



IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMMUNITY CHARTER*, S.B.C. 2003, c. 26

WAYNE MESSENGER, JOHN HARVEY, HARSH K. SHARMA, GURDIP SINGH DULAY,  
PALA SINGH, KAVNEET SRA, KRISTA PAGE, WILLIAM COWAN, PHYLLIS PAGE,  
ROB GRANT and JOSIE GRANT

PETITIONERS

AND:

BETTY FORBES, LISA MURI and THE CORPORATION OF THE DISTRICT OF NORTH  
VANCOUVER

RESPONDENTS

**RESPONSE TO PETITION**

**Filed by:** Lisa Muri (the "Respondent")

THIS IS A RESPONSE TO the petition filed 20/DEC/2019.

**Part 1: ORDERS CONSENTED TO**

The Respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the petition: NIL.

**Part 2: ORDERS OPPOSED**

The Respondent opposes the granting of the orders set out in paragraphs 1-5 of Part 1 of the petition.

The Respondent Muri requests the Petition be dismissed with costs, and on a special costs basis.

**Part 4: FACTUAL BASIS**

1. Councilor Muri moved and voted in favour of Pigeon Prohibition Bylaw 8402, 2019 (the “Pigeon Bylaw”) in the best interests of all of the electors of the District of North Vancouver (the “District”) and not to support her own interest or the personal interest of any other individual.
2. The Respondent Muri is in her 8<sup>th</sup> term as an elected councilor, having faithfully served the District since 1996.
3. Councilor Muri was not influenced in her voting for the Pigeon Bylaw by any other councilor, including Councilor Forbes. Councilor Muri was aware of Councilor Forbes concerns, but had her own concerns, motivated by the best interests of the District residents, and cast her vote for the District interest.
4. Councilor Muri was exercising her duty as an elected Councilor in good faith. She was not acting on behalf of any individual, including Councilor Forbes.
5. The legitimate reasons to support the Bylaw were similar or the same for Councilor Muri as the other 3 Councilors that supported the Pigeon Bylaw.
6. Based on information provided to the District of North Vancouver Council (the “Council”) by District staff in advance of the Council vote on the Pigeon Bylaw, Councilor Muri reasonably believed that:
  - (a) pigeons have historically been kept at multiple residential locations in the District,
  - (b) complaints about pigeons have been received by the District since at least 1995;
  - (c) prior actions of bylaw enforcement officers have resulted in pigeons being removed; and
  - (d) since some keepers of pigeons, including one petitioner, do not apply for permits, the number of unpermitted pigeons kept at residential locations in the District is unknown: the previous bylaw was enacted at a time when keeping pigeons might have been more appropriate given the rural nature of the District, but it is now inappropriate to the more urban residential environment.

**Part 5: LEGAL BASIS**

1. Councilor Muri had and could have no pecuniary interest in the Pigeon Bylaw.
2. The Pigeon Bylaw is about pigeons – it has no pecuniary or monetary implications for anyone, and specifically not Councilor Muri.

3. The test for pecuniary interest under the Community Charter is an objective one. The Petitioners have completely failed to establish an actual pecuniary interest by anyone.
4. The Pigeon Bylaw applies equally throughout the District. It bans the keeping of pigeons to protect any and all residents from existing and potential future pigeon keepers that might otherwise adversely impact them or their property.
5. Councilor Muri was not aware, and could not have been, of any pecuniary interest that Councilor Forbes had in respect of the Pigeon Bylaw other than “an interest in common with electors of the municipality generally” as contemplated by s. 104(1)(a) of the *Community Charter*. The Pigeon Bylaw is not applicable to a single residence, block or subset of the District. Rather, the Pigeon Bylaw applies to the entire District and therefore benefits all electors in the municipality.
6. The affidavit in support presented by the petitioners fails to assert or establish any factual basis for any of the petitioners’ unjustified allegations against Councillor Muri.
7. The Petition is baseless, frivolous and an abuse of the process of the Court.
8. The only affidavit presented relies on third-hand or media reports, contains inadmissible hearsay, and does not support any allegation against Councillor Muri at all, and in particular pursuant to ss. 100 or 101 of the *Community Charter*.
9. The Petitioners are not entitled to discovery under the *Community Charter* to supplement the absence of facts, or the inability to establish the case required to justify this Petition. The cannot make serious allegations of conflict of interest based upon “ways presently unknown to the petitioners”, without facts, and to then seek to subject an elected councilor to a cross-examination on a public bylaw vote.
10. Such a process would seriously undermine democratic process and interfere with the proper functioning of Council, in a manner that is not contemplated under the statute or Canadian law.
11. Further, the Petition is fundamentally flawed and a nullity under the *Community Charter*, including because:
  - a. the Petitioners have not established that they each, and/or at least 10 of them, are “electors of the municipality” as required under s. 111(1),
  - b. the petition was not served “within 7 days” after filing as required under s. 109(2), and
  - c. the petition was not filed “within 45 days after the alleged basis of the disqualification comes to the attention of ... any of the electors bringing the [petition].” under s. 111(4)(a).


12. The serious and scurrilous allegations made against Councilor Muri, without reasonable facts, are made for collateral reasons or an irrelevant political purpose and call for an order for special costs in favor of Councilor Muri.

**Part 6: MATERIAL TO BE RELIED ON**

13. In the absence of admissible facts put forward for the Petition, the Respondent has no case to answer.

The Respondent's estimate of the time that the application will take: N/A.

Date: 16/JAN/2020

  
\_\_\_\_\_  
Signature of [ ] petition respondent  
[X] lawyer for petition respondent  
GREGORY J. McDADE, Q.C.

Petition respondents' address for service:

Ratcliff & Company LLP  
Suite 500, 221 West Esplanade  
North Vancouver, BC V7M 3J3

Fax number address for service (if any):

(604) 988-1452

E-mail address for service (if any):

GMcDade@ratcliff.com

Name of the petition respondents' lawyer, if any:

Gregory J. McDade, Q.C.