

In the Supreme Court of British Columbia

Between

LUKE DANIEL DOUGLAS LAFLUER, WILLIAM JOHN CATHCART,
KENNY BRYAN CARPENTER HANUSE, MICHAEL EDWARD HANSEN,
JASON BARRY JEFFERY, BERTHA LOUISE JEFFERY,
WENDY MARIE LOTNICK, JUNE CAROL BARTON,
THOMAS JOHN DREW, RODERICK CHARLES GRAY LEE,
RICHARD PATRICK BOAS, MARY M. GEORGINA TALLON,
HELENE ANDREE OABES, EDWARD CHARLES MILAN

Petitioners

and

NOBA ANDREA ANDERSON

Respondent

RESPONSE TO PETITION

Filed by: Noba Andrea Anderson (the “Respondent”)

THIS IS A RESPONSE TO the amended petition, filed 03 JAN 2019 (the “Petition”)

Part 1: ORDERS CONSENTED TO

The Respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the Petition: NIL

Part 2: ORDERS OPPOSED

The Respondent opposes the granting of the orders set out in paragraphs 1-7 of Part 1 of the Petition.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Respondent takes no position on the granting of the orders set out in paragraphs NIL of Part 1 of the Petition.

Part 4: FACTUAL BASIS

1. The Respondent is an individual residing on Cortes Island, British Columbia. The Respondent was elected as the Regional Director of Strathcona Regional District Electoral Area B in 2008, and has served as the Director of Electoral Area B since that time. The Respondent was most recently re-elected in October 2018.
2. The Petitioners have not provided any personal information in this matter, and in particular, other than Mr. William John Cathcart, have not provided evidence that they are electors within Electoral Area B of the Strathcona Regional District (“SRD”).
3. At all material times, the SRD invited non-profit community organizations within the SRD to apply to the SRD Board of Directors (the “Board”) for grants-in-aid of their organization. Applicants were required to submit applications to their respective Electoral Area Directors, who reviewed each request and provided recommendations to the Electoral Area Services Committee. The Electoral Area Services Committee made recommendations to the Board and the Board voted on whether or not to grant funding.
4. In the years 2008-2018, as a Board Member of the SRD, the Respondent voted in favour of various grants-in-aid to organizations within and outside Electoral Area B.
5. In January 2018, the Respondent’s father’s cabin burnt down. The cabin was located on a property on which the Respondent lives, and co-owns with 5 other people. As a result the Respondent’s father moved into the home of the Respondent.
6. In or about March 2018, Ms. Lovena Harvey established a fundraiser (the “Fundraiser” or the “Fund-raising”) to collect donations on behalf of the Respondent’s father, to help build a new living space for him. Over the next months, various individuals made monetary donations to the fundraising campaign. The funds raised were used exclusively for the building project.
7. There was no express or implied connection between the donations made to assist the Respondent’s father and the Respondent’s position or role as the Director for SRD Electoral Area B.
8. With respect to the Fund-raising effort, the Respondent never explicitly or implicitly made any offer to, or received any request or suggestion from, any of the people who donated to her father, of anything in return for the personal donations. There was no express or implied connection to any past, present or future SRD grant-in-aid funding.
9. In April and October 2018, the Respondent voted in favour of grants-in-aid to 8 organizations, including the Cortes Island Seafood Association, Friends of Cortes Island Society, and Cortes Island Business and Tourism Association. The Respondent’s votes in favour of these grants had no relation to the Fundraiser.

Part 5: LEGAL BASIS

1. The petitioners appear to assert that the Respondent was in a conflict of interest when voting to award grants-in-aid to various non-profit organizations in 2014-2018, because of donations made by various individuals (and not the non-profit organizations), to the Fundraiser in 2018.
2. The Respondent expressly denies the allegations set out in the Petition, and puts the petitioners to the strict proof thereof. Without limiting the generality of the foregoing, the Respondent expressly denies that she was in a conflict of interest when voting on any of the grants-in-aid referenced in the petition (the “Votes”).
3. The Respondent did not have a direct or indirect pecuniary conflict of interest when participating in the Votes. Accordingly, the relief sought by the petitioners is unavailable to them pursuant to the provisions of the Divisions 6 and 7 of Part 4 of the *Community Charter*, S.B.C. 2003, c. 26 (the “*Community Charter*”).
4. The Respondent did not have a common law conflict of interest when participating in the Votes.
5. In the alternative, if the Respondent did have a conflict of interest in the Votes, which is not admitted but expressly denied:
 - a. any pecuniary interest of the Respondent was held in common with the electors of Electoral Area B generally;
 - b. any pecuniary interest to the Respondent was so remote or insignificant that it cannot reasonably be regarded as likely to influence the Respondent in relation to the matter; and/or
 - c. the Respondent participated in the Votes inadvertently or because of an error in judgment made in good faith.
6. The Respondent did not accept, directly or indirectly, a gift or personal benefit that was connected with her performance of the duties of her office as Regional Director.
7. The petitioners have not demonstrated that they are electors of Electoral Area B, as required by section 111(1)(a) of the *Community Charter*.
8. The Board votes for which the petitioners allege the Respondent had a conflict of interest, came to the attention of the petitioners, or should have come to the attention of the petitioners, more than 45 days before the filing and hearing of this petition, contrary to section 111(4)(a) of the *Community Charter*.

Part 6: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Noba Anderson, sworn March 18, 2018;
2. Affidavit #1 of Lovena Harvey, sworn March 18, 2018;
3. Affidavit #1 of Martha Abelson, sworn March 18, 2018;
4. Affidavit #1 of Corry Dow, sworn March 18, 2018;
5. Affidavit #1 of Amanda Glickman, sworn March 18, 2018;
6. Affidavit #1 of Mary Lavelle, sworn March 18, 2018;
7. Affidavit #1 of Ryan Harvey, sworn March 18, 2018;
8. Affidavit #1 of Kristen Scholfield-Sweet, sworn March 18, 2018;
9. Affidavit #1 of Morgan Tams, sworn March 18, 2018;
10. Affidavit #1 of Victor Van Buskirk, sworn March 18, 2018;
11. The pleadings filed herein; and
12. Such further and other material as counsel may advise and this Court may allow.

The petition respondent estimates that the hearing of the petition will take 2 hours.

Dated: 20 MAR 2019



Signature of Matthew R. Voell
Lawyer for the Respondent

Petition respondent's address for service:

Matthew R. Voell
Barrister & Solicitor
1300-128 Pender Street West
Vancouver, BC V6B 1R8

Fax number address for service: 604-909-1684

Email address for service: NIL

Name of the petition respondent's lawyer:

Matthew R. Voell
Barrister & Solicitor
1300-128 Pender Street West
Vancouver, BC V6B 1R8