. 2), 2021</a>
Vancouver Charter	Feb. 28/22	by 2021 Bill 26, c. 30, sections 49 to 51 and 55 only (in force by <a href="#">Reg 17/2022</a> ), <a href="#">Municipal Affairs Statutes Amendment Act (No. 2), 2021</a>

## MISCELLANEOUS

## Miscellaneous News:

**Attorney General Statutes Amendment Act, 2022**

A new bill, the [Attorney General Statutes Amendment Act, 2022](#), was recently introduced and proposes amendments to a number of Acts. The [Civil Resolution Tribunal Act](#) amendments are intended to replace the judicial oversight mechanism for small claims disputes and give the Civil Resolution Tribunal the authority to resolve disputes about ICBC decisions regarding responsibility for vehicle accidents. The bill also includes amendments to the [Legal Profession Act](#) and [Notaries Act](#) intended to enable the Law Foundation of BC and Notary Foundation of British Columbia, respectively, to approve the interest rates and service charges on their pooled trust accounts.

**Law Society of British Columbia Now Mandates B.C. Lawyers to Take Indigenous Intercultural Course**

The Law Society of British Columbia has begun requiring all practising lawyers to take an [Indigenous intercultural course](#).

The LSBC developed the course to fulfill its commitment to implement the Truth and Reconciliation Commission's Call to Action 27, asking law societies to require Indigenous intercultural competency of their members. The mandatory course, organized into six online education modules, provides information on the colonization of British Columbia and Canada and its impacts on First Nations and individuals. Read the [full article](#) by Katrina Eñano published in the *Canadian Lawyer*.

**British Columbia Court of Appeal Applies the Correctness Standard of Review to an International Arbitration Award**

Over the last few years, there has been considerable uncertainty in Canada about the standard of review applicable to appeals from domestic arbitral awards. This uncertainty stemmed in large part from the conflicting views expressed by the Supreme Court of Canada in its decisions in *Sattva Capital Corp v Creston Moly Corp*, [2014 SCC 53](#) and *Canada (Minister of Citizenship and Immigration) v Vavilov*, [2019 SCC 65](#).

It was also not clear to what extent these conflicting views applied to international arbitration, where the remedy that lies against an award is an application to set aside, rather than an appeal on the merits. The British Columbia Court of Appeal has added some clarity to this uncertainty in its recent decision in *Iululemon Athletica Canada Inc. v Industrial Color Productions Inc*, [2021 BCCA 428](#) [*Iululemon*]. Read the [full article](#) by [Christopher Petrucci](#), [Artem N. Barsukov](#), [FCIArb](#), [Chris Abtosway](#) and Evan Hall with Bennett Jones LLP.

**B.C. Supreme Court Seeks Feedback to Modernize Rules on Contempt Proceedings**

Rules committee to receive feedback until Mar. 25 The Civil and Family Rules Committee of the Supreme Court of British Columbia has begun seeking feedback from the public to improve the [Civil Rules of Contempt](#).

[The B.C. Ministry of Attorney General](#) said it would use feedback to determine how the rules align with the provincial government's work to streamline court processes and improve access to justice. Read the [full article](#) by Katrina Eñano, published in the *Canadian Lawyer*.

**BC Supreme Court Endorses Insurer's Wait-and-See Approach to Subrogation**

In *Imperial Metals Corporation v. Factory Mutual Insurance Company*, [2022 BCSC 73](#) the British Columbia Supreme considered an insured's claim that its business interruption claim was subject to a \$250,000,000 policy limit, rather than being limited to a \$10,000,000 policy limit. The Court also considered a counterclaim by the insurer who sought to recover payment made pursuant to the policy as a result of settlements obtained by the insured with at-fault third parties. This article only addresses the insurer's counterclaim to share in the benefits of the insured's recovery efforts. Read the [full article](#) by Sean Tessarolo and Lauren Zeleschuk with Clark Wilson LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Committees of the Executive Council		

