



# News Release

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## JUDGE SAYS HORNBY ISLAND CASE MAY CONTINUE

VICTORIA — The BC Supreme Court has ruled that Jane Talbot and Stepan Vanicek may continue their case against their neighbour William Wilson, the Hornby Island Local Trust Committee and others. However, in his Reasons for Judgment released April 20, 2010, the Honourable Mr. Justice Verhoeven struck out Talbot and Vanicek's entire Statement of Claim as written, while giving them the opportunity to file a new one.

"This is not a decision about the merits of the actual claim and the judge did not make any comments as to whether the case would succeed if it was heard in court," said Linda Adams, Chief Administrative Officer to the Islands Trust. "He has indicated, however, that the plaintiffs may proceed with an amended Statement of Claim if they wish."

In November 2008, Talbot and Vanicek filed a claim against their neighbour, William Wilson, as well as against the Hornby Island Local Trust Committee, the Islands Trust, the Islands Trust Council, Trustee Tony Law, and former trustees Ron Emerson and George Buvyer. Talbot and Vanicek's claims include nuisance (against Wilson because of waste and salvage materials he stores on his property) as well as claims of negligence, bad faith, malice and abuse of public office against the Hornby Island Local Trust Committee, the Islands Trust, the Islands Trust Council and individual trustees, who they say failed to take appropriate measures to clean up Wilson's property and eliminate the nuisance Wilson created.

In March of this year, the Islands Trust applied to have Talbot and Vanicek's action dismissed on the basis that their Statement of Claim, as filed, did not contain any reasonable claims. While Mr. Justice Verhoeven indicated that the Statement of Claim was 'confusing and contradictory', he ruled that Talbot and Vanicek should be given the opportunity to file a new claim that complies with the rules of court.

"The Islands Trust has been actively taking steps in the Wilson case for several years," said Sheila Malcolmson, Chair of the Islands Trust Council. "We have obtained a court order that enables us to remove materials from Mr. Wilson's property and contractors were on site last week to develop estimates about disposal costs. As confirmed by a recent case in Prince George, the courts are very slow to give local governments the ability to remove people's property and so things don't move quickly. We certainly understand the frustration that can result in a difficult situation like this. Nevertheless, we would be concerned if the court found that an individual could force a local trust committee to clean up a neighbour's property, all at taxpayers' expense. That is one of the issues in Talbot and Vanicek's case."

Given the "deficient nature" of Talbot and Vanicek's original Statement of Claim, Mr. Justice Verhoeven ruled that the Islands Trust was compelled to apply to strike it out or to have it amended. He therefore required Talbot and Vanicek to pay the Islands Trust's court costs. Talbot and Vanicek now have 60 days to file an amended Statement of Claim.

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. It includes 13 major and more than 450 smaller islands covering 5200 square kilometres.

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Please note: Reasons for Judgment - <http://islandstrust.bc.ca/news/pdf/newsapr282010attach.pdf>

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