



Backgrounder

Study Paper on Public Hearings: An Examination of Public Participation in the Adoption of Local Bylaws on Land Use and Planning

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An overview of public hearings

Provincial legislation gives local governments the power to make decision about the use of land and plans for the future development of land in the locality. But this legislation imposes some requirements on the exercise of this power. One of these requirements is the subject of this study paper: the requirement to hold a public hearing before a local government adopts a land use planning bylaw.

Public hearings have been a feature of British Columbia land use law for nearly a century. But there has been renewed interest recently in them and their place in the province's legislative framework for land use and planning.

The goals of this study paper

BCLI has prepared this study paper as a means to enhance understanding of the law on public hearings. The study paper aims to achieve this goal through a detailed examination of British Columbia's law on public hearings. It seeks answers to a series of questions: Where did the legislative requirement to hold a public hearing on a land use bylaw come from? How has it changed since it first appeared in British Columbia law? How have court cases considering the legislation contributed to the development of the law? Where does the law on public hearings currently stand? What purposes does the law intend to achieve? And what have legal commentators said about the current law's successes and failures in achieving those purposes?

The primary mode of explanation in this study paper is descriptive. The study paper aims to give readers a detailed picture of the past development of the law and the current state of the law.

The Renovate the Public Hearing Project

BCLI has published this study paper to support the work of the Strengthening Canadian Democracy Initiative, Morris J. Wosk Centre for Dialogue, Simon Fraser University, in carrying out its Renovate the Public Hearing Project. This project has a law-reform focus.

In the Renovate the Public Hearing Project, the Strengthening Canadian Democracy Initiative intends to act as a convenor and a catalyst for reforms to BC's public hearing legislative requirement, as a means to enhance social justice, build community, and strengthen democratic culture.

The project has three planned streams of work: a legal review, pilots of proposed reforms with local governments, and evaluations of the reforms. This study paper contributes to the project's legal review.

The study paper also forms the basis of future elements of the project, including public consultations and the development of recommendations for law reform.

Summary of the study paper

This study paper consists of six chapters.

It begins with an introductory chapter, which provides an overview of the subject and discusses the goals of the study paper.

The second chapter discusses land use law in British Columbia in broad, general terms. Its goal is to introduce readers to the specialized words and concepts that are used in this area of the law, which provides the context for the study paper's examination of public hearings.

Chapter three is the heart of the study paper and its longest chapter. This chapter describes the development of the law on public hearings in British Columbia. It begins by tracing the origins of the legislative requirement to hold a public hearing, which go back to British Columbia's first statute on land use planning, enacted in 1925. It then follows the development of the legislation, focusing on milestone enactments in 1957 and 1985. The chapter also describes the role that court decisions have played in the development of the law on public hearings. It closes with a snapshot of the current law, drawing on present-day legislation and leading judgments from the case law.

The study paper's fourth chapter examines the purposes of a legislative requirement to hold a public hearing. Courts and commentators have articulated a number of statements of the law's purposes. Their focus is on its potential to achieve broad goals that enhance local democracy.

Chapter five sets out commentary that has evaluated the current law on public hearings. It notes that arguments in favour of the current law stress its ability to meet the law's goals and fulfil its purposes. On the other hand, arguments criticizing the current law focus on ways in which it may be seen as failing to enhance local democracy.

Finally, the study paper concludes with a chapter summing up its main points and discussing future developments planned for the Renovate the Public Hearing Project.