

Quickscribe Reporter

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QUICKSCRIBE NEWS:

New Bills

The following bills were recently introduced:

Government Bills

- [Bill 18](#) – Haida Nation Recognition Act
- [Bill 22](#) – Strata Property Amendment Act, 2023
- [Bill 23](#) – Motor Vehicle Amendment Act, 2023
- [Bill 24](#) – Miscellaneous Statutes Amendment Act (No. 2), 2023
- [Bill 25](#) – Electoral Districts Act
- [Bill 26](#) – Municipalities Enabling and Validating (No. 5) Amendment Act, 2023
- [Bill 27](#) – Money Judgment Enforcement Act
- [Bill 28](#) – Motor Vehicle Amendment Act (No. 2), 2023

Members' Bills

- [Bill M220](#) – Defibrillator Public Access Act, 2023
- [Bill M221](#) – Members' Conflict of Interest Amendment Act, 2023
- [Bill M222](#) – Protecting Small Business from Crime and Vandalism Review Act


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!

Latest Annotations

- [Katherine Hardie](#), Human Rights Tribunal – [Human Rights Code](#)
- [Michael Moll](#), Civic Legal LLP – [Community Charter](#)
- [OnPoint Legal Research](#) – [Canadian Charter of Rights and Freedoms](#), [Civil Forfeiture Act](#), [Court Order Interest Act](#), [Court of Appeal Rules](#), [Employment Standards Act](#), [Family Law Act](#), [Indian Act](#), [Insurance Premium Tax Act](#), [Land Title Act](#), [Limitation Act](#), [Negligence Act](#), [Securities Act](#), [Supreme Court Civil Rules](#), [Supreme Court Family Rules](#)

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.

Are you Using QS Supplemental Notes?

Have you noticed these blue informational icons  popping up adjacent to various sections of law? Over the last year, Quickscribe has been busy adding thousands of [Supplemental Notes](#) to provide you with some additional context about each section of law. For example, notes may provide links to government documents or reports that offer helpful insight on how and why a section came to be. Other notes may provide a reference to articles in the monthly Quickscribe Reporter. Notes can also be placed adjacent to sections that are not yet in force and provide a window into how the section will eventually read if and when

it comes into law in the future. Ultimately, our goal is to make it easier for you to understand the meaning and intent of the law. You can expect to see more notes added to the laws you refer to most often in the months and years ahead. [Learn more](#).

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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	OCCUPATIONAL HEALTH & SAFETY
HEALTH	PROPERTY & REAL ESTATE
LABOUR & EMPLOYMENT	WILLS & ESTATES



COMPANY & FINANCE

Company and Finance News:

Transparency, Flexibility and Protection of Members - New Changes to the British Columbia *Societies Act* Expected to Come into Force by May 2023

In 2021, following public consultations with stakeholders, the British Columbia government introduced an assortment of changes to the [Societies Act](#) with the goal to increase transparency and flexibility for societies and to protect the information of society members. We reported on these changes in detail in our bulletin [New Amendments to the Societies Act – A Potpourri of Changes](#). The [amendments](#) are being implemented in stages. The remaining changes [came into force on May 4, 2023]. Here are highlights of key changes that British Columbia societies can expect: Read the [full article](#) by Dierk Ullrich and David Blackstone (Articling Student) with Fasken Martineau DuMoulin LLP.

Analysis/Impact of the New *Money Services Businesses Act*

As noted in the [previous Reporter](#), BC's new [Money Services Businesses Act](#) will require money services businesses (MSBs) that deal in services such as foreign exchanges, wire transfers, issuing or redeeming money orders or traveller's cheques to register with BC Financial Services Authority. This [article](#) by [Jacqueline D. Shinfield](#) and [Alan Fraser](#) with Blake, Cassels & Graydon LLP provides some additional analysis and potential impact on MSB operating in BC.

New Pension Priorities in Bankruptcy and Insolvency Are Closer to Reality

Federal [Bill C-228](#) (the Bill), new legislation intended to improve the protection of, and to extend the super-priority given to claims relating to, defined benefit pension plans in insolvency proceedings, completed third reading in the Senate on April 18, 2023 and [was given Royal Assent on April 27, 2023 and is now effective]. The Bill is the result of a private members' bill, which was passed by the House of Commons in late 2022. Many market commentators have raised concerns that the Bill could have a chilling effect on the continued existence of the very pension plans it purports to protect. Under the current regime, the priority afforded to employer-sponsored pension plans in insolvency under the

[Bankruptcy and Insolvency Act](#) (BIA) and the [Companies' Creditors Arrangement Act](#) (CCAA) includes:

- unpaid amounts deducted from employees' pay for payment to the pension fund;
- unpaid amounts required to be paid by the employer to the pension fund under a defined contribution provision;
- unpaid "normal costs" required to be paid by the employer to the pension fund, being the cost of the benefits that accrue during the plan year determined on the basis of a going concern valuation, excluding special payments; and
- unpaid amounts required to be paid by the employer to the administrator of a pooled registered pension plan.

Read the [full article](#) by [Denise D. Bright](#), [Susan G. Seller](#), [Michael S. Shakra](#) and [Zachary Thacker](#) with Bennett Jones LLP.

The Creation of a Publicly-accessible BC Corporate Transparency Registry: Good Corporate Policy or Provincial Intrusion into Criminal Law?

Bill 20 has now received first reading in the BC legislature. If enacted, it will amend the [Business Corporations Act](#), S.B.C. 2002, c. 57 (the "Act") to require private companies to file information currently contained in their transparency registers with the Registrar of Companies. See our previous [tax alert](#) for a brief description of transparency registers. Certain private, personal information compelled through operation of the amendments would be searchable and publicly accessible. For each "significant individual" in a private company (as defined at s. 119.11 of the Act), the information made available to the public would include the person's full name and year of birth, whether the person is a Canadian citizen or permanent resident of Canada, and, if not, every country of which the person is a citizen. Limited exceptions would apply (e.g., for minors and persons able to demonstrate that their health or safety would be put at risk), similar to existing exemptions in the [Land Owner Transparency Act](#). Read the [full article](#) by [Greg DelBigio](#), K.C., with Thorsteinssons LLP.

The Limits of the Oppression Remedy: BC Supreme Court Declines to Find Oppression in Case of Failed Corporate Reorganization: McDougall v Knutsen, 2023 BCSC 211

The oppression provisions contained in [s. 227 of the BC Business Corporations Act](#), SBC 2002, c. 57 (the "Act") contemplate a broad remedy for shareholders of a corporation to address oppressive or unduly prejudicial conduct by their fellow shareholders. The focus of the oppression remedy is fairness, granting the Court significant powers to make orders with a "view to remedying or bringing an end to the matters complained of" (para 70 and 76). However, it does not follow from this apparent breadth that the remedy stands ready to fix every complaint a shareholder has, however it may arise. The limits of the oppression remedy were recently shown in the BC Supreme Court's decision in *McDougall v. Knutsen*, [2023 BCSC 211](#). Read the [full article](#) by [Matthew B. Nakatsu](#) with Alexander Holburn Beaudin + Lang LLP.

Final Rules for Total Cost Reporting Released with Important Changes

On April 20, 2023, the Canadian Securities Administrators (CSA), jointly with the Canadian Council of Insurance Regulators (CCIR), released final amendments (the Final TCR Amendments) relating to enhanced cost disclosure reporting requirements for investment funds and new cost and performance reporting guidance for insurance segregated funds (Total Cost Reporting). The goal of Total Cost Reporting is to improve investors' awareness of the ongoing embedded fees, such as those captured in management expense ratios (MERs) and trading expense ratios (TERs), that form part of the cost of owning investment funds and segregated funds. This Osler Update will focus on the Final TCR Amendments that will affect registered dealers, advisers and investment fund managers. Read the [full article](#) by Lorraine Lynds, Vanessa Hansford and Shawn Cymbalisty with Osler, Hoskin & Harcourt LLP.

New Transparency Requirements on the Horizon for Federal Corporations: Bill C-42's Proposed Amendments to the Canada Business Corporations Act Background

Since June 2019, the [Canada Business Corporations Act](#) (the "CBCA") has required federal corporations

to maintain a register of individuals with significant control over the corporation (the "ISC Register"). Significant control includes individuals:

1. who own, control or direct (including indirectly) a significant number of shares;
2. who have direct or indirect influence, if exercised, would result in control in fact of the corporation; or
3. who have any combination of the above.

This requirement is intended to provide transparency about who owns and controls a corporation in order to prevent tax evasion and money laundering, and to assist authorities in prosecuting such crimes. While a corporation is not required to disclose its ISC Register to the public, it must provide investigative bodies with a copy of the ISC Register or specified information in the ISC Register, on request. For the purposes of the CBCA, investigative bodies means any police force, the Canada Revenue Agency or equivalent provincial agencies, or any prescribed body that has specific investigative powers. Read the [full article](#) by Joanna Dawson and Lily Le with McMillan LLP.

Mandatory Disclosure Update: Department of Finance Introduces Revised Rules in the House of Commons

On April 17, 2023, the Department of Finance (Finance) released a [Notice of Ways and Means Motion](#) (NWMM) to implement certain proposals announced in the 2023 Federal Budget. The NWMM also includes much-awaited updated proposals (Proposals) for the mandatory disclosure rules initially released on February 4, 2022, and revised on August 9, 2022, together with revised explanatory notes (Explanatory Notes). See our [Blakes Whitepaper: Department of Finance \(Canada\) Releases Significant Draft Tax Legislation](#) for a summary of the original proposed mandatory disclosure rules. Read the [full article](#) by [Andrew Spiro](#) and [Lara Friedlander](#) with Blakes.

