



News Release

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Islands Trust Wins Case Against North Pender Vacation Rental

VICTORIA — The British Columbia Court of Appeal has upheld a previous Court order in favour of the Islands Trust, supporting an injunction to halt the use of a North Pender Island residential property for short-term vacation rentals. The property consisted of five homes, meeting and wedding facilities, recreation facilities and a dock owned by the appellant, Mr. Robert Conconi.

In March 2009, the Supreme Court issued the injunction sought by the North Pender Island Local Trust Committee to halt the commercial use of the rural residential property on North Pender Island. Shortly afterward, Mr. Conconi lost in his attempt to have the Court of Appeal stay that injunction until the hearing of the appeal. The Court of Appeal heard Mr. Conconi's appeal on September 23, 2010.

The unanimous Court of Appeal upheld the original BC Supreme Court decision that concluded that Mr. Conconi was using his property for short-term vacation rentals, in breach of the residential uses permitted on his property.

In the Court's Reasons for Judgment, Mr. Justice Tysoe states "...it is beyond doubt that the two larger units are not being used as 'a residence for a single household'. They are rented to members of the public for short-term accommodation; they are not being used as single household homes. Thus, their use as part of a commercial resort is not permitted..."

"The goal of this action was to stop commercial tourist activity in a residential zone and to uphold the North Pender Island community's bylaws," said Sheila Malcolmson, Chair of the Islands Trust Council. "This is an important decision for the entire Islands Trust Area. We know many other communities that are struggling with the illegal proliferation of short-term vacation rentals will also be pleased with this judgment. It confirms once again that residential dwellings cannot be used for tourist accommodation."

The Islands Trust has been involved in the legal case against Mr. Conconi's Timbers Resort since July of 2003; however, the Court's discovery process and the defendant's rezoning application delayed the process of gathering evidence. The commercial use of the property continued until March 2009, causing concern within the North Pender community.

"This has been a lengthy process and one that was sometimes frustrating for our community," said Gary Steeves, a Local Trustee on North Pender Island and Vice Chair of the Islands Trust Council. "I am very pleased at the end of the day the court has upheld our community's zoning regulations."

"Our communities welcome many legal forms of tourist accommodation, like bed & breakfasts, and resorts located in appropriate Commercial zones," said Malcolmson. "However, the illegal use of residential homes for vacation rentals has been a growing concern for several reasons. Not only do community members raise concerns about unwanted noise in their neighbourhoods and impacts on water wells, they also feel that unregulated growth of short-term vacation rentals can lead to higher real estate prices and eventually to changes in the socio-economic diversity of our small island communities."

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Preserving **island** communities, culture and environment

Bowen, Denman, Hornby, Gabriola, Galiano, Gambier, Lasqueti, Mayne, N. Pender, Salt Spring, Saturna, S. Pender, Thetis

The Islands Trust is a federation of independent local governments that represents some 25,000 people living within the Islands Trust Area. The Islands Trust is responsible for preserving and protecting the unique environment of the Islands Trust Area through planning and regulating land use, development management, education, cooperation with other agencies, and land conservation. The area covers the islands and waters between the British Columbia mainland and southern Vancouver Island, including Howe Sound and as far north as Comox (excluding Texada Island). The area is approximately 5200 square kilometres in size and includes 13 major islands and over 450 smaller islands.

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Please Note: Reasons for Judgment - <http://islandstrust.bc.ca/news/pdf/newsnov052010vacrentalattach.pdf>

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