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EMERGING TRENDS
IN MUNICIPAL LAW

Case Law Update



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Paller v Drumheller (Town), **2024 ABKB 364**

Background

- In 1978, the Applicants purchased a house, outbuildings and fencing that were located on a property in Drumheller.
- The purchase was conditional on the assignment of a permit from a Provincial Ministry under the *Public Lands Act* which allowed the Applicants to occupy the property.
- The permit was renewable on an annual basis.

Background

- In 2001, the permit was assigned to Drumheller.
- In June 2023, Drumheller advised the Applicants the permit would not be renewed past December 31, 2023.
- The Applicants brought an application seeking compensation from Drumheller on the basis the permit was cancelled and there had been a constructive taking.

Background

- The main dispute regarding the permit was whether the Town's actions constituted a "cancellation" of the permit that would entitle the Palleres to compensation, or a "non-renewal" that would not.



Background

- The Applicants were unsuccessful
- The Town was within its right to not renew the permit:
 - Under the relevant statutes, permits were not to be granted for a term greater than one year, and the decision whether to grant a permit was always at the discretion of the Minister, and then at the discretion of the Town when the permit was transferred.

Outcome

- There was not a constructive taking:
 - The Town was the legal owner; it was the Paller who had acquired a beneficial interest.
 - The Paller had no further rights in the Lands once their right of occupation under the permit expired and the permit was not renewed by the Town.

Key Takeaways

- Municipalities should ensure proper paperwork is done when renewing agreements or permits. Failure to do so can lead to ambiguity and litigation.





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Coalition for Justice and Human Rights Ltd v Edmonton (City), 2024 ABKB 26

Background

- The Plaintiff, the Coalition for Justice and Human Rights Ltd., brought a Claim against the City of Edmonton alleging various bylaws affecting homeless encampments breached charter rights.
- The City brought an application seeking to strike the Claim in part because the Plaintiff did not have public interest standing.

Background

- When considering whether to grant public interest standing, the Court considers three factors. Whether:
 1. The case raises a serious justiciable issue;
 2. The party bringing the action has a real stake or genuine interest in its outcome; and
 3. The proposed suit is a reasonable and effective means to bring the case to court.

Outcome

- The Court found the Coalition did not have public interest standing to bring the action against Edmonton
 - The manner in which the City was responding to homeless encampments was a serious justiciable issue.
 - However:
 - The Coalition did not have a long or consistent history of advocating for the rights of unhoused persons.
 - The Coalition lacked expertise on the issue of unhoused persons.

Key Takeaways

- Individuals or organizations are not necessarily entitled to challenge municipal bylaws



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R v Heather, 2024 ABCJ 229

Background

- The City of Calgary has a Safe and Inclusive Access Bylaw that provided, in part, that a person must not engage in a specified protest on publicly accessible property within 100m of an entrance to a recreation facility or a library.
 - Specified protests included an expression of objection or disapproval towards an idea or action related to numerous grounds such as race, religious beliefs, and gender identity or expression.

Background

- Mr. Heather protested the Drag Queen Story Time at the Central Public Library.
- He was charged under the City of Calgary's Safe and Inclusive Access Bylaw for taking part in a specific protest within 100 meters of a library entrance.
- Mr. Heather challenged the Bylaw

Background

- Mr. Heather admitted to violating the Bylaw, but argued the Bylaw:
 - Was outside of the City of Calgary's jurisdiction because it regulates criminal matters; and
 - Violated his charter rights to freedom of religion, freedom of expression, freedom of peaceful assembly, and right to liberty and security of a person.

Outcome

- The Court upheld the Bylaw and found Mr. Heather guilty



Outcome

- Re: whether the Bylaw is outside of the City's jurisdiction because it regulates criminal matters:
 - Pith and substance of the Bylaw was to provide safe and enjoyable public places by preventing heated confrontations between attendees at certain public events and protestors.
 - Because it was about regulating harm, it fell within the jurisdiction of the City.

Outcome

- Re: whether the Bylaw violated the Charter:
 - The Bylaw violates sections 2(a) and 2(b) of the *Charter* but not sections 2(c) and 7
 - The violations of sections 2(a) and 2(b) are justified under section 1 of the Charter:
 - The Bylaw addressed an issue of sufficient importance to justify the violation and did so in the least obstructive means.
 - Mr. Heather could still express his view of the issue of Drag Queen Story Time in a visible and audible manner.

Key Takeaways

- Municipalities in Alberta are able to pass bylaws with the goal of preventing heated confrontations between attendees at certain public events and protestors.
- Bylaws which could limit a Charter right:
 - Should have reasonable and specific constraints, and
 - Should not prevent an individual from exercising their Charter rights.



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***Cold Lake (City) v. Canada
(Attorney General),
2024 FC 432***

Background

- The assessment of Federal property is governed by the *Payments in Lieu of Taxes Act*.
- There was a disagreement between the City of Cold Lake and the Federal Minister regarding the assessed value of a military base.

Background

- The key issue was whether it was reasonable for the Minister to conclude the sewer and water mains should not be included in the assessment of the military base.
- While sewer and water mains are not included in the definition of federal property under the *Payments In Lieu of Taxes Act*, the military base is self-sustaining, in that it provides its own water and sewer infrastructure.

Outcome

- The Court concluded it the Minister's decision was reasonable – sewer and water mains are not included in the definition of federal property under the *Payments In Lieu of Taxes Act*.

