



News Release

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BC Supreme Court Upholds Galiano Land Use Bylaw

Lək̓ʷəŋən, METULIYE/Victoria, B.C. – An August 1, 2023 [judgment](#) by the Supreme Court of British Columbia, handed down from the Honourable Justice A. Ross with regards to Galiano Forest Lot Owners Association v. Galiano Island Local Trust Committee, has confirmed that a Galiano Island Local Trust Committee bylaw that prohibits dwellings on private managed forest land on Galiano Island is valid and reasonable.

On August 1, 2023, the Court dismissed the petition, finding in favour of the Galiano Island Local Trust Committee and its efforts to carry out the object of the Trust.

The *Islands Trust Act* states that the object of the trust is to “preserve and protect the trust area and its unique amenities and environment”. For the purpose of carrying out the object of the Trust, local trust committees may regulate the development and use of land within a local trust area by exercising powers conferred by the *Act*, including powers that would otherwise belong to the regional district for each area.

There were several legal issues in this case, mostly revolving around local government authority to adopt bylaws that affect certain types of forest land. The adoption of Galiano Island Land Use Bylaw No. 127, which replaced Bylaw No. 82, divides the Galiano Island Local Trust Area into several zones including a Forest 1 Zone and Forest 2 Zone. The court upheld the prohibition of residential dwellings in the Forest 1 Zone.

“We appreciate that the Supreme Court of BC has clarified that the adoption of Bylaw 127 in 2000 by Galiano Island Trust Committee was “reasonable” and that the bylaw is valid,” said Islands Trust Chair Peter Luckham. “Islands Trust bylaws are carefully crafted, and aim to preserve and protect the unique amenities and environment of the islands in the Trust Area.”

“The Galiano Island Local Trust Committee remains committed to preserving and protecting the unique amenities and environment in the Galiano Island Local Trust Area,” said Trustee Lisa Gauvreau. “With community support, we can support healthy communities and healthy ecosystems.”

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Islands Trust is a special-purpose government representing over 30,000 people living within the Islands Trust Area and 10,000 non-resident property owners. The Islands Trust Area is located within Coast Salish territory and is the homeland to many Coast Salish Peoples who have called this place home since time immemorial. Islands Trust is responsible for preserving and protecting the Islands Trust Area's unique amenities and environment through conservation-oriented land use planning and regulation, education, and cooperation with First Nations and other agencies. The Islands Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island. It includes 13 major islands and more than 450 smaller islands covering 5,200 square kilometres.

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Preserving and protecting over 450 islands and surrounding waters in the Salish Sea

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

History

A history on the particulars of this process, dating back to 1992, is in the publicly-available judgment here:

<https://www.bccourts.ca/jdb-txt/sc/23/13/2023BCSC1334.htm>

- In 1992, Galiano Island Local Trust Committee (LTC) adopted Galiano Island Local Trust Committee Bylaw No. 82, which prohibited dwellings on all properties zoned as forest land, and pre-dated the *Forest Land Reserve Act*.
- In 1992, MacMillan Bloedel Ltd., owned 55% of Galiano Island, with most of that land divided into forest lots which were prohibited from residential use by Bylaw 82. MacMillan Bloedel Ltd. challenged this bylaw along with Bylaws 81, 82, 84, and 85 in 1993, in the BC Supreme Court.
- The BC Supreme Court ruled that the bylaws were beyond the powers of the Galiano Island Local Trust Committee (LTC). The Galiano Island LTC appealed this decision, which was ultimately overturned in 1995.
- In 1996, several forest lot owners on Galiano Island who had purchased land from MacMillan Bloedel and submitted subdivision plans based on the trial decision in 1993 had their plans halted in 1995 when the MacMillan Bloedel case was overturned.
- On March 1, 2000, the Galiano Island LTC adopted the Galiano Island Land Use Bylaw No. 127 to replace Bylaw 82. Bylaw 127 divides the Galiano Island Local Trust Area into zones, including the “Forest 1 Zone” and “Forest 2 Zone” and continues to prohibit dwellings in the Forest 1 Zone.
- In 2009, an owner of land in the Forest 1 Zone (Stevens) challenged the Capital Regional District on its refusal to issue a building permit for the construction of a dwelling, and in doing so, challenged the validity of Bylaw 127, claiming it was invalid because it restricted a dwelling, which is permitted under the *Private Managed Forest Land Act*. The case was heard in 2010. The Court rejected the owner’s arguments and upheld Bylaw 127, which was adopted before the enactment of the *Private Managed Forest Land Act*.
- In the most recent case, several owners of land in the Forest 1 Zone joined together as the Galiano Forest Lot Owners Association and challenged Bylaw 127 on the same or similar arguments as Stevens. The Galiano Island LTC made motions to strike the case as it had already been decided by the Court, and the owners had waited over 20 years to challenge the bylaw. The Court, however, decided to make a determination on the merits of the case and found Bylaw 127 to be valid and applicable to the owners’ land.