Teresa Tomchak Now with Osler, Hoskin & Harcourt LLP

Quickscribe's securities regulatory expert/annotator, [Teresa Tomchak](#), has moved her practice to Osler, Hoskin & Harcourt LLP in Vancouver. Teresa will continue to contribute annotations to Quickscribe, and those who are set up to receive notification when Teresa publishes new annotations will continue to receive these alerts without interruption.

BC Securities – Policies & Instruments

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

- [58-101](#) – CSA Notice and Request for Comment Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices Proposed Changes to National Policy 58-201 Corporate Governance Guidelines
- [31-103](#) – CSA and CCIR Notice of Publication – CCIR Individual Variable Insurance Contract Ongoing Disclosure Guidance and Amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and to Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations – Total Cost Reporting (TCR) for Investment Funds and Segregated Funds
- [25-310](#) – Canadian Securities Administrators (CSA) Staff Notice 25-310 – 2022 Annual Activities Report on the Oversight of Self-Regulatory Organizations and Investor Protection Funds
- [BC Notice 2023/03](#) – Administrative Penalties Imposed by Notice Section 162.01 of the Securities Act, RSBC 1996, c. 418

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	May 1/23	by Reg 212/2022 and Reg 15/2023

Energy and Mines News:

Energy Transition and Critical Minerals in Canada

With the increasingly ambitious global energy transition, the demand for metals used in emerging energy technologies continues to surge. Canada is taking steps to promote the development of these critical resources as it looks to capitalize on this swell in demand, proposing new tax credits and incentives to help explorers and miners compete in this space on provincial, national and global levels.

To help give you a clearer picture of this landscape, McCarthy Tétrault's [Energy & Resources Industry](#) experts authored the article [Energy transition and critical minerals in Canada](#), appearing in the April 2023 issue of "Financier Worldwide." Read the [full article](#) by [Christopher Langdon](#), [Kimberly J. Howard](#) and [Ashley Urch](#) with McCarthy Tétrault.

\$14.5 Billion Coastal GasLink Pipeline Issued Stop Work Order for Failing to Control Sediment

Coastal GasLink says it's taking steps to mitigate problems during the spring melt in northern B.C. TC Energy's \$14.5 billion Coastal GasLink natural gas pipeline has been cited for more non-compliance of requirements to control sediment and erosion, this time into streams and rivers.

In response, the company says it's taking steps to mitigate problems during the spring melt in northern B.C.

Last week, the B.C. Environmental Assessment Office (EAO) ordered a three-kilometre stretch of the pipeline under construction in northern B.C. shut down because sediment-laden water was reaching a tributary of the Anzac River. Read the *Vancouver Sun* [article](#).

Remote First Nations Can Breathe Healthier Air with Reduced Diesel Use

More remote First Nations in British Columbia can move toward clean energy to power their homes, economies and daily lives with a provincial investment in the Community Energy Diesel Reduction (CEDR) program.

"First Nations throughout B.C. are taking a leadership role in reducing carbon pollution, and our government is there to partner with them," said Premier David Eby. "This new investment will help even more remote communities build and expand clean-energy projects that move our province away from diesel and toward a cleaner, brighter future."

The Premier made the announcement at the annual conference of the First Nations Major Project Coalition where more than 1,300 delegates and attendees are focusing on economic development that aligns with First Nations values, including clean energy. Read the government [news release](#).

Promising Results from Tidal-Energy Floating Turbine, Designed to Power Remote B.C. Communities

A tidal energy project on remote West Thurlow Island could help off-grid coastal communities wean themselves off diesel generators and switch to clean, renewable energy, researchers say.

The University of Victoria's Pacific Regional Institute for Marine Energy Discovery (PRIMED) said a floating turbine on the east side of West Thurlow, about 35 kilometres off Campbell River, is showing promising early results. Read the *Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Energy Efficiency Standards Regulation (14/2015)	Apr. 24/23	by Reg 106/2023

First Nations Clean Energy
Business Fund Regulation
(377/2010)

Apr. 1/23

by [Reg 122/2020](#)



FAMILY & CHILDREN

Family and Children News:

Can Collaborative Lawyers Be Found Negligent for Not Setting a Trial Date?

In the recent decision *Banh v Chrysler*, [2022 BCCA 74](#) ("*Banh v Chrysler*"), the Court of Appeal overturned the trial judge's finding that it would be significantly unfair to divide property equally.

The husband owned 3 rental properties in his sole name that experienced a significant increase in value after the separation. The husband was solely responsible for his rental properties.

The parties were married on August 9, 2014, started cohabitating in October 2014, and separated on August 9, 2016; however, they did not get to trial until the end of December 2019. Essentially, this was a 2-year relationship, but it took almost 3.5 years to get to trial. Read the [full article](#) by [Rena Chen](#) and Jennifer Lin, published on Collaborative Divorce Vancouver.

Bill 24 Amendments to the Child, Family and Community Service Act

Bill 24, the [Miscellaneous Statutes Amendment Act \(No. 2\), 2023](#), includes amendments to the [Child, Family and Community Service Act](#) intended to support young adults who were previously in government care. The amendments expand eligibility for transitional supports such as housing and income supplements for living expenses to young adults up to the age of 27.

Appeal Court Applied 'Wrong Test' in Admitting New Evidence in Child Relocation Case, SCC Rules

The Supreme Court of Canada has released written reasons overturning a lower court decision in a family dispute over child relocation, ruling the court erred in not applying the test laid out in *Palmer* and admitting new evidence brought by the father on appeal.

"An appeal is not a retrial," stressed Justice Andromache Karakatsanis for the majority in *Barendregt v. Grebliunas*, [2022 SCC 22](#).

"Nor is it licence for an appellate court to review the evidence afresh. When appellate courts stray beyond the proper bounds of review, finality and order in our system of justice is compromised," she added, noting, however, that "not every trial decision can weather a dynamic and unpredictable future." Read the [full article](#) by [Amanda Jerome](#) on *Law360 Canada*.

The Dangers of Non-disclosure in Family Law

It is impossible to reach a fair and reasonable settlement of a family law matter without adequate disclosure. Both Statutes and Rules required disclosure, but these are too often ignored to the detriment of the weaker party and children.

The insidious nature of non-disclosure was characterized by Justice Fraser in *Cunha v. Cunha*, 1994 CanLII 3195 (BC SC). He wrote, "Non disclosure of assets is the cancer of matrimonial property litigation."

He continues, "It discourages settlement or promotes settlements which are inadequate. It increases the time and expense of litigation. The prolonged stress of unnecessary battle may lead weary and drained women simply to give up and walk away with only a share of the assets they know about, taking with them the bitter aftertaste of a reasonably based suspicion that justice was not done. Non disclosure also has a tendency to deprive children of proper support." Read the [full article](#) by Michael Butterfield, published in the April 2023 edition of *BC BarTalk*.

Immigration Options for Victims of Family Violence

This paper was originally prepared for the [CLEBC](#) course Immigration Issues in Depth 2022 by Prabhpreet Kaur Sangha of Lehal Law Corporation and Sundeep Singh Grewal of Lawgical Law Corporation.

[The paper](#) is a guide for legal counsel to assist their clients who are victims of family violence with immigration options to extend their stay in Canada on a temporary and permanent basis. The paper focuses on the Temporary Resident Permit (TRP) as an immigration option for victims of family violence, including eligibility requirements and evidence needed. It also covers other immigration options available for victims of family violence, as well as provides an overview of the [Immigration and Refugee Protection Act](#) and case law.

Appeal Court Varies Agreement to Alleviate Unfairness Between the Parties

The Court of Appeal continues to deal with appeals involving challenges to agreements that were intended to settle all matters between the parties. In *Dhaliwal v. Dhaliwal* [2021 BCCA 72](#) the court considered whether after an eight-year marriage the parties' marriage agreement satisfied the objectives of the [Divorce Act](#) and the [Family Law Act](#).

Mr. Dhaliwal was a former federal politician who was widowed with adult children. His second wife, Ms. Dhaliwal, who had also been previously married and had a young son, had moved to British Columbia after meeting her future husband in India. She had a PhD in Women's Studies, she expected to earn \$30,000 as an academic in Canada and had assets valued at \$200,000. Mr. Dhaliwal's income was approximately \$100,00 and he had property valued at over one million dollars. Notably however, several of Mr. Dhaliwal's successful businesses were disclosed in the agreement, but not valued. Read the [full article](#) by Georgiale Lang, published on *Lawdiva's Blog*.

Act or Regulation Affected	Effective Date	Amendment Information
Supreme Court Civil Rules (168/2009)	Apr. 3/23	by Reg 87/2023



FOREST & ENVIRONMENT

Forest and Environment News:

IAA's Pause Button Slows Environmental Reviews

What 180-day process takes more than 300 days? A federal one, of course – specifically phase 1 of the [Impact Assessment Act](#) (IAA) process.

That's the finding of a review by the Canada West Foundation (CWF) of projects moving through the federal government's IAA environmental review process.

"An analysis of all projects submitted under the federal *Impact Assessment Act* (IAA) shows that three and a half years after the act came into force, progress is slow and almost all projects are still in very early stages of assessment," the CWF report finds.