Regulation (150/2021)	Feb. 15/22	by <a href="#">Reg 28/2022</a>
Designation Regulation (363/95)	Feb. 9/22	by <a href="#">Reg 21/2022</a>
Expected Revenue Outcome for the 2009/2010 Fiscal Year Regulation (164/2009)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Expected Revenue Outcome for the 2010/2011 Fiscal Year Regulation (51/2010)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Lobbyists Transparency Regulation (235/2019)	Feb. 22/22	by <a href="#">Reg 43/2022</a>
Minister of State for Child Care Expected Results for the 2017/2018 Fiscal Year Regulation (159/2017)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Child Care Expected Results for the 2018/2019 Fiscal Year Regulation (2/2018)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Child Care Expected Results for the 2019/2020 Fiscal Year Regulation (2/2019)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Child Care Expected Results for the 2020/2021 Fiscal Year Regulation (3/2020)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Child Care Expected Results for the 2022/2023 Fiscal Year Regulation (37/2022)	<b>NEW</b> Feb. 22/22	see <a href="#">Reg 37/2022</a>
Minister of State for Emergency Preparedness Expected Results for the 2015/2016 Fiscal Year Regulation (232/2015)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Emergency Preparedness Expected Results for the 2016/2017 Fiscal Year Regulation (13/2016)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Emergency Preparedness Expected Results for the 2017/2018 Fiscal Year Regulation (21/2017)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Infrastructure Expected Results for the 2020/2021 Fiscal Year Regulation (81/2021)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>

Minister of State for Infrastructure Expected Results for the 2022/2023 Fiscal Year Regulation (38/2022)	<b>NEW</b> Feb. 22/22	see <a href="#">Reg 38/2022</a>
Minister of State for Lands and Natural Resource Operations Expected Results for the 2020/2021 Fiscal Year Regulation (83/2021)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Rural Economic Development Expected Results for the 2016/2017 Fiscal Year Regulation (23/2017)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Rural Economic Development Expected Results for the 2017/2018 Fiscal Year Regulation (24/2017)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Tourism and Small Business Expected Results for the 2014/2015 Fiscal Year Regulation (16/2014)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Tourism and Small Business Expected Results for the 2015/2016 Fiscal Year Regulation (26/2015)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Trade Expected Results for the 2017/2018 Fiscal Year Regulation (160/2017)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Trade Expected Results for the 2018/2019 Fiscal Year Regulation (3/2018)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Trade Expected Results for the 2019/2020 Fiscal Year Regulation (3/2019)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Trade Expected Results for the 2020/2021 Fiscal Year Regulation (4/2020)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Minister of State for Trade Expected Results for the 2022/2023 Fiscal Year Regulation (39/2022)	<b>NEW</b> Feb. 22/22	see <a href="#">Reg 39/2022</a>
Ministers of State Expected Results for the 2008/2009 Fiscal Year Regulation (37/2008)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Ministers of State Expected Results for		

the 2009/2010 Fiscal Year Regulation (26/2009)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>
Ministers of State Expected Results for the 2010/2011 Fiscal Year Regulation (52/2010)	<b>REPEALED</b> Feb. 15/22	by <a href="#">Reg 29/2022</a>

## MOTOR VEHICLE & TRAFFIC

### Motor Vehicle and Traffic News:

#### Operating Motor Vehicle Means Physical Control: Court

*Vicarious liability arises through consent of owner, not owner's family member*

Operating a motor vehicle requires actual physical control over the vehicle, the British Columbia Court of Appeal has ruled.

B.C.'s appeal court rejected the secondary agency theory in its interpretation of the words "to operate" in the [Motor Vehicle Act, R.S.B.C. 1996, c. 318](#) (MVA).

In *Bowe v. Bowe*, [2022 BCCA 35](#), Tyler and Dale Bowe sustained severe injuries in a motor vehicle accident. The car was owned by Roy Boltz, Tyson's stepfather, and was taken without his knowledge or consent. At the time of the accident, Dale was driving while Tyson was a front seat passenger. Read the [full article](#) by Jason Tan, published in the *Canadian Lawyer*.

#### BC Trucking Association Asks Province for Zero- and Low-Emissions Mandate

The BC Trucking Association has asked the province to create legislation that would require all new heavy-duty trucks sales in B.C. to be at least low-emission vehicles by 2060, the group said this week [Feb 11].

The BCTA is also urging the province to legislate a quicker mandate – effective 2050 – for medium-duty vehicles between 4,527 and 11,794 kilograms in weight.

The move comes as BCTA's leadership reiterated in recent months that B.C.'s trucking sector needed to view environmental sustainability as a selling point and a market differentiator – not as a burden or an unnecessary cost. Read the [BIV article](#).

#### Legislation Introduced to Support Ferry Passengers

The provincial government is introducing [changes](#) to the [Coastal Ferry Act](#) to increase oversight of the public interest in delivery of coastal ferry services.

Rob Fleming, Minister of Transportation and Infrastructure, tabled Bill 7 on Feb. 23, 2022.

As BC Ferries recovers from the pandemic, the legislative amendments will help ensure people living in B.C.'s coastal communities, and all British Columbians, continue to be well served and supported by the ferry service.

