YOUNG ANDERSON
BARRISTERS & SOLICITORS

CASELAW UPDATE

NOVEMBER 20, 2026

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CASELAW UPDATE

I. DECISION TO DENY DEVELOPMENT PERMITS TO CONSTRUCT "SHORE STABILIZATION" WORK ON PUBLIC BEACH WAS REASONABLE

In *Wilding v. Salt Spring Island Local Trust Committee* 2026 BCSC 88, three property owners applied for development permits to construct "shore stabilization" work largely below the natural boundary of the sea within Salt Spring Island Local Trust Committee's Shoreline Development Permit Area.

The SSILTC considered the owners' requests to reconsider the decision of the Director of Planning Services denying their applications. At the meeting, the SSILTC heard from the public and the Penelakut Tribe during the usual "Town Hall and Questions" period at the beginning of the meeting. The Penelakut have a licence of occupation for shellfish harvesting from the Province in the area. The SSILTC also heard from the owners and their consultants. After discussing the applications for an hour and a half, the SSILTC denied the applications on the basis that the work did not meet several DPA guidelines.

Two of the owners sought judicial review and argued SSILTC's decision was unreasonable because: 1) the SSILTC improperly focused on concerns regarding fish and fish habitat; 2) the SSILTC failed to "grapple" with a letter from the Department of Fisheries and Oceans that raised no concerns; and 3) the SSILTC improperly considered the concerns of First Nations. The petitioners also argued the process was procedurally unfair because a SSILTC trustee was biased due to comments made at the meeting as well as prior alleged comments in a newspaper article and interference with staff's review of the applications. The petitioners further raised a constitutional argument that some of the DPA guidelines were invalid because they regulate "fisheries", a federal matter.

The Court found the SSILTC's determination that the applications did not meet several DPA guidelines was reasonable. First, the petitioners' own reports did not show that the work was necessary to protect dwellings on the petitioners' properties. Second, the work contemplated a significant amount of fill that would change the character of a public beach. The Court also found the SSILTC's interpretation of its DPA guidelines that it could consider the interests and views of the Penelakut, although no specific provision in the guidelines regarding this issue, was reasonable. Given that the work was proposed on public land and in an area where the Penelakut have a shellfish tenure, it was open to the SSILTC to consider the views of other interested parties in arriving at their decision.

The Court did consider the SSILTC's perceived risk to fish and fish habitat was problematic given the DFO letter but was not sufficiently central to undermine the entire decision.

With respect to procedural fairness, the Court found the trustee was not biased. The Court reviewed the transcript of the meeting and concluded that it showed that the trustee was

willing to engage in a fresh weighing of the evidence and submissions. The Court further found that the alleged comments in a newspaper article, even if admissible, did not suggest that the trustee was unwilling to reassess the matter. Nor did the evidence support the petitioners' allegation that the trustee had interfered with staff's review of the applications.

With respect to the constitutional argument, the Court held that the DPA guidelines were valid. The purpose and effect of the guidelines is "land use", a local government matter. The *Local Government Act* provides local governments with the authority under s. 488(1)(a) to establish development permit areas for the "protection of the natural environment, its ecosystems and biological diversity". Section 491(1)(e) specifically provides that this authority includes requiring protection measures to "preserve, protect, restore or enhance fish habitat or riparian areas". There was no conflict between the DPA guidelines and the federal *Fisheries Act*.

The Court dismissed the petition.

The petitioners have appealed. The appeal was heard in October of 2026 with judgment reserved.

II. NON-CONFORMING USE PROTECTION DOES NOT PROVIDE COMPLETE IMMUNITY AND SECTION 11 OF *CHARTER OF RIGHTS* DOES NOT APPLY IN RELATION TO BYLAW NOTICES

In *Foley v. Gabriola Island Local Trust Committee*, 2026 BCSC 1216, the petitioners sought judicial review of decisions of two adjudicators relating to three bylaw notices issued by the Gabriola Island Local Trust Committee's bylaw enforcement officer under the *Local Government Bylaw Notice Enforcement Act*. The judicial review raised four issues: 1) whether the decision of an adjudicator that a shed contravened the setback regulation under the GILTC's land use bylaw was reasonable; 2) whether the decision of an adjudicator that a water distribution business contravenes the home occupation regulations relating to noise and hours of operation under the land use bylaw was reasonable; 3) whether the GILTC is prevented from issuing bylaw notices relating to the petitioners' property as a result of a previous Court decision in 2007 that found that the home occupation had lawful non-conforming use protection; and 4) whether s. 11(b) of the *Charter of Rights* is engaged in relation to bylaw notices.

