

Trustee Notebook

By Laura Busheikin

About 50 Denmanites turned out for **last month's meeting about bylaw enforcement**. Islands Trust Bylaw Enforcement Coordinator Miles Drew talked about how bylaws are currently enforced, and about a Trust-wide proposal that would change that. The conversation that ensued was spirited and thought-provoking.

For those who didn't attend the meeting, and those who did and want a review, I'll encapsulate here the main facts. If this stimulates you to want to learn more, or to comment, see the links at the end of the article.

Bylaw enforcement is complaints-driven. This is pretty much in-line with how it's done by other local governments. Here's how it works: someone -- anyone -- can make a complaint to the Islands Trust (over the Internet or by mail) about what they suspect is a bylaw infraction. These complaints are confidential, but not anonymous -- the person complaining has to include their name and contact information, but this will be kept private, unless, down the road, the complainant has to act as a witness in court (which happens very rarely).

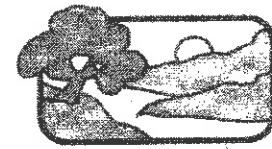
The complaint is then reviewed by the Bylaw Enforcement Team (three Islands Trust staff members who work throughout the Trust area). They review the complaint to see if it warrants investigation, and if so, they investigate. If they find that the allegation is not true, they close the file and the matter is over. If they find there is indeed a bylaw infraction, they go to the next step: seeking compliance.

The officer will generally work with the landowner to **create a compliance plan** with a timeline. When the time is up, they will make an inspection to confirm that all is in order, then, ideally, close the file.

If it becomes obvious that voluntary compliance is not happening, **the next step is a big one -- going to court.** The decision to initiate court action has to be made by the Local Trust Committee (which has not been involved thus far in the process), and it only happens in the most serious cases, because legal action is expensive to both parties (with the Trust portion paid by our taxes), time-consuming, and stressful for all. Currently, the Islands Trust as a whole is dealing with about a dozen court cases, and has an annual legal budget of \$265,000.

In certain cases, **"pro-active" bylaw enforcement** happens without a complaint -- when the situation involves damage to ecosystems or is publicly advertised.

These are Trust-wide policies; **Local Trust Committees have the option, in appropriate circumstances, to direct the focus and priorities of bylaw enforcement** in their area. For instance, both Salt Spring Island and North Pender Island recently directed enforcement staff to focus particularly on short-term vacation rentals, targeting the



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most visible infractions first and holding off on minor ones. On the other hand, the Salt Spring Local Trust Committee chose to suspend enforcement actions on illegal housing while a housing review is underway.

The proposed new system, known as the Bylaw Enforcement Notice and Dispute Adjudication System (or, in acronym-ese, BEN) -- changes the final step of the process, when compliance can't be reached. Court is no longer the next option, instead, the Enforcement Officer issues a **Bylaw Violation Notice (BVN)**, which imposes a fine -- somewhat like a traffic ticket.

If you get a BVN, you have options. If you pay within 14 days, the penalty will be reduced. If you feel you truly have not broken a bylaw, **you can appeal through an adjudication process.** You will present your case in a hearing, which can be done over the phone, presided over by an independent adjudicator who renders a binding decision.

This new system is intended to help both the enforcer, to whom it gives more efficient, affordable tools, and also the enforced-against, who get an affordable option for appealing cases where they feel they are innocent. It has been adopted by three Islands in the Trust area, but in the past has been controversial on Denman, and **is not currently up for consideration.** The meeting on March 14 confirmed that there is a significant number of Islanders who have concerns about this possible new approach, and about bylaw enforcement generally.

The **minutes of that meeting** will be posted on the Islands Trust website sometime in April (islandstrust.bc.ca/ltc/de/minutes.cfm).

Your view of bylaw enforcement can change radically depending on if you are being enforced against and are concerned about your rights, or on the other hand if your property, neighbourhood or community, or an ecosystem you care about, is being threatened by a possibly illegal activity. The ideal approach will balance both these perspectives.

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