In 2019, based on recommendations in the coastal ferry review conducted by Blair Redlin, the role of BC Ferries' shareholder, the B.C. Ferry Authority, was expanded to oversee the strategic direction of BC Ferries to support the public interest. Increased oversight is important to ensure affordable and reliable ferry service for all travellers, including those on the 25 routes serving coastal communities.

The legislative amendments will build on the changes made in 2019 by ensuring the authority is better positioned to help work with BC Ferries through challenges resulting from COVID-19, and to support the corporation's longer-term strategies for the development of the ferry system. Read the full government [news release](#).

#### B.C. Court Denies Special Costs Award to Vehicular Accident Victim

*Defendant's unsuccessful defence strategy not 'reprehensible' conduct*

The B.C. Supreme Court has refused to award special or increased costs to a vehicular accident victim based on the defendant's actions during trial.

In *Kringhaug v. Men*, [2022 BCSC 185](#), the plaintiff was standing in the driveway of a townhouse complex when the defendant's vehicle hit her. The B.C. Supreme Court awarded her an aggregate sum of damages amounting to \$383,237.22, which was four times the amount of her offer to the defendant to settle the matter. Read the [article](#) by Angelica Dino, published in the *Canadian Lawyer*.

### ICBC Set to Launch Online Insurance Renewals

People in British Columbia will soon have the added convenience of renewing their personal ICBC insurance policies online.

Eligible ICBC customers with policies expiring on or after May 1, 2022, will have the option to renew their policy using their computer, tablet or mobile device. While May 1 will be the official launch date, customers can renew their insurance up to 44 days earlier, meaning some people will be able to renew online as soon as March 17, 2022. Read the government [news release](#).

### CVSE Bulletins & Notices

The following notice was posted recently by CVSE:

- [Notice 01-22](#) – Oversize and Overweight Restrictions for Hwy 1 Between Hope and Spences Bridge
- [VI Notice 01-22](#) – Facility Large Station and Interim Decal Sales
- [Notice 06-21](#) – Removal of Oversize Permit Restrictions for Travel on Hwy 3, Hwy 1 and Hwy 5A
- [CVSE Decal Ordering Step-by-Step Guide](#) – New Online Ordering Process for Facility Large Station and Interim Decals

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

### Passenger Transportation Board Bulletins

The following updates were recently published by the BC Transportation Board:

#### Industry Updates & Advisories

- [Board directs Registrar to commence review of Taxi and TNS licensees](#)  
On January 14, 2022 the Passenger Transportation Board sent a direction notice to the Registrar of Passenger Transportation to immediately commence a review on the status of all existing transportation network services (TNS) approved licensees and those taxi companies that were part of the COVID-19 deferral program.
- [Deadline Extended to Activate Additional Taxis](#)  
In light of the ongoing impact of the COVID-19 pandemic, the Board is further extending the deadline to activate additional taxis until **May 12, 2022**. This extension applies to Taxi Modernization vehicles or additional vehicle decisions made by the Board after March 2020 and the vehicles were not activated due to COVID-19. The Board previously issued advisories granting extensions until [August 2021](#) and [February 2022](#).

#### Applications Received

- [14119-22](#) – RDY Enterprises Ltd. (Enchanted Limo)
- [13826-21](#) – Abbotsford Taxi Ltd.
- [13997-21](#) – Darwin, Robert Charles & Darwin, Leticia Natalie (This Rides for You .... Wheelchair Services)

#### Application Decisions

- [10575-20 TNS](#) – North Shore Taxi (1966) Ltd. [Approved]
- [14304-22 UPN](#) – Wilson, Ovan Charles and Herle, Karen Louise (Gabriola Taxi) [Approved]
- [13825-21](#) – Excel Limousine Service Ltd. [Approved]
- [13974-21](#) – Transfer of Licence from Thomas, Mebin (Super Cabs) to Patara, Gurpreet Singh (FSJ Super Cabs) [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Vehicle Act Regulations (26/58)	Feb. 14/22	by <a href="#">Reg 24/2022</a>



Provincial Public Undertakings Regulation (513/2004)	Feb. 28/22	by <a href="#">Reg 51/2022</a>
Weld Repair of Aluminum Alloy Wheels Regulation (5/97)	Feb. 28/22	by <a href="#">Reg 51/2022</a>

## OCCUPATIONAL HEALTH AND SAFETY

### Occupational Health & Safety News:

#### Workers Compensation Act Amendments for Asbestos Safety

Proposed amendment to the [Workers Compensation Act](#) have been introduced in Bill 5, the [Workers Compensation Amendment Act, 2022](#). These amendments would establish a requirement for asbestos abatement contractors to be licensed to operate in B.C., and would authorize WorkSafeBC to create a mandatory safety training program for workers and contractors who work with materials that may contain asbestos.