Since 2001, the petitioners have operated a water distribution use on the property as a home occupation. In 2005, the land use bylaw was amended to prohibit the use. In an enforcement proceeding in 2007, the Court found that the petitioners' business to the scale, extent and degree prior to 2005 had lawful non-conforming use protection under s. 911 (now s. 528) of the *Local Government Act*. Shortly after that decision, the land use bylaw was amended again to permit the use subject to additional regulations.

The GILTC's bylaw enforcement officer issued bylaw notices for a shed within the 10 m setback and the business operating past 8:00 pm on the property. Over a year and a half later, adjudicators found the alleged contraventions occurred as alleged and ordered the penalties

payable to the GILTC. The adjudicators did not have jurisdiction to determine the petitioners' non-conforming use and *Charter of Rights* arguments.

The Court found the adjudicators' decisions were reasonable. The Court rejected the petitioners' non-conforming use argument that the Court's decision in 2007 immunizes the property from all manner of local government regulation. The 2007 decision had no application to the shed. The shed was constructed sometime after 2012 so could not possibly have lawful non-conforming use protection. Further, the 2007 decision had no application to the water distribution business operating past 8:00 pm. The Court in 2007 found the business did not operate past 8:00 pm so the business could not possibly have lawful non-conforming use protection to operate past 8:00 pm.

With respect to the *Charter of Rights* argument, the Court found s. 11(b) is not engaged in relation to bylaw notices. Section 11(b) provides that any person charged with an "offence" has the right "to be tried within a reasonable time". The Court agreed with the GILTC and the Attorney General of BC that the issuance of a bylaw notice under the LGBNE Act is not an "offence" under s. 11(b) of the *Charter of Rights*. Bylaw notices are purely administrative in nature with minor penalties.

The Court dismissed the petitions.

The petitioners have appealed. The petitioners are seeking to raise two new issues on appeal.

First, the petitioners are seeking to challenge the constitutionality of s. 21(2) and s. 16 of the *Local Government Bylaw Notice Enforcement Act*. Section 21(2) provides that if "the adjudicator is satisfied that the contravention alleged in the bylaw notice occurred as alleged, the adjudicator must order that the penalty set out in the notice is immediately due and payable to the local government". Section 16 limits the jurisdiction of adjudicators and provides that adjudicators do not have the jurisdiction to decide a matter involving the *Charter of Rights*.

Second, the petitioners are seeking to argue that s. 21(2) of the *Local Government Bylaw Notice Enforcement Act* conflicts with s. 528 of the *Local Government Act* and "should be read down or declared inoperable" to the extent of any conflict.

No date has been set yet for the hearing of the appeal.

III. DECISION TO REZONE PROPERTY TO BETTER ALIGN WITH OFFICIAL COMMUNITY PLAN WAS REASONABLE

In *Tantalus at Paradise Valley Inc. v. Squamish (District)*, 2025 BCSC 1599, Tantalus at Paradise Valley Inc. and its parent company, Tri-City Properties at Squamish Ltd., challenged the District of Squamish's decision to rezone a property owned by Tantalus from a comprehensive development zone permitting an equestrian centre and 82 rural residential lots to a resource zone that effectively prohibited residential uses. The petitioners challenged the decision on three grounds: unreasonableness, procedural unfairness, and bad faith.

The property was originally rezoned in 2012 to permit the proposed development. However, because of geological and flooding hazards the District identified, the District made the rezoning conditional on the completion of hazard assessments and mitigation measures. Reports provided by Tantalus concluded that the property could potentially be developed safely if appropriate mitigation measures, including a dike to address abnormal flooding, were implemented.

In 2017, the District adopted an Integrated Flood Hazard Management Plan ("IFHMP"), which identified the property as being within the Cheakamus River Flood Hazard Area and designated it a Restricted Densification Area. The IFHMP recommended against increased development density because of overlapping flood, debris flood and debris flow hazards, environmental concerns, and vulnerable emergency access routes. It also recommended that the District not accept responsibility for new dikes in the area because of the associated financial, environmental and maintenance implications.

In 2018, the District adopted a new Official Community Plan, designating the Property as Resource and Recreation. This designation permitted certain recreational and resource uses, as well as dispersed rural residential development. The property was outside the District's Growth Management Boundary, and the OCP discouraged increased development in Restricted Densification Areas.