Before the IAA replaced the [Canadian Environment Assessment Act](#) in 2018, former Environment Minister Catherine McKenna said the new environmental review process would have legislated timelines. Read the [BIV article](#).

The Fisheries Act – Not Just for Fishermen!

In Canada, jurisdiction over the environment is shared by all three levels of government. A key piece of federal environmental legislation which often takes a back-seat in terms of awareness to provincial environmental protection legislation is the [Fisheries Act](#) ("FA"). The FA provides for the management and

control of fisheries and the conservation and protection of fish and fish habitat, including by preventing pollution. The far-reaching scope of the FA is often overlooked.

Section 36(3) of the FA has the potential to impact activities undertaken in remote as well as urban areas where one would not expect there to be any kind of "fishery". This provision of the FA prohibits any person from depositing (or permitting the deposit of) a "deleterious substance" in "waters frequented by fish" or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water. Deleterious substance is defined very broadly and includes any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man or fish that frequent that water. "Deleterious substance" thus captures substances ranging from highly toxic substances all the way to, for example, naturally occurring soil sediment. In addition, the courts have held that the environmental concern over "death by a thousand cuts" requires that any deposit that is deleterious be prohibited, even in the smallest of concentrations; a *de minimis* deposit of a deleterious substance won't get you off the hook. Read the [full article](#) by [Ralph Cuervo-Lorens](#), [Talia Gordner](#) and [Martin Thiboutot](#) with McMillan LLP.

Judge Rules Against B.C. Logging Company's Request to Probe Environmentalists' Social Media Info

A B.C. Supreme Court judge has rejected a logging company's request for a court order allowing them to probe into the social media of members of a Kootenay environmental group.

Madam Justice Lindsay Lyster released her [decision](#) in favour of Last Stand West Kootenay last week, saying granting the request by Cooper Creek Cedar would "not be in the interests of justice" and would suppress legitimate, peaceful protest.

The company had sought a so-called Norwich order requiring a third-party, such as a social media company, to provide information. Read the *Vancouver Sun* [article](#).

Recent Charter Climate Litigation in Canada Raises Key Questions Over Climate Change Duties

In *Mathur v Ontario*, the climate litigation filed against the Ontario government by seven young people was dismissed, but not without clarifying some key points. This litigation forms part of a wider trend by youth to hold governments accountable on climate action.

Overview

Earlier this month, the Ontario Superior Court of Justice released Reasons for Judgment in the closely watched climate change action of *Mathur v Ontario*. The applicants, a group of youths, commenced a suit against the Province of Ontario alleging that the Province had breached the [Canadian Charter of Rights and Freedoms](#) (the Charter) by abdicating its responsibility to address climate change.

In 2020, the Province lost a preliminary motion to have the claim dismissed on the basis that it was plain and obvious that the claim did not present a reasonable cause of action. However, after a full hearing on the merits, Justice Vermette agreed with the Province that its actions in addressing climate change did not violate the applicants' s7 Charter rights to life and security of the person or their s15 right to equality.

Read the [full article](#) by Simon Konsta and Scott Marcus, published on DAC Beachcroft LLP.

Province and Feds Agree to Plant 37M New Trees in B.C.

B.C.'s canopy is set to become a bit greener in the years ahead as the province and feds have inked an almost \$80-million deal to plant 37 million new trees.

It's the second such agreement under the federal government's pledge to plant two billion trees across the country over 10 years.

"Nature-based climate solutions – those initiatives that leverage the capabilities of the world around us to help capture and sequester carbon while reinforcing and assisting with biodiversity loss and the restoration of habitat are a critical part of this plan," said Natural Resources Minister Jonathan Wilkinson, announcing the agreement at North Vancouver's Maplewood Conservation Area Tuesday [April 18]. "And there is no greater ally in our fight against climate change than our forests." Read the [BIV article](#).

The "Forever Chemicals": Dark Waters in Canada?

Often referred to as "the next asbestos," per- and polyfluoroalkyl substances (PFAS) are a group of over 4,700 synthetic chemicals consisting of a fluorinated carbon chain that have been used for several decades in a variety of applications due to their stability and repellent abilities (ranging from non-stick cookware and water repellent fabrics to cosmetics and firefighting foams). Increasing awareness surrounding the harmful effects of PFAS has led governments of all levels to regulate them and attempt to reduce their use. Coupled with the recent emergence of PFAS-related litigation in Canada, the risks associated with PFAS render them contaminants of concern for more than just the environmental lawyer.

As is the case with many hazardous substances, PFAS were once believed to be safe. It has since been shown they are potentially harmful to both humans (having been linked to birth defects and cancer, among other diseases) and the environment. Making matters worse, the stability of the chemical bonds, that make PFAS attractive in the first place, render them largely incapable of breaking down naturally. Read the [full article](#) by Braeden Stang and Rick Williams with Borden Ladner Gervais LLP, published in the April edition of *BarTalk*.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [Kalia Resources Corp. & Joseph Kitzke v. Director, Environmental Management Act](#) [Preliminary Decision on Method of Hearing – To Proceed by Way of Written Hearing]

[Water Sustainability Act](#)

- [Robert Couturier and Jodi Lynne Couturier v. Assistant Water Manager](#) [Preliminary Issue of Jurisdiction – Allowed in Part]

[Wildlife Act](#)

- [Maria Orioni v. Director of Fish and Wildlife, Ministry of Forests](#) [Settlement Order – Appeal Dismissed Without Costs]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently.

[Forest and Range Practices Act](#)

- [Halfmoon Bay Ventures Corp. v. Government of British Columbia](#) [Preliminary Decision – Application Dismissed]

Visit the Forest Appeals Commission [website](#) for more information.

Act or Regulation Affected	Effective Date	Amendment Information
Angling and Scientific Collection Regulation (125/90)	Apr. 1/23	by Reg 72/2023
Carbon Tax Regulation		

(125/2008)	Apr. 1/23	by Reg 85/2023
Hunting Regulation (190/84)	Apr. 25/23	by Reg 112/2023
Limited Entry Hunting Regulation (134/93)	Apr. 25/23	by Reg 112/2023
Motor Vehicle Prohibition Regulation (196/99)	Apr. 25/23	by Reg 112/2023
Protected Areas of British Columbia Act	May 1/23	by 2014 Bill 11, c. 11, section 1 only (in force by Reg 115/2023), Protected Areas of British Columbia Amendment Act, 2014
Spongy Moth Eradication Regulation (100/2022) (formerly titled "Lymantria Moth Eradication Regulation")	Apr. 24/23	by Reg 109/2023
Wildfire Regulation (38/2005)	Apr. 24/23	by Reg 110/2023



Health News:

Amendments to Human Tissue Gift Act

[Bill 24](#), the *Miscellaneous Statutes Amendment Act (No. 2), 2023*, proposes amendments to the [Human Tissue Gift Act](#) to allow nurse practitioners, for the purpose of post mortem organ donation, to make a determination of death. The nurse practitioner's authority would be limited to circumstances in which the donor's death may be determined using circulatory criteria, but not in cases in which death is determined using neurological criteria.

BC Supreme Court Dismisses Negligence Case against Doctors Accused of Causing Patient's Glaucoma

The BC Supreme Court has dismissed a medical negligence case against two doctors who were accused of causing a patient's alleged glaucoma. In *Buckingham v. Hobza*, [2023 BCSC 399](#), Eric Buckingham filed a medical negligence case against his former family physician, Dr. Petr Hobza and a rheumatologist, Dr. Genevieve Law. Buckingham claimed that the two doctors prescribed the steroid prednisone to him in 2015 for an inflammatory condition called dermatomyositis. His symptoms included an itchy rash on his back, sides, arms and hands, accompanied by muscle weakness. Read the [full article](#) by Angelica Dino on *Canadian Lawyer*.

Legal Society Calls for End to "Harmful and Degrading" Involuntary Treatment in BC [Mental Health Act]

A British Columbia-based legal advocacy organization is calling for an end to involuntary medical treatment in the province. There has been a push to expand mandatory treatment for people suffering from mental health and addiction issues in British Columbia as the province continues to grapple with so-called "unprovoked stranger attacks," which has emerged as a major public safety concern in the province. An [expert report last year](#) said that involuntary treatment may be necessary when violence is a concern, albeit with strict accountability mechanisms. Read the [full article](#) by [Ian Burns](#) on *Law360 Canada*.

Appeal Court Strikes Down BC Law that Allows Social Workers to Access Parents' Medical Files

The province's highest court found there were no safeguards in place for the disclosure of the private medical records and it said the provincial government needs to rewrite that part of its law

The BC Court of Appeal has struck down part of a BC law that allows social workers to secretly obtain the medical and psychiatric records of mothers and fathers to determine if they were fit to parent after a constitutional challenge under Canada's illegal search and seizure laws. "The court declares [section 96\(1\) of the Child, Family and Community Service Act](#) to be of no force and effect to the extent that it authorizes directors of child protection and their delegates to request and compel the production of personal health information from public bodies without adequate procedural safeguards," the three judges of the Appeal Court said in their written judgment released on Monday [April 24, 2023]. Read the *Vancouver Sun* [article](#).

