



# News Release

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## **BC SUPREME COURT RELEASES DECISION ON WESTCOAST VACATIONS INC.**

VICTORIA — The Supreme Court of British Columbia has not supported an attempt launched last term by the Salt Spring Island Local Trust Committee to more effectively enforce community zoning related to short term vacation rentals (STVRs) on Salt Spring Island. The local bylaw prohibiting STVRs remains in place, but an attempt to enforce the bylaw by focusing on a vacation rental agent, rather than individual STVRs, has not been successful.

In March 2011, the local trust committee instructed Islands Trust legal counsel to seek an injunction that would restrain Westcoast Vacations Inc. from using or facilitating the use of residential homes for STVRs on Salt Spring Island. With the advent and growth of STVR booking agencies, enforcement of the community zoning bylaw has been more difficult and more costly for taxpayers.

The case was argued in court before the Honourable Mr. Justice Leask of the BC Supreme Court on October 25 and 26, 2011. Legal counsel for the local trust committee argued that Westcoast Vacations Inc. was using or permitting the use of residentially zoned properties for commercial guest accommodation, and was thereby breaching Salt Spring's Land Use Bylaw. Westcoast Vacations did not argue that STVRs were a legal land use, but argued that only the individual owners of the properties could be subject to court injunction preventing this use.

In his Reasons for Judgment released on October 29, 2012, Mr. Justice Leask, noted that "Commercial guest accommodation use is not a permitted primary or accessory use of any land in the Residential Zones." However, he found that the activities of Westcoast Vacations do not, on their own, constitute a breach of the bylaw, in that Westcoast Vacations could not prevent or prohibit the use of a property for an STVR.

"This was an effort to make bylaw enforcement more efficient, given the SSILTC's direction last term to actively enforce the land use bylaw regarding STVRs," said Miles Drew, Islands Trust Bylaw Enforcement Manager. "I will now seek further direction from the current local trust committee as to how it wishes to proceed."

Salt Spring's long-standing Official Community Plan policies and zoning regulations prohibit STVRs - the use of private homes in rural and residential zones for commercial guest accommodation. The prohibition does not affect legal bed and breakfasts in residential zones, or legal resorts, hotels and motels in commercial zones, all of which are widely available on the island. People may also continue to rent portions of cottages as part of a bed and breakfast operation in most zones and to rent their residential properties for periods longer than 30 days to a tenant for residential use.

The Islands Trust is a federation of local government bodies that plan land use and regulate development in the trust area. The Islands Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island. It includes 13 major islands and more than 450 smaller islands covering 5200 square kilometres.

Note: Reasons for judgment – [www.courts.gov.bc.ca/jdb-txt/SC/12/15/2012BCSC1590.htm](http://www.courts.gov.bc.ca/jdb-txt/SC/12/15/2012BCSC1590.htm)

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