



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

April 1, 2010

2010-09-IT

GALIANO BYLAWS UPHELD - COURT APPLICATION DISMISSED

VICTORIA — In a judgment released today, the Honourable Mr. Justice Crawford dismissed an application to order the Chief Building Inspector of the Capital Regional District (CRD) to issue Frederick James Stevens a building permit for his land on Galiano Island. The decision upholds the applicability of the Galiano Island Local Trust Committee's zoning regulations that do not permit a dwelling on land zoned "Forest 1" on Galiano Island.

"This judgment clarifies an on-going debate on Galiano Island as to whether the 2004 *Private Managed Forest Land Act* or the pre-existing local bylaws would prevail in this situation," said Sheila Malcolmson, Chair of the Islands Trust Council.

In 2004, the province enacted the *Private Managed Forest Land Act* and accompanying regulations. They indicate that local government bylaws cannot prohibit specific forestry management activities, including a residence. However, Galiano Island's pre-existing zoning bylaw does prohibit residences on some forestry lands. "The issue then, is which prevails: provincial legislation regarding forest management activity or local government bylaw concerning land use," stated Judge Crawford.

"The Islands Trust zoning bylaw is an existing one and therefore prevails," Mr. Justice Crawford concluded. "Given that the *PMFLA* (*Private Managed Forest Land Act*) came into force in August 2004, and only spoke of prohibiting future action by a local government effecting directly or indirectly a forest management activity, the prior bylaw was not affected, and was therefore a proper basis for the Islands Trust objecting to the issuance of the building permit."

"We are pleased that our bylaws, which were developed for and by our community, have been upheld by this judgment," said Louise Decario, a local trustee for Galiano Island.

Sandy Pottle, also a Galiano Island local trustee, added that "the Galiano Island Local Trust Committee is currently reviewing our Official Community Plan and islanders are actively considering many community planning issues, including housing on forest lands. We hope this will leave the discussion where it belongs, with the Galiano Island community."

When Stevens purchased his land in 1997 it was zoned F1 (Forest 1), under a bylaw which had been in force since 1992 and did not permit a residential use. In 2000, he put a mobile home on the property without a building permit while the land was still zoned Forest 1 and was not in the Forest Land Reserve (FLR). In 2003, he applied for managed forest status and the property was included in the FLR. The *Private Managed Forest Land Act* was enacted in 2004, and in 2008 Stevens sought a building permit to "construct a mobile home." The CRD, which cannot issue a building permit contrary to a local trust committee's bylaw, declined to issue the permit. The court case resulted when Stevens applied for a court order that would require the CRD to issue a building permit, on the basis that the Galiano Island bylaw was inapplicable to his land, based on its managed forest classification.

The Galiano Island Local Trust Committee is currently reviewing its Official Community Plan and community discussions are on-going about many local issues, including the use of forest lands, protection of sensitive ecosystems, groundwater stewardship and affordable housing. More information about the review is available in the local trust committee's section of the Islands Trust website at <http://www.islandstrust.bc.ca>.

The Islands Trust Council is a federation of independent local governments that represents some 25,000 people living in 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 BC mainland and southern Vancouver Island. It includes 13 major and more than 450 smaller islands covering 5200 square kilometres.

- 30 -

Note: Reasons for Judgement - <http://islandstrust.bc.ca/news/pdf/newsapr012010attach.pdf>

CONTACT

Linda Adams
Chief Administrative Officer
250. 405.5160

Sheila Malcolmson
Chair, Islands Trust Council
250. 247.8078

Preserving **island** communities, culture and environment

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