In 2023, as part of a broader zoning bylaw update intended to better align zoning with the OCP, District staff proposed rezoning the property to a resource zone, which would not permit the proposed development. Staff considered the existing zoning to be not well aligned with the OCP. Tantalus opposed the proposed rezoning, arguing that it could construct a private dike that would not require the District to assume responsibility and therefore the property would be safe for the proposed use. However, the Deputy Inspector of Dikes indicated that the proposed development did not meet the intent of a private dike and that any dike would likely be the responsibility of the District.

Tantalus subsequently provided the District with a flood study prepared by its developer challenging the District's flood modelling and suggesting that the property would not experience flooding in a 200-year flood scenario.

Tantalus met with the Mayor and some councillors to discuss the proposed rezoning. The District proceeded with the rezoning despite Tantalus' opposition. The District rejected their requests to appear as formal delegates and for an oral presentation. Before the Council meeting, Tantalus submitted to Council an eight-page email outlining their concerns and proposed questions. At the meeting, staff presented the rationale for rezoning, including the OCP's land-use and flood-hazard policies and the IFHMP recommendations. The presentation referred to and summarized the reports provided by Tantalus but did not attach those reports to the staff report before Council. The rezoning bylaw was adopted unanimously.

The parties agreed that procedural fairness and bad faith were reviewed on a correctness standard, while the merits of the rezoning decision were reviewed on a reasonableness standard. The parties disagreed, however, on how the Court should apply *Catalyst Paper Corp. v. North Cowichan (District)*, 2012 SCC 2, together with *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, when reviewing a municipal bylaw. *Catalyst* stated that a bylaw will only be set aside where no reasonable informed body could have adopted the bylaw. *Vavilov* confirmed that the reasonableness review looks at both a decision-maker's reasoning process and the outcome.

The Court found that the two decisions could be read together. It identified three principles relevant to reasonableness review of municipal decisions in relation to the adoption of a bylaw:

- Courts must be mindful of the wide variety of factors that municipal bodies may properly consider;
- Where formal reasons are unavailable, courts should examine the broader record and context to understand the decision-making process, including Council meeting transcripts, staff reports and relevant documents; and
- Where the record and broader context provide little insight into the reasoning process, greater emphasis may be placed on the outcome and the applicable legal constraints.

In this case, the Court found that the record provided sufficient insight into Council's reasoning to permit the Court to consider both the decision-making process and the outcome.

The petitioners argued that the rezoning was irrational because the existing zoning was already consistent with the OCP. The Court accepted that the existing zoning was aligned with the OCP but found that this did not make the decision unreasonable. Council could reasonably seek to reduce development potential in an area outside the Growth Management Boundary. Council was also entitled to consider climate change, affordability and development priorities elsewhere in the District.

The Court rejected the argument that Council had relied on inaccurate information concerning the necessity of a dike. The Court concluded that Council was entitled to consider the possibility that the District would have to assume responsibility for new diking infrastructure.

The Court also rejected the argument that the IFHMP contemplated development in the area where the property is located and therefore required Council to accommodate the proposed project. The Court found that the possibility that development could proceed with appropriate mitigation did not make it unreasonable for Council to prohibit increased residential development altogether. Council was not required to find solutions that would accommodate the petitioners' development plans.

The petitioners identified several other alleged errors and omissions in the staff report and Council presentation, including inaccuracies concerning the original rezoning date, development permit applications and the reports provided by Tantalus. The Court found that these matters, individually or collectively, did not undermine the overall reasoning or outcome. It cautioned against the "line-by-line treasure hunt for error" rejected in *Vavilov*. The Court also rejected the argument that Council had failed to meaningfully grapple with the petitioners' concerns, noting that councillors acknowledged receiving and reviewing the petitioners' email.

The petitioners argued that a public hearing was required under the *Local Government Act* or the District's Land Development Procedures Bylaw. The Court rejected this argument since the legislation explicitly states that a local government is not required to hold a public hearing where an OCP is in effect and the proposed zoning bylaw is consistent with it.

The petitioners acknowledged that the rezoning was consistent with the OCP but argued that the exemption should not apply where the zoning change prohibited residential development. The Court also rejected this interpretation, finding no basis in the statutory language or legislative history for imposing such a restriction.

