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BULLETIN

COURT UPHOLDS CITY'S CENSURE OF COUNCILLOR

On April 21, 2021, the BC Supreme Court released reasons for judgment in [*Dupont v. Port Coquitlam \(City\)*](#). Councillor Dupont had commenced a petition for judicial review seeking to quash a resolution (the "Resolution") of the City of Port Coquitlam censuring her for the disclosure of confidential information (under section 117 of the *Community Charter*) and removing her from certain discretionary committee appointments.

The petitioner had been the City's designate relating to Parks, Environment and Climate Change, as well as a member of various committees, including the Coquitlam River Watershed Roundtable and the Tri-Cities Healthier Communities Partnership, in addition to being an alternate appointment for the Fraser Valley Regional Library Board and the Tri-Cities Homelessness and Housing Task Group.

The City alleged that the petitioner had breached confidentiality regarding the proposed sale of certain City-owned lands to a developer, the subsequent development of which engaged tree protection concerns. Council had only ever considered these matters in closed meetings, sometimes with a consultant present. The City claimed that the alleged breach took place when Councillor Dupont forwarded several emails, sent to her in the context of these closed meetings, to members of the public who were tree preservation advocates.

After an independent investigator, retained by the City, concluded that the petitioner had breached confidentiality, the City initiated the process to consider a motion of censure and related sanctions against the petitioner for the breaches of confidentiality found in the investigation. Ultimately, the City did choose to censure the petitioner and remove her from her appointments on certain committees.

The Court considered whether Council had the authority to censure and sanction its own members and the reasonableness of Council's specific decision to sanction the petitioner. The Court concluded that the City reasonably and correctly determined that it had the authority to adopt the Resolution of censure and to impose the sanctions it did on the petitioner. Additionally, the Court held that the censure motion and sanctions were reasonable in the circumstances.

The Court stated "that the combination of the Resolution, and the detailed investigative report and the reasoning it adopt[ed], provide[d] a robust set of reasons that exceed[ed] what would ordinarily be expected or required of a municipal council, even for this more adjudicative type of decision" (at para 40). Additionally, the Resolution and the investigatory report provided a

transparent, intelligible, and coherent path to the Council’s conclusion that the petitioner had breached her duties of confidentiality pursuant to section 117 of the *Community Charter*.

With respect to the reasonableness of the particular sanctions, the Court upheld Council’s determination of the breach, concluding that it was reasonable to impose limitations on the petitioner’s access to confidential records and to remove her from various discretionary roles and committees.

The *Dupont* decision gives municipal Councils welcome guidance on the ability to control the conduct of their members, both on an *ad hoc* basis and through the adoption of Codes of Conduct. Local governments running censure hearings should be sure to carefully consider the Court’s reasoning as regards both process and substance.

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