Privately Funded Health Care Prohibition: Supreme Court of Canada Dismisses Appeal

In a [previous article](#), we discussed developments in Canada's health care sector, including the BC Court of Appeal's decision in *Cambie Surgeries Corporation v. British Columbia (Attorney General)*, [2022 BCCA 245](#) [Cambie], which upheld the prohibition on privately funded health care in BC. In a final attempt to overturn this prohibition, Cambie Surgeries Corporation ("Cambie") applied for permission to appeal this decision to the Supreme Court of Canada (the "SCC"). On April 6, 2023, the SCC [ruled](#), without giving reasons, that it would not hear the appeal, effectively upholding the BC Court of Appeal's decision. The SCC's ruling is a decisive conclusion to this decade-long battle between the proponents of a parallel privately funded health care system and the defenders of Canada's fully publicly funded health care model. Read the [full article](#) by [Dana Siddle](#), [Jennifer K. Choi](#) and [Milica Pavlovic](#) with McCarthy Tétrault LLP.

The Supreme Court Rules on the Provinces' Power to Regulate Cannabis

In *Murray-Hall v. Quebec (Attorney General)*, [2023 SCC 10](#), the Supreme Court of Canada ruled that provinces have the power to prohibit personal cultivation of cannabis. In doing so, the Supreme Court also shed light on the scope of the constitutional power over health, commerce and criminal law, as well as the doctrine of federal paramountcy.

Facts

In 2018, Parliament passed the [Cannabis Act](#), SC 2018, c. 16 (the "federal law"). Under this law, it is prohibited for an individual to possess or cultivate more than four cannabis plants in their home. A few days before the adoption of the federal law, the National Assembly of Quebec adopted the *Cannabis Regulation Act*, CQLR, c C-5.3 (the "provincial law"), which completely prohibits the possession and cultivation of cannabis plants at home, regardless of the number of plants (the "challenged provisions"). The appellant filed an application before the Superior Court of Quebec seeking a declaration that the provisions were *ultra vires* and of no force or effect.

Read the [full article](#) by Adam Goldenberg, Holly Kallmeyer and Simon Bouthillier with McCarthy Tétrault LLP.

A 2023 Update on Virtual Care in Canada

In June 2021, we published [an article on cross-border telemedicine](#) with the Canadian Medical Association, containing helpful tips and best practices for health care providers seeking to enter the virtual care market in Canada.¹ In the short time since our last publication there have been many changes in this space. While we are still seeing a patchwork of rules across the provinces and territories with respect to virtual care, many different stakeholders, including physicians, patients and even the [Competition Bureau of Canada](#), are calling on the need for uniformity, reducing barriers and increasing access to virtual care. Much of this discussion is generated by the ever-changing provincial rules governing virtual care and the goal of improving access to healthcare services in Canada while reducing the cost burden on the public healthcare system. Read the [full article](#) by [Christine Laviolette](#) and [Holly Ryan](#) with Borden Ladner Gervais LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Drug Schedules (Limits on Sale) Regulation (103/2023)	NEW Apr. 18/23	see Reg 103/2023
Drug Schedules Regulation (9/98)	Apr. 18/23	by Reg 102/2023
Fur Farm Regulation (8/2015)	Apr. 1/23	by Reg 295/2021
Nurses (Licensed Practical) Regulation	Apr. 6/23	by Reg 100/2023
Nurses (Registered) and Nurse Practitioners Regulation (284/2008)	Apr. 6/23	by Reg 100/2023
Nurses (Registered Psychiatric) Regulation (227/2015)	Apr. 6/23	by Reg 100/2023
Psychologists Regulation (289/2008)	May 1/23	by Reg 204/2022



LABOUR & EMPLOYMENT

Labour and Employment News:

Amendments Introduced for the *Employment Standards Act*

Amendments to the [Employment Standards Act](#) introduced in Bill 24, the [Miscellaneous Statutes Amendment Act \(No. 2\), 2023](#), are intended to ensure that the National Day for Truth and Reconciliation statutory holiday applies to eligible unionized workers, even if the provisions of the collective agreement do not include it as a holiday.

Breaking the Silence? How British Columbia's *Non-Disclosure Agreements Act* Could Impact Workplace Investigations

A new [non-government members'] bill, [Bill M 215](#) (the Bill), which aims to regulate the use and content of non-disclosure agreements (NDAs) in relation to discrimination and harassment, was introduced in the British Columbia (BC) Legislative Assembly on March 9, 2023. So far, the Bill has only passed through the first reading. If the Bill becomes law, which is anticipated, the *Non-Disclosure Agreements Act* may affect the way employers in British Columbia deal with discrimination and harassment complaints, including the investigation of such complaints.

As demonstrated by its title, the new BC legislation targets NDAs, which are a type of contract obliging parties to not share certain information with anyone. NDAs are used in different contexts and often protect legitimate business interests or trade secrets. However, their role in discrimination and harassment complaints has become controversial: those campaigning to protect the rights of victims of discrimination and harassment argue that NDAs are frequently used to hide wrongdoings or to prevent people from filing complaints. Read the [full article](#) by [Sylvia Nicholles](#) and [Jeff Bastien](#) with Dentons.

Bill C-228 and Defined Benefit Pension Plans

The Canadian Parliament has enacted (subject to the final stage of Royal Assent) significant changes to federal insolvency legislation, elevating the priority that must be provided to fund the deficit of a defined benefit pension plan when distributing debtor assets. Bill C-228, the [Pension Protection Act](#) (the "Act"), is an Act to amend the [Bankruptcy and Insolvency Act](#) ("BIA"), the [Companies' Creditors Arrangement Act](#) ("CCAA") and the [Pension Benefits Standards Act, 1985](#). The Act will require insolvent employers to pay certain defined-benefit pension plan entitlements in priority to the claims of secured lenders. In effect, the Act would operate to increase the current range of pension benefits that receive "super priority" vis-à-vis the claims of certain creditors. While the Act provides protection for the defined benefit pensions of employees and retirees in the event that their employer becomes insolvent, the proposed legislation will add an additional layer of risk and complexity for both secured lenders and debtors. Read the [full article](#) by [Ethan Campbell](#), [David Reynolds](#), [Hugh Wright](#) and [Victor Cornea](#) with Miller Thomson LLP.

Employees Who Refuse Alternative Employment with Their Employer May Not Be Entitled to Statutory Termination Pay

Generally speaking, when an employee is dismissed without cause, they are entitled to notice or pay in lieu of notice as set out in the British Columbia [Employment Standards Act](#) ("ESA"). However, there are certain exceptions to this rule. One such exception is where the employee is offered and refuses reasonable alternative employment by their employer. Read the [full article](#) by [Lucy Williams](#) with Lawson Lundell LLP.

BC Court Finds Employer's "Structural Environment" Sufficient to Ground Vicarious Liability Claim For Privacy Violations

The issue of vicarious liability of an employer for privacy breaches perpetrated by a rogue employee is increasingly before the Courts. The British Columbia Supreme Court previously found that an employer was vicariously liable for the actions of a rogue employee because the employer created the risk of wrongdoing by providing access to customers' personal information and not setting monitoring mechanisms to prevent misuse (see our previous post on [Ari v Insurance Corporation of British Columbia, here](#)). The new class action certification case of *Burke v Red Barn at Mattick's Ltd*, [2023 BCSC 367](#) provides some further guidance on the elements that a Court may consider in determining vicarious liability. Read the [full article](#) by [Melika Mostowfi](#) with Dentons.

Refusing a Return to Work after Layoff Found to Be a Complete Failure to Mitigate

In *Blomme v. Princeton Standard Pellet Corporation*, [2023 BCSC 652](#), Justice MacNaughton had a situation involving a 64 year old Plant Supervisor with 20 years service in a small town who was initially laid off due to COVID on April 4, 2020 with an unexpected date of recall. She accepted the layoff at that time and did not claim constructive dismissal. She had never been laid off before.

The Plaintiff met with her boss on July 2 and expressed her anger that a more junior supervisor had been recalled but not her. They met again on August 6 at which time the boss told her that they would extend her benefit coverage to December 31 and then if she was not recalled by that date, they would pay her her 8 weeks termination pay under the [ESA](#). Read the [full article](#) by Barry Fisher, Barry Fisher Arbitration & Mediation.

Public Employees' Remote Work Agreement Just the Beginning: Labour Expert

The agreement on remote and flexible work between public sector workers and the federal government could set the stage for future union negotiations, according to labour experts.

"We're basically entering a brand new phase of what we talk about in collective agreements, which includes workers' autonomy over their time," said Armine Yalnizyan, an economist and the Atkinson Fellow on the Future of Workers.

The Public Service Alliance of Canada and Ottawa announced they had reached tentative agreements Monday [May 1] morning for more than 120,000 workers, with wage gains and a letter of understanding about remote and hybrid work. Read the [BIV article](#).

B.C. Court of Appeal Clarifies Test for *Prima Facie* Family Status Discrimination

In *British Columbia (Human Rights Tribunal) v. Gibraltar Mines Ltd.*, [2023 BCCA 168](#) ("*Gibraltar Mines*"), the British Columbia Court of Appeal ("BCCA") recently resolved much of the uncertainty surrounding the test for *prima facie* family status discrimination in B.C.

A five-judge panel of the BCCA unanimously held that the test for *prima facie* family status discrimination does not include a requirement that there must be a change in the employee's terms or conditions of employment. Rather, the BCCA held that *prima facie* family status discrimination occurs where "a term or condition results in a serious interference with a substantial parental or other family duty or obligation of an employee, whether as a consequence of a change in the term of employment or a change in the employee's circumstances." Read the [full article](#) by [Nicole K. Skuggedal](#), [Lucy Williams](#) and [Emily Raymond](#) with Lawson Lundell LLP.

Employers Forced to Provide Hotel Rooms for Seasonal Employees

Hospitality employers in British Columbia are doing more head scratching these days thanks to the housing and labour shortages in the country.

