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Backgrounder

LRC 109—Report on Notice Requirements In Proceedings Against Municipal Bodies

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Under the *Municipal Act* (the name of the legislation governing cities and towns in British Columbia that was in force at the time of this report) and the *Vancouver Charter*, a party is barred from claiming damages against a municipality or the City of Vancouver unless they provide notice within 60 days of the cause for the claim. A plaintiff failing to provide notice can only save their claim by providing a “reasonable excuse,” and demonstrating that the late notice will not prejudice the municipality. The fact that municipalities are given favoured treatment in relation to other litigants is examined.

Municipalities argue that the notice requirements aid them in collecting and assessing evidence before the passage of time obscures it. Furthermore, early notification of a dangerous situation is important to prevent subsequent injuries or damages. Due to the special public function of municipalities and the fact that they are taxpayer funded, the special treatment they enjoy is warranted. Due to the size of organization, their inability to exclude private citizens, and the inherent risks of the activities they provide such as recreation, municipalities argue that without the notice provision they would inordinately negatively affected.

As it stands potential claimants with valid causes of actions may find themselves barred due to the operation of the statute. It is recommended that the saving provision be modified to better balance the interests of potential plaintiffs and municipalities. This would be accomplished by allowing a party to avoid the 60-day limitation by either providing a reasonable excuse *or* by demonstrating that the municipality will not be prejudiced.

Included in the report are draft provisions to amend the *Municipal Act* as well as submissions from the Union of British Columbia Municipalities, and the City of Vancouver.

Further Developments

Provision still in force as s. 286 of the *Local Government Act*, R.S.B.C. 1996, c. 323.