The petitioners alternatively argued that they were entitled to make oral submissions at the Council meeting. The Court confirmed that there is no general right to make oral representations where a public hearing is not statutorily required. The petitioners had submitted extensive written materials and met with individual councillors, including the Mayor. There was no evidence that they would have said anything more or different through an oral presentation. Accordingly, the Court found no procedural unfairness.

The Court also rejected the petitioners' arguments regarding bad faith.

The Court found that the enactment of the rezoning bylaw was reasonable, there was no breach of any duty of fairness, and the bylaw was adopted in good faith. The petition was dismissed.

This case is under appeal and was heard in October of 2026 with judgment reserved.

IV. DECISION TO DENY A DEVELOPMENT VARIANCE PERMIT UNREASONABLE BECAUSE COUNCIL WAS NOT INFORMED OF THE APPLICANT'S PERSPECTIVE

In *Lougheed v. Sechelt (District)*, 2026 BCSC 1219, the petitioner sought judicial review of the District of Sechelt's decision to refuse a development variance permit that would allow the petitioner to complete construction of a house 40 cm above the height permitted under the District's zoning bylaw.

The District issued a building permit allowing the petitioner to construct a house on her property. When construction was roughly 70% complete, the District issued a stop work order because the petitioner had not provided a survey that confirmed the height of the dwelling required which was a condition of the building permit.

The petitioner subsequently provided the survey, and the District determined that the building height should have been calculated from the flood construction level, not the average natural or finished grade. When measured from the FCL, the District concluded that the dwelling was 40 cm above what is permitted under the zoning bylaw. The petitioner maintained that the dwelling had been designed and constructed in accordance with the approved plans and building permit, based on guidance provided by District staff.

However, the petitioner then applied for the DVP. The DVP application was prefaced by a brief letter stating: "Although we have obtained the building permit based on the initial submission, we have now learned that the height which we have designed has exceeded the limit as set in the building by-law".

In their reports to Council, staff recommended approving the variance, describing the discrepancy as relatively minor. The staff reports each characterized the discrepancy as a builder error, suggesting that the builder had exceeded the permitted height by a small margin and had not specifically adhered to the building permit. Council considered the application at three meetings before refusing it. The petitioner was not provided an opportunity to make oral submissions to Council at any of these meetings.

The Court considered whether the dwelling complied with the height requirements of the zoning bylaw and whether Council's refusal of the DVP was reasonable.

The petitioner argued that the dwelling complied with the building permit and zoning bylaw. The Court rejected this argument, finding that the zoning bylaw specifically required buildings subject to flood construction level requirements to have their height measured from the flood construction level and this requirement was included in annotations on the building permit.

The central issue before the Court was whether Council's refusal of the DVP was reasonable. The petitioner argued that Council had relied on inaccurate or incomplete information, failed to consider her position, and was improperly influenced by public opposition which was also based on inaccurate information. The District argued that Council had all the relevant information to make its decision and that it is always reasonable for the Council to deny a development variance permit on the basis that they prefer compliance with their zoning bylaw.

Although Council had broad discretion to grant or refuse a DVP, the Court emphasized that a reasonable decision must be based on an internally coherent and rational chain of analysis, justified in light of the relevant facts.

The petitioner's evidence was that her team had consulted District staff about the flood construction level requirements before the building permit was issued. The petitioner argued that this context was not adequately presented to Council and instead, the staff reports characterized the discrepancy as a builder error.

The Court found that, although the petitioner could have made her position clearer in the DVP application, District staff were aware of the petitioner's position, and that this information should have been before Council.

The Court concluded that based on the record, including the staff reports provided to Council and meeting transcripts, the decision to deny the DVP was at least in part grounded on the assumption that the issue had arisen due to builder error, without the petitioner's perspective that she and her team had consulted with the District and believed they were following its advice in carrying out the construction.

The Court found that reliance on this incomplete assumption made the decision unreasonable.

Notably, the Court did not find that staff had actually misled the petitioner or her professionals about the correct way to measure the house. Rather, the Court found that the petitioner's perspective on what had occurred was not communicated to Council and should have been.

The Court quashed Council's decision and remitted the DVP application back to Council for reconsideration, directing Council to consider the petitioner's position that the design and construction of the dwelling had been undertaken in consultation with District staff.

The petitioner is currently appealing this decision on the basis that the Court should have ordered the District to grant the DVP instead of remitting the decision back to Council. The District is cross-appealing. It is not clear whether the petitioner is pursuing this appeal as Council has since granted the DVP.