Some hotels and resorts on Vancouver Island and elsewhere in the province are putting temporary foreign workers up in rooms in hopes of having enough staff through the summer season, according to a report. Read the [full article](#) by [Jim Wilson](#) in the *HRReporter*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Apr. 6/23	by Reg 99/2023
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Apr. 6/23	by Reg 99/2023
Employment Standards Regulation (396/95)	Apr. 24/23	by Reg 105/2023
Public Service COVID-19 Vaccination Regulation (284/2021)	Apr. 3/23	by Reg 68/2023
Social Services Employers Regulation (84/2003)	Apr. 3/23	by Reg 93/2023
Workers Compensation Act	Apr. 3/23	by 2022 Bill 41, c. 27, sections 6, 8 and 9 only (in force by Royal Assent), Workers Compensation Amendment Act (No. 2), 2022
		by Reg. 96/2023
	May 1/23	by 2022 Bill 41, c. 37, section 11 only (in force by Royal Assent), Workers Compensation Amendment Act (No. 2), 2022



Local Government News:

BC's New Housing Plan – Impact on Local Governments (Quickscribe Exclusive)

The BC government recently announced a new [housing plan](#), which aims to increase the supply and affordability of housing in the province. The plan is partially motivated by the province's dissatisfaction with the outcomes of local government control over land use, especially in relation to housing affordability and supply.

The new legislation, which is expected this fall, will have significant implications for local governments, developers, and communities, as it will change the legal framework and processes for land use decision-making. For example, the new legislation will allow four homes on a traditional single-family detached lot, effectively giving the province authority to override local government zoning regulations. Homeowners will be able to create secondary suites in regions where current restrictions exist.

These measures will require local governments to adapt their policies and processes to facilitate faster and more diverse housing construction. They will also create opportunities for collaboration and innovation among different levels of government, as well as private and non-profit sectors, to address the housing crisis. Local governments will have a key role in ensuring that the new housing plan meets the needs and preferences of their communities, while also aligning with provincial goals and standards.

The policy initiative has been anticipated by some experts in the field of planning and municipal law, who have observed a similar trend in other jurisdictions such as Ontario. [Bill Buholzer](#), associate counsel at Young Anderson and adjunct professor at UBC's School of Community and Regional Planning, addressed this general topic in a [paper he presented at a client seminar of 2022](#). Bill commented as follows on the government's housing plan announcement:

"We seem to be at a moment in land use management that's quite similar to the moment in the early 1970s when the Province terminated the autonomy of local governments as regards agricultural land use management, and terminated the jurisdiction of certain regional districts generally in regard to the southern Gulf Islands, by creating the Agricultural Land Commission and the Islands Trust respectively. In each case the government was dissatisfied with the outcomes of local government control and stepped in. We seem to be at a similar point again. Local government jurisdiction in these matters is derived from the provincial government via a delegation of authority that can be withdrawn or modified as the provincial government sees fit. These powers don't belong to the local governments, in the same sense that jurisdiction over certain matters belongs to the federal or provincial government constitutionally."

Buholzer also noted that it's been mentioned in various analyses of the housing affordability problem, that this plan may provide 'political cover' for local governments trying to increase housing supply in areas where there is strong opposition or a 'no change' preference of local neighbourhoods. This phenomenon is being played out in Ontario where many of the minister's zoning orders overriding local zoning regulations are being requested by municipalities themselves so that they can bypass the public hearing and local planning appeal procedures for needed housing projects. Buholzer believes that while there may be some initial pushback by local governments, their anxiety will subside once the details of the legislation are known.

Quickscribe will continue to monitor and advise you of any new policy and legislative developments in this space. Stay tuned!

Bill 26 Introduced – Validating Vancouver Rezoning Bylaw

The recently introduced Bill 26, the [Municipalities Enabling and Validating \(No. 5\) Amendment Act, 2023](#), proposes amendments to the [Municipalities Enabling and Validating Act \(No. 5\)](#) and the [Vancouver](#)

[Charter](#). If brought into force, the amendments would validate a city of Vancouver rezoning bylaw that would allow a supportive housing development, known as the Arbutus Project. The bylaw was approved in principle by the Vancouver city council in July 2022, but its adoption has been delayed by a court challenge from the community group, Kitsilano Coalition. The proposed amendments to validate the bylaw regardless of any potential court decision were introduced at the request of the City of Vancouver.

**City of Revelstoke v. Gelowitz [2023 BCCA 139](#):
A Cautionary Tale for Local Governments on the
Duty to Warn Public Facility Users of Hazards**

The British Columbia Court of Appeal has affirmed the lower court decision in which the City of Revelstoke (the "City") was held liable for injuries sustained by the plaintiff after the plaintiff dove into a lake and into shallow water. Although the plaintiff made his dive from private lands owned by a third party those lands were accessed by the plaintiff as part of a swim that began from the Williamson Lake Park and Campground, a pay-for-use park owned by the City. The plaintiff had been camping on the City-owned lands with friends and family and had entered the lake without seeing the "no diving" signs that had been posted elsewhere. The decision is notable because the City was held liable for not warning of the danger of diving from lands that were not owned by the City. This liability arose because the City invited members of the public into its lakefront park, had been made aware of the dangers posed to individuals diving into the lake area, and was aware that park users were routinely accessing other lands surrounding the lake where this danger was present. Read the [full article](#) by David Giroday and Kai Hsieh with Civic Legal LLP.

Decriminalization and Local Governments

On January 31, the provincial government received a three-year exemption by Health Canada from the [Controlled Drugs and Substances Act](#) to decriminalize the possession of certain illegal drugs. This exemption does not apply on the premises of K-12 schools or licensed child care facilities, at airports, on Canadian Coast Guard vessels and helicopters, in a motor vehicle or watercraft operated by a minor, or when illegal substances are within reach of the operator of a motor vehicle or watercraft. The exemption also does not apply to youth aged 17 or younger, or to Canadian Armed Forces members who are subject to the Code of Service Discipline. Read the UBCM [article](#).

**BC Government Using Legislation to Push through
Supportive Housing Project Held up by Lawsuit**

A supportive housing project [approved by Vancouver council last year](#) but held up due to a lawsuit could soon be back on track thanks to the province. Housing Minister Ravi Kahlon introduced [legislation](#) Tuesday [April 18, 2023] that would circumvent a legal attempt to block the building of a 13-storey development at Arbutus Street and Eighth Avenue. The project is scheduled to create 129 single-occupancy units a block from the terminus to the Millennium Line extension, which is currently under construction. "We are in a housing crisis in Vancouver and across the province with too many people sleeping outside. We cannot afford to wait for much of these homes to be built," he told the legislature. The project was approved by council in August 2022 following six days of public hearings in a 6-3 vote. Read the CBC [article](#).

**Liability Claims for Ineffective Enforcement –
What's Scary and What's a Scare Tactic**

It can be difficult to distinguish the situations in which liability is a real legal concern from those in which claims of potential liability are overblown and used to scare local governments into prioritizing a particular enforcement action. This paper discusses the legal principles that relate to the duties and discretions of a local government in conducting bylaw enforcement and how the risk of a successful claim being proven in court in relation to ineffective enforcement can depend significantly on where the contravention occurs. Read the [full article](#) by Michael Moll and David Giroday with Civic Legal LLP.

**British Columbia Court of Appeal Rules in Favour of City of
New Westminster Continued Use of Residential Rental
Tenure Zoning to Protect Existing Rental Stock**

The British Columbia Court of Appeal released [a decision](#) upholding the City's use of the residential rental tenure zoning power. In March 2021, the [Supreme Court of British Columbia upheld the same challenged](#)

[bylaws](#), which were enacted with the intention of preserving six stratified apartment buildings that had long been part of the City's rental stock, as rental units. [...] In July 2018, the Province [enacted rental tenure zoning authority](#) to enable local governments to expand and preserve rental stock. In 2019, New Westminster City Council adopted Zoning Amendment Bylaws No. 8078 and 8123, making it the first municipality in the province to apply the newly granted residential tenure zoning powers to its existing rental housing stock. More specifically, New Westminster sought to protect over 200 households whose tenancies could not adequately be protected by any of the other existing legislative tools found in the [Local Government Act](#) and the [Community Charter](#). Read the full [news release](#) on CivicInfo BC.

Local Governments Seek Provincial Help Regulating Tiny Homes

Building tiny homes can be difficult because the BC building code doesn't directly address them, advocate says. Local governments want the province to help make building tiny homes easier. Tobi Elliott, who advocates for tiny homes as an alternative and more affordable form of housing in rural and coastal communities, said they exist in a "regulatory grey area." Read the *Times Colonist* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
British Columbia Teachers' Council Regulation (2/2012)	Apr. 21/23	by Reg 104/2023
British Columbia Teachers' Council Vacancy Regulation (95/2023)	NEW Apr. 3/23	by Reg 95/2023
Building Act General Regulation (131/2016)	May 1/23	by Reg 31/2023
Bylaw Notice Enforcement Regulation (175/2004)	Apr. 3/23	by Reg 91/2023
Information Management Regulation (109/2016)	Apr. 3/23	by Reg 89/2023
Taxation (Rural Area) Act Regulation (387/82)	Apr. 11/23	by Reg 101/2023
Teachers Act	Apr. 3/23	by 2021 Bill 25, c. 29, sections 5 to 6 and 17 to 18 only (in force by Reg 88/2023), Education Statutes Amendment Act, 2021



MISCELLANEOUS

Miscellaneous News:

BC Passes New Legislation: *Intimate Images Protection Act*

Revenge porn and the AI manipulation of intimate images are a harmful and invasive form of harassment and assault, proliferated by the rapid spread of information (and misinformation) across a borderless internet, but which can lead to real world distress, reputational damage, and even physical harm. Against this backdrop, governments around the world have been enacting legislation to make sure that victims have tools to seek justice against the purveyors of these illicit materials. The Province of British Columbia has now passed the [Intimate Images Protection Act](#) without amendment in the Province

of British Columbia, applying retroactively to March 6, 2023. Regulations must be put in place before the legislation takes effect. As set out in our [earlier article](#) the purpose of this new legislation is to provide stronger protections to people who have their intimate images shared without their consent and a faster process for removing these images than is currently available when individuals have to seek redress through the B.C. Supreme Court. Read the [full article](#) by Keri Bennett and Ryan Black with DLA Piper.

