

---

MARCH 5, 2025

**BULLETIN**

---

### **BCSC QUASHES CENSURE DECISION ON PROCEDURAL FAIRNESS GROUNDS**

In the recent decision *Paull v. Quesnel (City)*, 2025 BCSC 347, the Supreme Court of British Columbia considered the lawfulness of three resolutions adopted by Council that censured and sanctioned the City's Mayor. These reprimands flowed from allegations relating to a book that disputed some of the findings of the Truth and Reconciliation Commission; particularly that the Mayor's wife distributed this book, the Mayor condoned this distribution, and the Mayor attempted to distribute the book to members at a Regional District board meeting. The BCSC ultimately quashed the resolutions on procedural fairness grounds, noting that the staff report underlying the resolutions was ambiguous and confusing and the decision to censure and sanction the Mayor was based on alleged misconduct different from that set out in the staff report.

Prior to passing the resolutions, Council was provided with a staff report that contained information on the potential censure and sanction of the Mayor "for his actions in distributing/promoting" the book. The report set out four bullet points describing what were defined as the "Events" underlying the report – they were:

- (a) The distribution of the book by the Mayor's wife;
- (b) The fact that the CAO informed the Mayor that the Lhtako Dene Nation was upset about the actions of the Mayor's wife;
- (c) The fact that the Mayor said he had seen the book at his home but had not opened it; and
- (d) A report in local media that the Mayor himself attempted to distribute the book at a Regional District meeting.

The Mayor argued the resolutions were procedurally unfair because the staff report was ambiguous and did not clearly indicate that censure and sanctions would be decided, and that the staff report failed to provide specific details and evidence about the alleged misconduct.

In response, the City argued the staff report provided sufficient information for the Mayor to understand the issues, and that the decision to censure and sanction was based on the Mayor's leadership and accountability, not on the factual issues with respect to whether the Mayor was actually promoting the book.

The Court found that the staff report was not a clear and unambiguous document setting out the allegations that would underlie a motion of censure and sanction – that is the “case to be met” [at para. 164]. The first two Events underlying the report related to actions of persons other than the Mayor, and the third (the fact that he had seen the book but not opened it) was uncontroversial [at para. 167]. The Court recognized that the Mayor “personally attempt[ing] to distribute the book at a Regional District meeting” was a “substantive and active allegation,” but noted that Council proceeded on a different basis than this allegation. In its decision to adopt the resolutions, Council appeared to have “pivot[ed] to a new theory of the case against the Mayor – that the book does not matter, but that something had to be done to improve the relationship with the Lhtako Dene Nation and other Indigenous bodies that deteriorated as a result of the Mayor’s actions” [at para. 174]. In summary, the Court found that the City failed to observe procedural fairness by purporting to censure and sanction the Mayor based on a staff report that was “at best ambiguous and confusing” and deciding to censure and sanction the Mayor based on alleged misconduct different from the “Events” that were set out in the staff report.

Motions of censure have long been used by all levels of government to express disapproval of a member’s conduct. In the municipal context, the courts have affirmed that councils are entitled to use this procedure to respond to the conduct of their members, sourced from the relatively broad powers in sections 4 and 114 of the *Community Charter* for municipalities and their councils to control their own processes [*Dupont v. Port Coquitlam (City)*, 2021 BCSC 728; *Barnett v. Cariboo Regional District*, 2009 BCSC 471; *Skakun v. Prince George (City)*, 2011 BCSC 1796]. However, the power to censure for misconduct is one which must be exercised with great care and discretion. Municipal staff should ensure that staff reports prepared for these decisions provide an unambiguous factual record and a clear indication of the consequences at stake for the affected party. Councils should ensure that the misconduct they are voting to censure is in line with the information on the record before them and proceed on the basis outlined in the staff report. Failure to do so may attract criticism from the courts for improper observance of procedural fairness.

***Jack Wells, Nick Falzon & Reece Harding***