V. ADJUDICATOR'S DECISION TO CANCEL BYLAW NOTICES BECAUSE TENANT NOT RESPONSIBLE FOR COMPLIANCE WITH ZONING FOUND UNREASONABLE

In *Cowichan Valley Regional District v. Pacifica 8 Systems Inc.*, 2026 BCSC 1701, the Regional District sought judicial review of the decision of an adjudicator appointed under the *Local Government Bylaw Notice Enforcement Act* cancelling 17 bylaw notices that were issued to the respondent. The bylaw notices charged the respondent with carrying on a prohibited use of land contrary to the Regional District's zoning bylaw.

The respondent was a tenant on the property in question and had firewood and related infrastructure stored on the property as part of its firewood supply business.

The zoning bylaw contained a standard term prohibiting any use of property that was not expressly permitted under the bylaw. It further provided: "All parcels in the I-1D Zone shall be serviced by a community water system and a community sewer system as a condition of use".

The property was zoned I-1D Zone (Business Park Manufacturing/Commercial 1D). It was not serviced by a community water system or a community sewer system.

The zoning bylaw also stated that "any person" who "violates any provision of this Bylaw" or "causes or permits any act or thing to be done in contravention of violation of any provision of this Bylaw" committed an offence and was liable for penalties.

At the adjudication hearing, the respondent had put forward four arguments as to why the bylaw notices should be cancelled:

- They were issued to the wrong party (i.e., "Pacifica 8 Systems" and not "Pacifica 8 Systems Inc.");
- They described the alleged offences in insufficient detail;
- The Regional District's evidence did not prove that the respondent was "using" the property; and
- The bylaw notices should have been issued to the property owner, not the respondent as a tenant.

The adjudicator cancelled the bylaw notices on the fourth basis, which the Regional District challenged. The respondent also challenged the adjudicator's conclusion that it had been "using" the property.

On judicial review, the Court's task was to determine whether the adjudicator's decision was "reasonable".

With respect to the argument on whether it had been "using" the property, the respondent submitted that, while its firewood and related infrastructure remained on the property, it had ceased actually operating the business, so it was no longer using the property.

The Court sided with the adjudicator on this point, concluding that it was reasonable to interpret the ongoing presence of structures and stored materials as constituting a "use". The zoning bylaw expressly listed several other forms of storage as being a "use", such as agricultural storage and storage of retail or wholesale consumer products. Additionally, there was prior jurisprudence supporting the conclusion that the existence of certain objects on a property was sufficient to constitute a use in this case, and that they did not have to be actively in use to be so considered. Their existence on the property was sufficient to find a breach of the zoning bylaw.

The Court then turned to the Regional District's challenge of the adjudicator's decision that it had issued the bylaw notices to a party not legally responsible for the contravention. The adjudicator's conclusion was that the bylaw notices should have been issued to the owner, not the respondent as tenant, because the owner was the party responsible for constructing a community water and sewer system on the property.

The Court found this conclusion to be unreasonable, as it misconstrued the offence and was inconsistent with the language of the zoning bylaw. The violation was not the failure to install water and sewage system servicing. Rather, the violation was using the property without such servicing. The zoning bylaw expressly applied to "any person" who violated one of its provisions, not just owners. While the owner may also have been liable, that did not mean the respondent was not liable as the party who was using the property.

The respondent also raised several new arguments on judicial review, but the Court declined to consider them since they had not been raised before the adjudicator.

Having determined that the adjudicator's decision was unreasonable, the Court then turned to the issue of remedy. Normally, where a statutory decision maker's ruling is found unreasonable on judicial review, the proper remedy is to remit the matter to the original decision maker for reconsideration. In this case, though, having found the respondent to be using the property contrary to the zoning bylaw, the adjudicator had no authority to cancel the bylaw notices. Rather, the only outcome available to the adjudicator was to uphold the bylaw notices. For that reason, the Court ordered that the bylaw notices were valid and immediately due and payable.

VI. ONTARIO COURT OF APPEAL DETERMINES REMOVAL OF TORONTO BICYCLE LANES NOT UNCONSTITUTIONAL

On November 25, 2024, the Ontario legislature passed the *Reducing Gridlock, Saving You Time Act, 2024*. Among other things, the legislation mandated the removal of bicycle lanes from three major streets in Toronto, which had been established by the City of Toronto pursuant to its bylaw-making authority.