Case Summary: The Words "within your dwelling" in an Insurance Policy Are Not Synonymous with "inside your dwelling"

BC Court of Appeal overturns lower court's dismissal of claim for coverage by interpreting the policy words "within the dwelling" to include the insured's sun deck, despite the sun deck being outside the exterior walls of the house. *Gill v. Wawanesa Mutual Insurance Co.*, [2023] B.C.J. No. 339, [2023 BCCA 97](#), British Columbia Court of Appeal, February 27, 2023, P.M. Willcock, S.A. Griffin and P. Abrioux JJ.A. The insured sought coverage from his insurer pursuant to the sewer back-up endorsement for water damage resulting from water back-up due to a clogged perimeter drainage system. The water escaped through a drain located in the sun deck and entered the home's basement from the deck. The sewer back-up endorsement provided coverage for a "sudden and accidental backing up or escape of water or sewage within your dwelling ... through a sewer on your premises." The endorsement defined "dwelling" as "the building ... wholly or partially occupied as a private residence." The insurer denied coverage on the basis that the sudden and accidental backing up or escape of water did not occur "within the dwelling". Read the [full article](#) by Tricia Milne with Harper Grey LLP.

Canadian Tire Stores in BC Broke Privacy Laws on Facial ID Technology, Privacy Commissioner Says

British Columbia's privacy commissioner is recommending the province amend its information protection laws after his investigation found several Canadian Tire stores contravened privacy laws by using facial recognition technology without properly notifying customers. BC should tighten its [Security Services Act](#) and the [Personal Information Protection Act](#) to better regulate the sale of technologies that capture biometric information and create more reporting obligations for those using it, Michael McEvoy said Thursday [April 20]. Read the CBC [article](#).

BC Courts Reject over Half of Prosecutors' Attempts to Keep Alleged Offenders in Custody: Crown

Courts in BC are rejecting more than half of prosecutors' attempts to keep alleged offenders in custody rather than granting them bail, according to limited preliminary data from the province. The BC Prosecution Service (BCPS) released statistics Monday [April 24] saying Crown counsel tried to keep alleged offenders behind bars in more than a quarter of bail hearings conducted over seven weeks late last year and early this year, but judges freed those offenders on bail around half of the time. The statistics were accompanied by a statement that said the province's recently revised bail policy is not enough on its own to move the needle on bail reform because the "law of bail" is ultimately established in Ottawa. Read the CBC [article](#).

SCC Clarifies Threshold for Summarily Dismissing Stay-of-proceedings Applications in Criminal Trials

In a criminal trial, courts can only summarily dismiss an application for a stay of proceedings if the moving party meets the threshold of showing that the application is "manifestly frivolous," the Supreme Court of Canada ruled today [April 28]. In *R. v. Haevischer*, [2023 SCC 11](#), a unanimous eight-judge panel dismissed the Crown appeal. The British Columbia case dealt with two men – one now deceased – who had been convicted at trial on six counts of first-degree murder and one count of conspiracy to commit murder for the 2007 Surrey Six killings. Read the [full article](#) by [Aidan Macnab](#), published on *Canadian Lawyer*.

The Case for Automatic Pardons

The question of how long criminal records should affect someone's life is the subject of both a bill currently before the Senate and a case granted leave by the Supreme Court of Canada. [Bill S-212](#) proposes to create automatic expiries of most criminal records, with some exceptions, so that people involved in the criminal justice system don't need to apply for pardons or records suspensions. That would simplify the process and make it more accessible and less costly for people with limited finances or literacy issues, says Senator Kim Pate, the bill's sponsor and a former executive director of the

Canadian Association of Elizabeth Fry Societies. Read the [full article](#) by [Dale Smith](#) on CBA National.

Video Game "Loot Boxes" May Violate BC Consumer Protection Law Says BC Supreme Court

"Loot boxes" are mystery boxes in a video game that pay out prizes or other items for in-game use. Players can earn loot boxes, but often purchase them with real-world money. The loot obtained varies in value considerably. For example, some loot boxes contain special characters, powerful weapons or faster cars. Such rare and valuable items can be traded for large sums on secondary trading platforms. Other loot boxes contain much less valuable prizes. The plaintiff in *Sutherland v Electronic Arts Inc.*, [2023 BCSC 372](#) (*Sutherland*) alleges that the defendant game developers violated the British Columbia [Business Practices and Consumer Protection Act](#) (*BPCPA*) by encouraging players to purchase loot boxes without disclosing that valuable items were difficult or nearly impossible to acquire from such purchases. He seeks to certify a class action on behalf of potentially millions of players. Read the [full article](#) by [Emrys Davis](#), [Ethan Schiff](#), [Devon Luca](#) and Chris Hennigar of Bennett Jones LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Farm Income Plans Regulation (123/2004)	Apr. 24/23	by Reg 107/2023
Lobbyists Transparency Regulation (235/2019)	Apr. 24/23	by Reg 108/2023



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Motor Vehicle Amendment Act (No. 2), 2023 Introduced

Bill 28, the [Motor Vehicle Amendment Act \(No. 2\), 2023](#), was introduced on May 2. The bill contains amendments to [Motor Vehicle Act](#), the [Commercial Transport Act](#) and the [Insurance \(Vehicle\) Act](#) that, if passed, will shift the legal obligation to licence and insure a leased vehicle to the lessee, rather than the owner. In addition, the bill makes various housekeeping amendments and consequential amendments other bills, including the [Firearm Violence Prevention Act](#).

Budget Foreshadows Significant Changes to Federal Transportation Regulation

On March 28, 2023, the Government of Canada tabled its 2023 [Budget](#), which foreshadows significant proposed changes to the federal transportation regulatory regime. The Budget responds to a few of the recommendations in the final [report](#) of the National Supply Chain Task Force (NSCTF) released October 6, 2022.

The Budget introduces six surface transportation measures (spending initiatives, a collaboration exercise, data demand from shippers, a temporary regulatory change, and a review of marine legislation). The Government has framed these measures as "a down payment on Canada's National Supply Chain Strategy, which will be released in the coming months and will be informed by the recommendations of the National Supply Chain Task Force report". Below we identify and analyze current developments of interest to rail freight shippers in Canada. Read the [full article](#) by the McMillan Transportation Group.

BC Supreme Court Refuses to Allow Access to 13 Years of Pre-Accident Records in Personal Injury Case

The BC Supreme Court has refused to allow the production of approximately 13 years of pre-accident records based on a bare plea of a pre-existing injury.

In *Harper v Sheppard*, [2023 BCSC 443](#), Carolyn Harper was involved in a motor vehicle accident in

Castlegar, BC, in 2017. She suffered multiple physical injuries, resulting in headaches, dizziness, light sensitivity, fatigue and chronic pain. The defendants, Patricia and Alan Sheppard, denied liability. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

B.C. to Spend \$90 Million to Boost Electric Truck Use

B.C. will be spending nearly \$90 million to help companies and organizations get fuel-hungry trucks off the road and replace them with zero-emissions, heavy duty vehicles.

Premier David Eby noted B.C. is leading all provinces in the switch to zero-emission passenger vehicles, which has increased from 5,000 in 2016 to more than 100,000 today, but the commercial vehicle sector faces a more difficult transition. Read the [full article](#) published by Cheryl Chan with Driving.ca.

Defendants in Two Car Accidents Are Each Entitled to Full Discovery Examination: BC Supreme Court

The BC Supreme Court has ruled that the defendants in two motor vehicle accident actions are each entitled to conduct a full examination for discovery of the individual plaintiff.

In *Singh v. Shoker*, [2023 BCSC 616](#), the defendants in a motor vehicle accident sought an order compelling the plaintiff, Ishwinder Singh, to attend an examination for discovery. Singh opposed the action. The case stemmed from two car accidents in 2016 and 2017. The issue before the BC Supreme Court was whether the defendants in the two actions were each entitled to conduct a complete examination for discovery of the individual plaintiff. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Product Liability – Hyundai Canada Pleads Guilty to Recall-Related Criminal Charges

According to recent news reports Hyundai Canada has recently plead guilty to 6 recall-related criminal charges. In their announcement, Transport Canada confirmed that Hyundai Canada entered guilty pleas to 6 different criminal charges for violating the [Motor Vehicle Safety Act](#).

According to Transport Canada, Hyundai Canada failed to send out recall notices for six different defects within the requisite 60 days of having identified said defects. Read the [full article](#) by [Bryan Fitzpatrick](#) with Pushor Mitchell LLP.

