



News Release

200 - 1627 Fort Street Victoria, BC V8R 1H8

Telephone (250) 405-5151 FAX: (250) 405-5155

Toll Free via Enquiry BC in Vancouver 604.660.2421. Elsewhere in BC 1.800.663.7867

information@islandstrust.bc.ca www.islandstrust.bc.ca

May 7, 2010

2010-12-IT

COURT LIMITS DENMAN ISLAND CASE

VICTORIA — The BC Supreme Court has given Daniel and Debra Stoneman on Denman Island an opportunity to continue their case against the Denman Island Local Trust Committee if they decide to file a new Statement of Claim. However, the Honourable Mr. Justice Verhoeven struck out the Stonemans' entire Statement of Claim and put limits on their court action, as noted in his Reasons for Judgment dated May 5, 2010.

"The judge has not ruled on the merits of the actual case," said Sheila Malcolmson, Chair of the Islands Trust Council. "While this leaves the door open for the Stonemans to continue, it also places significant limits on the court case, if they choose to proceed."

On July 27, 2009 the Stonemans filed an amended Statement of Claim against the Denman Island Local Trust Committee, the Islands Trust, the Islands Trust Council, Trustees Louise Bell and Tony Law, and David Marlor, a regional planning manager with the Islands Trust. The Stonemans claim bad faith, negligence, breach of trust, malice, abuse of public office and breach of the *Charter of Rights and Freedoms*.

The Stonemans have initiated various actions against the Denman Island Local Trust Committee since 2006. The most recent Statement of Claim relates to a Development Permit Area in Denman Island's Official Community Plan that was established to protect development in areas where professional reports have identified unstable land. Among other claims, the Stonemans allege that the Denman Island Local Trust Committee created the Development Permit Area for incorrect reasons and has improperly refused to issue them various permits for development.

The Islands Trust applied in March of this year to have the Stonemans' action dismissed on the basis that their Statement of Claim did not contain any reasonable claims. Mr. Justice Verhoeven indicated that the Stonemans' Statement of Claim as drafted was "vexatious, prejudicial to a fair trial of the proceeding, an abuse of process" and "hopelessly clouded by imprecision." However, given that "it is virtually impossible to determine what was intended," he ruled that the Stonemans should be given the opportunity to prepare a properly drafted claim, albeit on a more limited basis. Justice Verhoeven struck down the Stonemans' claim related to the *Charter of Rights and Freedoms* and did not allow them to re-introduce that part of their action. He also stayed a counterclaim that the Stonemans had filed previously.

In his Reasons for Judgment, Mr Justice Verhoeven concluded that the Islands Trust had been "substantially successful" in having the Stonemans' case dismissed and ruled that the Stonemans must therefore pay the Islands Trust's court costs "forthwith." The Stonemans now have 90 days to file a new Statement of Claim, if they wish. At that time, the Islands Trust could apply to strike out those claims.

The Islands Trust is a federation of independent local governments that represents approximately 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. It includes 13 major and more than 450 smaller islands covering 5200 square kilometres.

- 30 -

Please note: Reasons for Judgment – <http://islandstrust.bc.ca/news/pdf/newsmay072010attach.pdf>

CONTACT

Sheila Malcolmson
Chair, Islands Trust Council
(250) 247-8078

Linda Adams
Chief Administrative Officer
(250) 405-5160

Preserving **island** communities, culture and environment

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