

April 19, 2011

CLIENT BULLETIN

OCP AND CONSISTENCY

On April 18, 2011, in *Residents and Ratepayers of Central Saanich Society v. District of Central Saanich* [2011 BCSC 491], the Court held that the legal decision as to whether a subsequently adopted zoning bylaw was consistent with the OCP was one in which a court "... ought not to interfere with any reasonable interpretation consistent with the OCP". The Court rejected the Petitioner's argument that the legal test should be correctness.

In arriving at this decision, the Court stated that it was not applying the "absolute and direct collision test", but rather was considering the issue of consistency per se. The Court expressly accepted that the language of polices was not statutory language and that it was not possible to fully promote all or even many policies in each single instance and that the trade-offs between policies involved an exercise of judgment balancing the weight to be accorded to various OCP policies. This balancing of policy was not an adjudicative process, but rather a political/legislative one, and so long as one of many possible reasonable results was the product of the decision making process, a court ought not to interfere.

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