BC Court of Appeal Reduces Damages Award Despite Finding Actual Employment-Related Impairment

The BC Court of Appeal has reduced an award for loss of future earning capacity, despite finding actual employment-related impairment in a personal injury case.

In *Deegan v. L'Heureux*, [2023 BCCA 159](#), the plaintiff, Kylee Dean L'Heureux, was injured in a motor vehicle accident when she was 20. She suffered from anxiety, headaches and chronic pain due to the accident. She sued the defendants, Ross Deegan and Unicorn Trucking Ltd., for substantial damages for her loss of future earning capacity and cost of future care. Following an eight-day "fast track" trial, the judge apportioned liability ten percent to the plaintiff and 90 percent to the defendants. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [CVSE 1052 Contacts](#) – Notice to industry that the List of Contacts for use with Form CVSE1052 has been updated (April 4, 2023)
- [CVSE1014](#) – LCV Operating Conditions & Routes (April 2023)
- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause
- [VI Notice 04-23](#) – Facility Operator Certificate

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 Passenger Transportation Board:

Industry Updates & Advisories

- [Climate Change Mitigation and Adaptation Opportunities](#)
Board intends to review its policies and procedures to support the Government of British Columbia's climate action plan through the regulation of the passenger transportation industry. The Board is committed to support the Province's greenhouse gas emissions reduction targets.
- [Inter-City Bus COVID-19 Policy Extension & Consultation](#)
To allow time for the Board to undertake a sector-wide consultation with ICB operators in early fall of 2023, the Board has decided to extend the Minimum Route Frequency Inter-City Bus COVID-19 Policy until December 31, 2023.
- [Vancouver Cruise Ship Schedule for TNS and Taxi Operators](#)
As the 2023 cruise season commences in Vancouver, TNS and Taxi Licensees are reminded to review their terms and conditions of licence and the [cruise schedule](#). The Board will continue its efforts to ensure that any changes or amendments are posted in the Weekly Bulletin and on the website.
- [Final Deadline to Activate Additional Taxis Extended](#)
A reminder to all Taxi licensees, the final activation deadline is extended to July 1, 2023. Licensees will have until this date to activate additional vehicles, or they will no longer be valid.

Applications Received

- [16965-23](#) – Evergreen Taxi Ltd.
- [17217-23, 17230-23, 17216-23, 17226-23 & 17214-23](#) (Combined application summary) – Yellow Cab Company, Black Top Cabs Ltd., MacLure's Cabs (1984) Ltd., Vancouver Taxi Ltd. (PT 70538) & Vancouver Taxi Ltd. (PT 70546)
- [17366-23](#) – Quesnel Taxi Ltd.
- [17325-23](#) – Richard Matthew Hutchings & Marina Joanne La Salle (Island Rides, Insight Heritage)
- [17431-23](#) – Elizabeth Vago (EV Tours)

Application Decisions

- [17455-23 PS TOP](#) – Apex Limousine Incorporated. (Luxury Transport) [Approved]
- [15890-22 TNS](#) – Rido Share Inc. [Refused]
- [14593-23](#) – Kalum Kabs Ltd. [Approved]
- [17092-23 UPN](#) – Vantastic Rentals Limited (Now Shuttle) [Approved]
- [17440-23 PS TOP](#) – Hugh Robert Reginald McDonald (Nite Owl Transportation) [Approved]
- [17621-23 PS TOP](#) – Vanride Shuttle Services Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Enhanced Accident Benefits Regulation (59/2021)	Apr. 3/23	by Reg 90/2023
Lien on Impounded Motor Vehicles Regulation (25/2015)	Apr. 1/23	by Reg 80/2023
Violation Ticket Administration and Fines Regulation (89/97)	Apr. 1/23	by Reg 295/2021



OCCUPATIONAL HEALTH & SAFETY

Occupational Health & Safety News:

BC Supreme Court Allows Stenographer's Benefits Claim for Injury Sustained during Employment

The BC Supreme Court has allowed a worker's appeal for compensation benefits for an injury that allegedly arose during her employment as a stenographer. In *Bird v. British Columbia (Workers' Compensation Appeal Tribunal)*, [2023 BCSC 543](#), Susan Bird worked as what the court described as a stenographer for over 20 years in the serious crimes unit of the Royal Canadian Mounted Police detachment in Nanaimo. She worked seven hours a day, five days a week, transcribing audio recordings of RCMP interviews with witnesses and suspects. Her duties included sitting at a keyboard throughout the day and transcribing audio recordings 95 percent of the time, typing 90 words per minute. Bird said she developed "tennis elbow" in both elbows because of her work as a stenographer. Read the [full article](#) by [Angelica Dino](#), published on *Canadian Lawyer*.

Proposed Policy Amendments Regarding Asbestos Abatement Licensing

In March 2022, the British Columbia Legislature passed Bill 5 to introduce certification and licensing requirements in the [Workers Compensation Act](#) for managing asbestos abatement work. At issue is the addition of a new policy item in the Prevention Manual to reflect the implementation of Bill 5, and to support the asbestos licensing model being developed by WorkSafeBC's Prevention Services. [Proposed amendments](#) to Part 6 of the Occupational Health and Safety Regulation, relating to asbestos certification and licensing, are currently out for public hearing. Our Policy, Regulation and Research Department is releasing a discussion paper and draft policy for public consultation relating to asbestos abatement licensing. You're invited to provide feedback until **4:30 p.m. on Wednesday, May 10, 2023**. The discussion paper, draft policy, and information on how to provide feedback can be accessed through the following link:

- [Proposed amendments regarding asbestos abatement licensing](#)

Read the [full article](#) on the WorkSafe BC website.

New Policies on Interest and Non-Traumatic Hearing Loss (Bill 41)

from WorkSafeBC

Bill 41 – the [Workers Compensation Act Amendment Act \(No. 2\), 2022](#) received Royal Assent on November 24, 2022. Bill 41 contains seven amendments to the [Workers Compensation Act](#) (Act) to better support injured workers and align British Columbia with other provinces in providing benefits for injured workers. The Policy, Regulation and Research Department (PRRD) recently presented policy changes to the Board of Directors for decision, resulting from two Bill 41 amendments on interest on compensation benefits and non-traumatic hearing loss. Read the full WorkSafeBC Insight [article](#).

WorkSafeBC Reports Three Fatal Workplace Incidents in March

WorkSafeBC released its latest work-related incidents report for March and it contains three fatal accidents impacting both workers and non-workers. One of the incidents was caused by an avalanche, one remains unexplained, and the third was a vehicle accident. A group of heli-skiers was swept away by an avalanche not far from the Panorama Mountain Resort, which is about 150 kilometres southwest of Banff, Alberta. "A group on a guided helicopter ski tour was caught in a size 3 avalanche. Three skiers died and four – including the guide – were injured," reads the WorkSafeBC report. Read the [full article](#) by Shane Mercer with Canadian Occupational Safety.

Workplace Violence: Understanding Legal Obligations and Provincial Mandates

When it comes to legal obligations in stamping out workplace harassment and violence, employers need to have a nuanced understanding of provincial employment laws. According to a [recent report from WorkSafeBC](#), claims from workplace violence have increased by 25% between 2013 and 2022 – with the majority of those claims involving the health care sector and their teams. Patrick Essiminy, Head of the Montréal Employment and Labour Group at Stikeman Elliott LLP, tells *HRD* that obligations when it comes to suspecting, investigating, and eradicating abuse and harassment are manifold. Read the [full article](#) by Emily Douglas on *Canadian Lawyer*.

How Tree Planting Grew into a Career Rooted in Safety

Safety leader in B.C. influenced by wilderness work that was 'definitely unsafe'

For more than three decades Barry Nakahara has been shaping workplace safety in British Columbia, and it all started with the treacherous work of tree planting. "The thing that is most rewarding is when you see that your work has made a difference," says the senior manager of prevention field services at WorkSafeBC. "Sometimes that is a direct result of your involvement with a specific workplace on a specific issue or sometimes it's a broader change that occurs across an industry, which takes more effort and more time, but is equally rewarding." Read the [full article](#) by Shane Mercer with Canadian Occupational Safety

New Public Health Orders

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

- [Hospital and Community \(Health Care and Other Services\) COVID-19 Vaccination Status Information and Preventive Measures – April 6, 2023 \(PDF, 542KB\)](#)
- [Residential Care COVID-19 Preventive Measures – April 6, 2023 \(PDF, 495KB\)](#)

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

OHS Policies/Guidelines – Updates

May 1, 2023

[Workers Compensation Act](#)

In accordance with the [Workers Compensation Act Amendment Act \(No. 2\), 2022](#), the following sections took effect on May 1, 2023.

- Part 8 Division 7 – Fair Practices Commissioner
 - [Section 355 Definitions](#)
 - [Section 356 Fair practices commissioner](#)
 - [Section 357 Annual report of fair practices commissioner](#)

Visit the [WorkSafeBC website](#) to explore these and previous updates.