Impact

- Very significant:
 - It allows the Federal Government to use a selectively narrow approach to property valuation that reduces PILT payments
 - For the City it resulted in an assessed value difference of approximately \$100 million

Next Steps

- The City is currently appealing this decision.
- The Federation of Canadian Municipalities has been granted intervenor status.





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Lehodey v Calgary(City), **2025 ABKB 8**

Background

- The City of Calgary rezoned much of the City to increase urban density, particularly in residential areas
- The City hosted around 4 weeks of public hearings prior to passing the Bylaw.
- The Applicants sought judicial review of the City's decision to pass the Bylaw.

Key Issues

- Did the City have the power to pass the Bylaw under the *Municipal Government Act*?
- Did the City meet the requirements for procedural fairness?
- Did a City councillor have a closed mind during the public hearings?

Outcome

- Did the City have the power to pass the Bylaw under the *Municipal Government Act*? – Yes
 - Municipalities are not required to take a community approach to zoning and they have broad authority under the *MGA* to amend land use bylaws.

Outcome

- Did the City meet the requirements for procedural fairness? – Yes
 - The *MGA* does not direct a different public hearing process depending on the scale of the proposed changes or the number of affected parties.



Outcome

- Did a City councillor have a closed mind during the public hearings? – No
 - The Applicants failed to show adequate evidence that a Councillor entered the public hearing with a closed mind.



Key Takeaways

- Municipalities have wide discretion to pass rezoning bylaws; there is no requirement to divide on the basis of “community distinctiveness”.
- The *Municipal Government Act* does not direct a different public hearing process depending on the scale of the proposed changes or the number of affected parties.



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TransAlta Generation Partnership v. Alberta, 2024 SCC 37

Background

- TransAlta challenged the vires of ministerial guidelines issued under sections 322 and 322.1 of the *Municipal Government Act*.
- Pertained to the assessment of coal-fired power plants, and that the guidelines excluded a consideration of legislation on the phase-out of coal power plants for the purposes of depreciation.

Background

- TransAlta argued the guidelines were inequitable, discriminatory, and ultra vires the minister.
- Issues concern the question of how subordinate legislation (such as regulations) are reviewed by the courts.

Outcome

- TransAlta's appeal was dismissed.



Key Takeaways

- Subordinate legislation, such as municipal bylaws, will continue to receive deference from the Courts.
- Administrative discrimination is acceptable if it is authorized by the enabling statute.



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Southpoint Landing JV Inc. v Camrose (City), 2024 ABKB 207

Background

- The City passed two Bylaws establishing off-site levies that were a significant increase from previous levy amounts.
- The City advertised the bylaws through electronic publication on authorized sites and included links to necessary information about the Bylaws.

Background

- The Applicant challenged the Bylaws on the grounds the City did not comply with the advertising requirements in sections 606 and 606.1 of the *Municipal Government Act* or the City's Advertisement Bylaw.

Background

- The City's Advertisement Bylaw provided, in part:

Any notice required to be advertised under section 606 of the Municipal Government Act of a bylaw, resolution, meeting, public hearing, or other thing may be given, in accordance with the timelines prescribed in section 606 of (sic) the following applicable methods.

- 2.1 published in the local weekly newspaper publication; and/or
- 2.2 electronically by posting the notice prominently on the City of Camrose website: www.camrose.ca; and/or
- 2.3 electronically by posting the notice prominently on the City of Camrose Facebook page and the City of Camrose Twitter account; and/or
- 2.4 electronically by posting on the City of Camrose electronic bulletin board.

Outcome

- The Applicant's application was dismissed – the Bylaws were passed in substantial compliance with the requirements under the *Municipal Government Act*.



Key Takeaways

- Municipalities desiring control over advertising processes should enact advertising bylaws.
- Municipalities should ensure language in their advertising bylaws allows for some flexibility.
- The degree of compliance with advertising requirements depends on the nature of the proposed bylaw.



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Clark v City of Medicine Hat, 2024 ABKB 513

Background

- The Mayor of Medicine Hat was sanctioned by Council as a result of an interaction with the City Manager.
- Sanctions included a request for an apology, a letter of reprimand, suspension of presiding duties, a 50% salary reduction, and restrictions on access to buildings and contact with staff.
- The Mayor sought judicial review of the sanction decision.

Outcome

- The sanctions were overwhelmingly disproportionate to the breach – only the publication of a letter of reprimand and request for an apology were upheld.



Key Takeaways

- Sanctions cannot prevent a councillor from fulfilling their legislative duties.
- Sanctions must be rationally connected to the breach of the Code.



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Bravi v Rocky View County et al

Background

- A motor vehicle accident occurred on a township road in Rocky View County when the driver failed to adjust for a curve in the road.
- The Plaintiff alleged a lack of signage stating to go a slower speed caused the injury.



Section 533

- Section 533(a) of the Municipal Government Act:
- A municipality is not liable for damage caused:
 - (a) by the presence, absence or type of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or on a road.

Outcome

- The Court summarily dismissed the action on the grounds that section the 533(a) of the *Municipal Government Act* protects a municipality from liability stemming from the absence of signage.

Key Takeaways

- Section 533(a) of the *Municipal Government Act* can protect a municipality that does not place speed limit signs even in a case where an accident is caused by excessive speed.
- Adding a speed limit sign after an accident cannot be used against a municipality to establish liability.





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QUESTIONS?

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