#### OHS Centre Urges Employers to Raise Awareness of RSI

The Canadian Centre for Occupational Health and Safety (CCOHS) has reminded employers to raise awareness and promote the prevention of repetitive strain injuries (RSI).

"RSIs can happen to a variety of workers from all types of industries. Gripping, holding, bending, twisting, clenching, and reaching – these ordinary movements that we naturally make every day are not particularly harmful in the activities of our daily lives," said CCOHS. Read the [full article](#) by Jim Wilson, published by *Canadian Occupational Safety*.

#### Employer Obligations to Prevent Bullying and Harassment in the Workplace

Pink Shirt Day is an anti-bullying campaign observed on the last Wednesday of every February, and this year it falls on February 23rd. On this day, individuals are reminded to act with kindness and empathy and speak up if they see someone bullied. The goals of Pink Shirt Day align with the legal obligations placed on employers to prevent bullying and harassment in the workplace.

Bullying and harassment in the workplace exists on a spectrum. It can range from unwanted comments to verbal and physical assault. Some employers and employees are surprised to learn that WorkSafeBC requires employers in British Columbia to have a bullying and harassment policy. Read the [full article](#) by [Colin Edstrom](#) with Pushor Mitchell.

#### New Public Health Orders

The Public Health Office (PHO) recently issued the following orders and guidance:

##### Orders:

- [Post-secondary Institution Housing COVID-19 Preventive Measures – February 18, 2022 \(PDF, 464KB\)](#)
- [Workplace Safety – February 16, 2022 \(PDF, 413KB\)](#)
- [Food and Liquor Serving Premises – February 16, 2022 \(PDF, 476KB\)](#)
- [Gatherings and Events – February 16, 2022 \(PDF, 522KB\)](#)

##### Guidance:

- [Guidance for Food and Liquor Serving Premises – February 17, 2022 \(PDF, 620KB\)](#)
- [Ministry of Health – Overview of Visitors in Long-Term Care and Seniors' Assisted Living – February 3, 2021 \(PDF, 675KB\)](#)

Visit the [PHO website](#) to view these and other related orders and notices.

#### OHS Policies/Guidelines – Updates

Guidelines – OHS Regulation:

February 03, 2022

Revisions were made to the following guidelines.

- Part 4 General Conditions
  - [G4.83\(3\) Maintenance of washroom facilities](#)
- Part 5 Chemical Agents and Biological Agents
  - [G5.22 Covers](#)
  - [G5.70 Discharged air](#)

March 01, 2022

- Part 5 Chemical Agents and Biological Agents
  - [Table of Exposure Limits for Chemical and Biological Substances](#)  
The table has been updated to reflect changes to OHS Policy R5.48-1 (amended March 1, 2022). Deletions are shown as strikethrough; other changes are highlighted in green.

Policies – OHS Regulation:

February 01, 2022

WorkSafeBC's Board of Directors ordered the deletion of the the following policy items to reflect amendments to the Occupational Health and Safety Regulation. These deletions are effective February 1, 2022.

- [R16.25-1 Operation and Maintenance \(Fuel Tank Filler and Vent Outlet Locations\)](#) [deleted]
- [R16.33-1 Protective Structures \(Hydraulic Excavators\)](#) [deleted]
- [R16.34-1 Rollover Protective Structures \(Pipe Layers\)](#) [deleted]
- [R16.36-1 ROPS Certification \(Sweep Arms\)](#) [deleted]

March 01, 2022

This update includes amendments (to the Table of Exposure Limits for Excluded Substances) effective March 1, 2022. A strikethrough version of the amendments is also available.

- [R5.48-1 – Controlling Exposure – Exposure Limits](#)

Check the [WorkSafeBC website](#) to explore these and other important OHS updates.

Act or Regulation Affected	Effective Date	Amendment Information
Alternative Safety Approaches Regulation (49/2011)	Feb. 9/22	by <a href="#">Reg 21/2022</a>
Workers Compensation Act	Feb. 14/22	by <a href="#">Reg 26/2022</a>

## PROPERTY & REAL ESTATE

### Property and Real Estate News:

#### **B.C. Budget 2022: Money Earmarked to Help the Homeless, Continue Building Affordable Housing**

B.C.'s 2022-23 budget allocates \$663 million to tackle homelessness, but makes a more incremental move toward the government's goal of building more affordable housing.