Act or Regulation Affected	Effective Date	Amendment Information
Workers Compensation Act	Apr. 3/23	by 2022 Bill 41, c. 27, sections 6, 8 and 9 only (in force by Royal Assent), Workers Compensation Amendment Act (No. 2), 2022
		by Reg. 96/2023
	May 1/23	by 2022 Bill 41, c. 37, section 11 (in force by Royal Assent), Workers Compensation Amendment Act (No. 2), 2022



PROPERTY & REAL ESTATE

Property and Real Estate News:

Stay Together for The Kids: Strata Property Act Amended to Allow Residents' Children to Reside with Them Despite Age-Restrictive Bylaws

Changes to the [Strata Property Act](#) (the "Act") made in November 2022 prohibited strata corporations from passing bylaws which restrict ownership, tenancy and occupancy of strata units based on age; with one major exception. The November 2022 amendments to the Act continued to allow strata corporations to limit membership and residency to those aged fifty-five and above. Following this amendment, several strata corporations in the province passed bylaws restricting residency. Concerns that these new bylaws would frustrate the provincial government's mission to reduce barriers to renters and those seeking to purchase so-called "middle housing" dwelling units prompted the BC NDP to pass an [Order in Counsel](#) on May 1st. The newest amendment continues to permit strata corporations to restrict ownership of strata units to those aged fifty-five and older, however, residency restrictions have been softened. Effective May 1, 2023, residents of strata lots whose strata corporations have passed age-restrictive bylaws and who meet those age requirements may have their spouse, adult children, and/or minor children (including future children) reside in the unit with them, regardless of that person's age. Existing exemptions, including the caregiver exemption and the legacy exemption continue to apply. Read the [full article](#) by [Jennifer M. Williams](#) and [Hamish Gray](#) with Harper Grey LLP.

Amendments to Strata Property Act - EV Charging Stations

Bill 22, the [Strata Property Amendment Act, 2023](#), was recently introduced in the legislature. The bill proposes amendments to the [Strata Property Act](#) to improve access to electric vehicle charging in residential strata buildings. These amendments include requiring strata corporations to obtain electrical planning reports and other information related to the building's capacity for EV charging infrastructure and lowering the voting threshold for approval for changes needed for EV charging stations. It also adds provisions which would allow owners to request approval for EV charging station installation at their own cost and prohibit stratas from unreasonably refusing that request.

Honestly?! The BC Court of Appeal Upholds the Duty of Good Faith Contractual Performance between Commercial Landlords and Tenants

In a warning for commercial landlords and tenants (*Amacon Alaska Development Partnership v. ARC Digital Canada Corp.*, [2023 BCCA 34](#)), the BC Court of Appeal has upheld the application of the duty of good faith in the context of an early termination negotiation. The Court of Appeal came down hard on a party who used an overly technical interpretation of their strict legal rights to seek an unfair advantage. The Court dismissed an appeal from a summary trial decision ([2021 BCSC 1612](#)), which was an early application of the duty of good faith in the context of negotiations between a commercial landlord and tenant in BC. The duty is relatively new and the law is still developing. This recent decision confirms and clarifies the application of the principle in the commercial leasing context. Read the [full article](#) by [Thomas D. Boyd](#) and [Natasha Ford](#) with Lawson Lundell LLP.

Downing v. Strata Plan VR2356, [2023] B.C.J. No. 357, 2023 BCCA 100, British Columbia Court of Appeal

The appellant (a strata unit owner) lost her claim for trespass, negligence, and nuisance against the respondent strata. The appellant tried to appeal the civil resolution tribunal decision to the BC Supreme Court but was unsuccessful. The BC Court of Appeal dismissed her appeal. *Downing v. Strata Plan VR2356*, [2023] B.C.J. No. 357, [2023 BCCA 100](#), British Columbia Court of Appeal, March 1, 2023, P.M. Willcock, J. DeWitt-Van Oosten and P.G. Voith JJ.A. The background to this decision is summarized in HARA/2022-014.

The appellant was an owner of a unit in Strata Plan VR356. In Spring 2018, the appellant suffered a stroke and moved into an assisted living facility. She sought the assistance of a realtor to sell her unit in the Strata. The realtor discovered water damage in the unit, and with his client's permission allowed the Vice President of the Strata to enter the unit to investigate the water ingress issue. The Vice President of the Strata hired a contractor to investigate the damage which required substantial dismantling of the unit. The suite was taken off the market for two years while the repairs were completed by the contractor and eventually sold for almost \$200,000 less than the initially listed market value. Read the [full article](#) by [Scott J. Marcinkow](#) with Harper Grey LLP.

Case Summary: Judicial Review of a Decision of the Civil Resolution Tribunal (CRT) in the Exercise of

Its Jurisdiction over Strata Property Disputes

Williams v. British Columbia (Civil Resolution Tribunal), [2023] B.C.J. No. 293, [2023 BCSC 239](#), British Columbia Supreme Court, February 17, 2023, J. Hughes J.

The petitioners sought a judicial review of a decision of the Civil Resolution Tribunal ("CRT"). The dispute arose due to multiple noise complaints coming from an adjacent strata unit. The petitioners initiated proceedings against The Owners, Strata Plan BCS 184 (the "Strata") at the CRT. On judicial review, it was found that the CRT's decision was patently unreasonable, and the petitioners were denied procedural fairness. The matter was remitted back to the CRT for reconsideration. Read the [full article](#) by Deanna Froese with Harper Grey LLP.

Amendment to City of Vancouver Parking Bylaw Affects Strata-titled Accessible Parking

In December 2022, Vancouver City Council quietly enacted Bylaw No. 13575 (the "Amendment"), being an amendment to the City of Vancouver's Parking Bylaw 6059 (the "Parking Bylaw"). Pursuant to the Amendment [not retroactive], accessible parking stalls in strata-titled developments must now be:

- held in common ownership; and
- not assigned to any strata lot.

Consequently, owner developers and strata corporations will no longer be able to allocate accessible parking stalls to strata lot purchasers and owners for their exclusive use, even when subject to a re-allocation mechanism in a parking lease (as discussed further below). Read the [full article](#) by [Scott J. Anderson](#), [Andrew Beechinor](#), [Natasha Ford](#) with Lawson Lundell LLP.

How Do We Revote on a Bylaw Amendment?

Dear Tony:

Our strata corporation recently held a special general meeting to vote on a no smoking bylaw. At the meeting the property manager advised that anyone who is currently a resident and a smoker would not be affected by the amendment as they would be grandfathered. The vote only passed by 1 ballot, and the next day we were informed there were no provisions in the bylaw for grandfathering, and the Act has no such exemption. A group of owners immediately petitioned for a meeting to be called to re vote on the bylaw; however, by the time council received the petition, the property manager had already filed the amendment in Land Titles. Do we now have to vote to repeal this bylaw? If that is the case it would never pass, and the owners would have voted with incorrect advice. How do we fix this?


Dear Carolyn:

There is a specific provision in the [Strata Property Act](#) for parties to reconsider a vote. It applies only if a resolution required to be passed by a 3/4 vote is passed at an annual or special general meeting by persons holding less than 50% of the strata corporation's votes. When this occurs, as it did in your case where only 40% of the owners attended the meeting, the strata corporation must not take any action to implement this resolution for one week following the vote, unless there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage. This is not a vote to repeal; it is a re-vote on the same resolution. If the resolution to adopt the bylaw fails, the filing amendment will have to be corrected.

Read the Condo Smarts [article](#) written by Tony Gioventu and published on CHOA.

Act or Regulation Affected	Effective Date	Amendment Information
Real Estate Services Rules (209/2021)	Apr. 1/23	by Reg 193/2022

Speculation and Vacancy Tax Regulation (275/2018)	Apr. 3/23	by Reg 94/2023
Strata Property Act	Apr. 1/23	by 2020 Bill 14, c. 16, section 3 only (in force by Reg 7/2023), Municipal Affairs and Housing Statutes Amendment Act (No. 2), 2020
Strata Property Regulation (43/2000)	Apr. 1/23	by Reg 7/2023
	May 1/23	by Reg 116/2023

 **WILLS & ESTATES**

Wills and Estates News:

BC Supreme Court Reconciles Last Will's Inconsistent Clauses Using Extraneous Proof

The BC Supreme Court has considered extraneous evidence in reconciling seemingly inconsistent clauses in a last will.

In *Zaleschuk Estate*, [2023 BCSC 523](#), Victor Zaleschuk was a Canadian businessman operating a wholesale flower business in California. He died of a brain tumour in 2021. He was survived by his wife of 14 years, Wendy Chen, who was also named executrix of his estate. He was also survived by two adult sons from a previous marriage, Shane and Christian Zaleschuk. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Safeguarding DNA and Protecting Genetic Information

Companies such as AncestryDNA and 23andMe have made genetic testing more accessible and popular with consumers over the past decade. Genetic testing can not only reveal a person's genealogy and ethnic background but also reveal and identify a person's genetic disposition for a certain illness or disease.

Today it is common for a person to send a sample of their saliva by mail in a DNA test kit provided by one of these companies. The question that arises is how well this genetic information is protected by those companies and what happens to it after someone dies? In some cases a person can designate a beneficiary to take ownership of their DNA profile with that company. Failing this a person's DNA may become the property of that company on their death. Read the [full article](#) by Deborah A. Todd, with Deborah Todd Law.

Gratuitous Transfers into Joint Tenancy and the Gift of the Right of Survivorship: Part 2

In the [first part of this two-part series](#), we discussed the ownership interests that can arise when property is gratuitously transferred into joint tenancy. We focused specifically on the gift of the right of survivorship. In this second part, we will discuss how the gift of the right of survivorship is applied when dealing with real property.

When it comes to real property, Canadian Courts are divided on whether the ability of the donor to deal with his or her property remains unrestricted during his or her lifetime when a gift of the right of survivorship has been made. Read the [full article](#) by [Lauren Hamilton](#) and [Gail P. Black](#) with Miller Thomson LLP.

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

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