Cycle Toronto challenged the legislation, arguing that it was unconstitutional. A judge of Ontario's Superior Court of Justice agreed, striking down the law on July 30, 2025. The Province subsequently appealed to the Ontario Court of Appeal.

In *Cycle Toronto v. Ontario (Attorney General)*, 2026 ONCA 582, the Court of Appeal overturned the Superior Court decision and determined the removal of the bicycle lanes was not unconstitutional.

Cycle Toronto's argument was that the legislation violated s. 7 of the *Charter of Rights*, which provides: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice".

As the Constitution of Canada is the supreme law of the land, any law that is inconsistent with its provisions—including s. 7 of the *Charter of Rights*—is of no force or effect. Laws challenged under s. 7 are assessed using a two-step analysis. First, does a particular law result in the deprivation of life, liberty, or security of the person? Second, even if it does, is the law nevertheless consistent with the principles of fundamental justice?

In determining whether a law is consistent with the principles of fundamental justice, a court will most commonly examine it with respect to three principles:

- Arbitrariness: whether there is a rational connection between a law's objective and its effects;
- Overbreadth: whether the law goes further than its objective requires and captures conduct unconnected to that objective; and
- Gross Disproportionality: whether the law's effects are so extreme that it is totally out of sync with its objective.

The judge in the Superior Court decision did not characterize Cycle Toronto's claim as asserting a positive constitutional right to bicycle lanes. Rather, the judge determined that the proper framing was to state that once a benefit such as a bicycle lane has been established, the legislature cannot remove it in such a way that would violate the *Charter of Rights*.

The Court then accepted expert evidence from Cycle Toronto which found that removing the bicycle lanes would make roads less safe for cyclists and for other users of the road. This meant it engaged both the right to life and security of the person under s. 7.

The Court also concluded that the removal of the bicycle lanes would not achieve the stated objective of the legislation (i.e., the alleviation of traffic congestion) but would in fact worsen it. In that sense, the legislation was arbitrary, because there was no connection between the purpose of the legislation and its true effects.

The Court further concluded that the negative impact of the removal of the bicycle lanes on cyclist safety was grossly disproportionate to the asserted benefit of "saving some drivers of cars a few minutes of travel time".

For that reason, the Court concluded that the legislation violated s. 7 and that the removal of the bicycle lanes was unconstitutional.

On appeal, the Court of Appeal overturned the Superior Court's decision, finding that the legislation was not unconstitutional.

The Court of Appeal first noted that it is a fundamental rule of the country's democratic constitutional order that a legislature cannot bind its successor. As long as a prior piece of legislation was not mandated by the *Charter of Rights*, then undoing it by amendment or repealing it altogether is necessarily *Charter of Rights*-compliant, regardless of how beneficial or important the prior legislation was thought to have been.

Thus, they wrote that despite the Superior Court's conclusion to the contrary, Cycle Toronto was in fact making a positive rights claim—i.e., they were asserting a right to bicycle lanes. It

was "logically ineluctable" that if the *Charter of Rights* prevented the removal of bicycle lanes because of the protection they were thought to afford, then that could only be because there was a constitutional right to that protection in the first place. And since there is no right to bicycle lanes, the Province was free to remove the bicycle lanes in question through the legislation.

The Court of Appeal also acknowledged the potential "floodgates concern" flowing from the Superior Court's apparent conclusion that the constitutionality of legislation regulating traffic depends ultimately on whether the legislation is made in accordance with expert advice. They noted that there is no such requirement, because no regulatory legislation would be safe from a finding of unconstitutionality if there were.

The Court of Appeal further wrote that the Superior Court erred in concluding that the legislation was arbitrary. Arbitrariness is a very high standard that only asks if there is *any* connection between the purpose of a law and the means chosen to achieve that purpose. It is not a question of efficacy. There was obviously a common-sense connection between increasing the number of lanes available to cars and easing traffic, so the legislation was not arbitrary.

Finally, the Court of Appeal concluded that the legislation's effects were not grossly disproportionate to its objective. An example of grossly disproportionate legislation, they wrote, would be a sentence of life imprisonment for spitting on a sidewalk. In the Superior Court's analysis, the Court had trivialized the purpose of the legislation and also inflated the negative effects of removing the bicycle lanes. Like arbitrariness, gross disproportionality is a very high standard that was not met in this case.

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