Overall, the budget forecast a deficit that is considerably smaller than projected thanks, in part, to the sizzling real estate market. Read the *Vancouver Sun* [article](#).

#### **B.C.'s Real Estate Sector Makes Recommendations**

### on Addressing Affordability

The BC Real Estate Association has published a white paper – containing 34 recommendations for the provincial government – aimed at addressing the rising lack of affordability of the local housing market.

BCREA CEO Darlene Hyde in a news conference said the group started compiling the recommendations last November – after the provincial government said it is looking to apply a "cooling-off" period to the housing market.

Such a move, Hyde said, is "prescriptive legislation" without consultation of real estate industry voice. She added such moves may push real estate prices higher or force sellers to go to private markets for selling homes – neither of which would help B.C.'s housing affordability. Read the [BIV article](#).

### Disinterested Owner – Still Proper Party to Lien Action

A claim of lien pursuant to the [Builders Lien Act](#) (the "BLA") in B.C. creates a lien against the specific property where work and services were provided. The lien is registered against the interest of the registered owner of the land. The lien claimant may be a subcontractor with no contractual relationship with the owner but the subcontractor is nonetheless entitled to encumber the owner's lands.

The subcontractor in this scenario is obliged to commence an action to enforce the lien claim within one year of filing the lien. The owner is a necessary party to the action to enforce the claim against the lands. It is common practice for the subcontractor to also pursue his claim for payment from the contractor in the same action.

Recently in the case of *Trans Canada Trenchless Ltd. v Targa Contracting (2013) Ltd*, [2021 BCSC 2518](#) the court considered the consequences when a subcontractor fails to name the owner in the action. Read the [full article](#) by [Satinder Sidhu](#) with Clark Wilson LLP.

### BC Supreme Court Certifies Class Action Building Defects Claim

The BC Supreme Court has certified a property damage class action concerning defective installation of insulated glass units (IGUs). We do not expect the decision to be appealed.

#### Class

The class includes those who had bought residential units in the Shangri-La Hotel building through a contract with the developer, or had taken an assignment of a pre-sale contract with the developer's written consent, therefore having contractual privity with the building developers. The action alleges all IGUs that form part of the Shangri-La curtain wall exterior are defective.

Read the [full article](#) by [Stephen Coyle](#) with Norton Rose Fulbright.

### BC Announces PST Amendments to Override Chemainus Gardens – What Is the Impact for Real Property Contractors?

In a [prior blog post](#), we discussed the decision of the BC Supreme Court ("BCSC") in *Chemainus Gardens RV Resort Ltd. v. British Columbia (Attorney General)*, [2020 BCSC 478](#). The case is of particular interest because it rejected the BC Ministry of Finance's controversial interpretation of how BC's provincial sales tax ("PST") applies to aspects of billing under contracts for the supply and installation of improvements to real property. The BCSC sided with the petitioner, Chemainus Gardens RV Resort Ltd. ("Chemainus"). Read the [full article](#) by [Zheting Su](#) and [Rebecca Loo](#) with Thorsteinssons.

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

## WILLS & ESTATES

### Wills and Estates News:

#### B.C. Case Comment: Person Who Caused Deceased's Death Cannot Benefit under Will, So Who Does?

In the recent decision of *Unger Estate (Re)* [2022 BCSC 189](#), the B.C. Supreme Court considered what happens to

a beneficiary's share of an estate when that beneficiary is convicted of murdering the deceased. Fortunately, these are extremely rare circumstances (rare enough to be reported in the media). However, the case did give the Court an opportunity to discuss what happens when a gift cannot take effect for any reason, which is not as rare (for example, a beneficiary dies before the will-maker). Read the [full article](#) by [James Zaitsoff](#) on the BC Estate Litigation Blog.

#### **What are the Consequences When a Beneficiary is a Witness to the Will?**

Is it appropriate for a beneficiary in a will to witness the execution of that will? The law in B.C. presumes that a gift to the witness of a will or their spouse is void, unless the court declares otherwise.

To be valid in B.C., a maker-maker must sign their will or acknowledge their signature in the presence of two or more witnesses present at the same time, and those witnesses must also sign the will in the presence of the will-maker (but keep in mind the recent changes to allow electronic wills in B.C., [discussed here](#)). Read the [full article](#) by [James Zaitsoff](#) on the BC Estate Litigation Blog.

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

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