



News Release

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Islands Trust Wins Injunction Against North Pender Short Term Vacation Rental

VICTORIA — The Supreme Court of British Columbia has ruled in favour of the Islands Trust and ordered a North Pender Island property owner to cease the use of his property as a commercial resort.

The North Pender Island Local Trust Committee sought an injunction to halt the commercial use of a rural property on North Pender Island with five dwellings, meeting and wedding facilities, recreation facilities and a dock. The committee argued that Robert Conconi was using his property as a commercial resort, called “The Timbers”, in breach of local bylaws, which do not permit such use. Mr. Conconi argued that the use of the dwellings on the Property for short term paying guests was a permitted use under the current land use bylaw, and as a lawful non-conforming use pursuant to the previous Zoning Bylaw.

“Reading the Zoning Bylaw as a whole, it is clear that accommodation of temporary public guests is expressly permitted in the C2 zone, and not the R1 zone, the bylaw clearly distinguished between temporary accommodation of the public and other accommodation.... In my view, the bylaw is not ambiguous on any of these points,” stated the Honourable Madam Justice B.J. Brown in her Reasons for Judgement granting the injunction sought by the Local Trust Committee.

The injunction granted by the Court prohibits the use of the property as a commercial resort for paying guests, using the dock for commercial purposes and marketing the property for these purposes. Unless the Defendant appeals the decision, and obtains a stay of the judgment from the Court of Appeal, the injunction will be effective immediately.

“The goal of this action was to stop the operation of the commercial use and to uphold the community bylaws,” said Sheila Malcolmson, Chair of the Islands Trust Council. “This is an important decision for the whole Islands Trust Area because it also confirms that residential dwellings cannot be used for short-term vacation rentals”.

The Islands Trust has been involved in the legal case against Timbers Resort since July of 2003; however, the process of gathering evidence was delayed by the Defendant’s rezoning application and discovery processes. During this time, the commercial use of the property has continued, causing concern within the community.

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.

Editors/News Directors Please Note: Reasons for Judgement attached.

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Preserving **island** communities, culture and environment

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