



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

February 11, 2009

2009-05-IT

Court Order to Remove Salt Spring Marina 'Float Camp' Upheld

VICTORIA — The Court of Appeal for British Columbia has upheld a previous Court order that “the Respondent owners and operators of the Ganges Marina must remove the Floating Structure from the Ganges Marina.” The order to remove the floating structure is effective immediately.

The courts awarded legal costs to the Islands Trust but did not agree to a request for higher than usual costs, which the Islands Trust had sought because of the importance and complexity of the case.

The Court of Appeal's first decision, released December 29, 2008, confirmed that the Salt Spring Island Local Trust Committee's Land Use Bylaw applies to the floating structure used as an office by B & B Ganges Marina, that the building's location in the harbour contravenes the bylaw and ordered that it must be removed immediately.

The appeal stems from a 2007 Supreme Court decision which confirmed the ability of communities in BC to regulate shoreline development with their zoning bylaws.

The case dates from May 2006, when Islands Trust bylaw enforcement staff requested the marina to remove a floating structure (known locally on Salt Spring Island as the “float camp”), as it did not comply with Salt Spring's zoning bylaws and was in contravention of a Temporary Use Permit. The marina refused to remove the float camp and the matter went to the BC Supreme Court, which ruled in the Local Trust Committee's favour in June 2007. The marina appealed that decision and the Court of Appeal heard their case in April 2008. The appeal was denied in late December. The marina then appealed the order of the Court of Appeal. That appeal has also been dismissed.

“This has been a long journey and I am delighted that the courts have again confirmed local government's land use jurisdiction over the water and the right of communities to plan and regulate their shoreline areas,” said Sheila Malcolmson, Chair of the Islands Trust Council and of the Salt Spring Island Local Trust Committee. “Salt Spring Island's bylaws are developed by the community and this is a significant victory for Salt Spring and the entire Islands Trust Area, as well as other local governments across Canada.”

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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CONTACT

Mac Fraser
Director, Local Planning Services 250.812.6944

Miles Drew
Bylaw Enforcement Officer 250.886.6716

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