



NEWS RELEASE

British Columbia Civil Liberties Association
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For immediate release

Governments Cannot Sue Critics for Defamation -- Civil Liberties Celebrates Victory for Freedom of Expression

In a decision today, B.C. Supreme Court Justice Nicole Garson granted the declaration sought by John Dixon and the B.C. Civil Liberties Association, that “the defendant City of Powell River lacks any legal basis or right to bring civil proceedings for defamation of its governing reputation, or bring other proceedings of similar purpose or effect, or to threaten to do so, including in the manner contained in the three letters dated March 6, 2008, sent by the solicitors for the defendant, City of Powell River, to Patricia Aldworth, Winslow Brown, and Noel Hopkins...”.

The “Powell River Three”, as they came to be called, had criticized the City’s decision to use an “alternative elector approval process” for a controversial public works project, while at the same time holding a by-election to fill a vacant council seat. Having two separate election processes was argued to be wasteful. Also, the “alternative process” was considered less than democratic – voters were presumed to be in favour unless they executed and delivered to the City a special document declaring otherwise. The Mayor and Council had the lawyers for the City send letters to the “Powell River Three” threatening that the City would sue and demanding apologies and retractions in return for the possible reduction of their damages in libel lawsuits.

Justice Garson’s decision breaks new ground, in that she found that *Charter* values supersede the old law, which gave municipalities and other governments the same rights as individual persons to sue for defamation. Citing a broad range of authorities, Garson makes it clear that Canada’s commitment to democratic values in the *Charter of Rights and Freedoms* gives citizens a fundamental right not only to speak out against the government, but, what is perhaps of even greater importance, the right of everyone to hear such criticism of the government.

John Dixon: “This is a clean win for civil liberties, but it stains the reputation of Powell River, and I would have preferred that it never went to court. The simple lesson is that it is illegal for governments to try to silence critical voters with threats of lawsuits. It shouldn’t have taken an expensive Supreme Court lawsuit for the Mayor and Council to get it.”

Costs were awarded against the City of Powell River.

Dixon and the BCCLA were represented by BCCLA President, Robert Holmes.

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