



News Release

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ISLANDS TRUST WINS B & B GANGES MARINA COURT CASE ON SALT SPRING ISLAND

VICTORIA — The Supreme Court of British Columbia released Reasons for Judgment on June 20 that decided a significant court case in favour of the Islands Trust, one that confirms the ability of local governments in BC to regulate shoreline development with zoning bylaws.

In his Reasons for Judgement, Mr. Justice Tysoe concluded 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, and that it contravenes the bylaw. He ordered B&B Ganges Marina to either remove the structure from the marina or bring it into compliance with the bylaw by July 20, 2007.

The case dates from May 2006, when Islands Trust bylaw enforcement staff requested B&B Ganges Marina to remove a floating structure (known locally on Salt Spring Island as the "float camp") from the Marina, as it did not comply with Salt Spring's zoning bylaws and a temporary permit had lapsed. B&B Ganges Marina refused, resulting in the float camp's "second excursion into litigation waters", to quote Justice Tysoe. The float camp had been involved in litigation in an insurance claim several years ago after it sank while being used as a sports fishing lodge.

In the current case, heard by Justice Tysoe in Vancouver Supreme Court in May, the Salt Spring Island Local Trust Committee sought a declaration that the float camp was not permitted under its zoning bylaw. B&B Ganges Marina argued that they were entitled to have the float camp in its present location in the Ganges Marina lease under the Land Use Bylaw, or pursuant to the temporary permit, or, alternatively, that the Land Use Bylaw didn't apply to the float camp for constitutional reasons. The provincial Attorney General's office participated to argue in support of the Islands Trust's case. In reaching his decision, Mr. Justice Tysoe reviewed several legal precedents and rejected all of B&B Ganges Marina's arguments.

"We are extremely pleased that the courts have confirmed the right of communities to plan and regulate their shoreline areas," said Kim Benson, Chair of the Islands Trust Council. "The implications of this case are very significant and this win will benefit all of the islands. This also demonstrates the strength of the Islands Trust federation. Resources from all the islands enabled us to defend the bylaws that the Salt Spring Island community has developed through its elected representatives. We also want to recognize the hard work of our staff and legal counsel in arriving at this successful conclusion".

"Naturally, I'm delighted with the outcome," said George Ehring, Local Trustee for the Salt Spring Island Local Trust Committee. "I know that islanders will be very happy to see the building leave our harbour. I'm really pleased that our jurisdiction over shoreline areas has been so clearly confirmed by the Supreme Court of British Columbia."

"The Islands Trust has done a service to local governments across BC by taking this case on," added Islands Trust legal counsel Francesca Marzari of Lidstone Young Anderson. "It's a major victory that confirms local government's land use jurisdiction over the water, and will have a significant impact in BC and across Canada."

*Preserving **island** communities, culture and environment*

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

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