



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**NORBERT FRED SCHLENKER, TED BARTRIM, ALLAN LESLIE
CRANE, ALISON MARY CUNNINGHAM, WILLIAM PATRICK CURTIN,
WAYNE MOISE JOSEPH FRASER, HAROLD DEREK HILL, MALCOLM
GEORGE LEGG, DIETRICH LUTH, VICTORIA LINDA MIHALYI,
GILBERT WILLIAM MOUAT, RICHARD GERALD RINGROSE, MARK
LYSTER TOOLE, ALAN ROSSON WIGGAN and ELIZABETH SUSAN
WOOD**

PETITIONERS

AND:

**CHRISTINE TORGRIMSON, GEORGE EHRLING
and GARTH HENDREN**

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

Christine Torgrimson
221 Harbourside Place
Salt Spring Island, BC
V8K 2L2

George Ehring
200 Seymour Heights
Salt Spring Island, BC
V8K 2B6

Garth Hendren
261 Canvasback Place
Salt Spring Island, BC
V8K 2W5

This proceeding has been started by the Petitioners for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the Petitioners

- (i) 2 copies of the filed response to petition, and
- (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the Petitioners,

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
 - (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
 - (c) if you were served with the petition anywhere else, within 49 days after that service, or
 - (d) if the time for response has been set by order of the court, within that time.
- (1) The address of the registry is:

P.O. Box 9248, Station Stn Prov. Govt.
2nd Floor - 850 Burdett Avenue
Victoria, British Columbia V8W 9J2

- (2) The ADDRESS FOR SERVICE of the Petitioners is:

c/o Cox, Taylor, Barristers & Solicitors
Burnes House, Third Floor 26 Bastion Square
Victoria, British Columbia V8W 1H9

Fax number address for service: (250) 382- 4236

- (3) The name and office address of the Petitioners' lawyer is:

L. John Alexander
Cox, Taylor, Barristers & Solicitors
Burnes House, Third Floor 26 Bastion Square
Victoria, British Columbia V8W 1H9

CLAIM OF THE PETITIONERS

Part 1: ORDERS SOUGHT

The Orders sought in this Petition are as follows:

1. A declaration that Trustee Christine Torgrimson, Trustee George Ehring and Regional Director Garth Hendren have failed to disclose a direct, or indirect, pecuniary conflict of interest contrary to section 101 of the *Community Charter, SBC 2003, c 26*;
2. A declaration that Trustee Christine Torgrimson, Trustee George Ehring and Regional Director Garth Hendren have attended a meeting, participated in discussions, attempted to influence voting, and voted on a question contrary to section 101 of the *Community Charter*.
3. An order that Trustee Christine Torgrimson, Trustee George Ehring and Regional Director Garth Hendren are disqualified and the respective offices of Trustee Christine Torgrimson, Trustee George Ehring and Regional Director Garth Hendren are hereby declared vacant;
4. Any expenditures authorized by Trustee Christine Torgrimson, Trustee George Ehring to the Salt Spring Island Climate Action Council Society and any expenditures authorized by Trustee Christine Torgrimson, Trustee George Ehring or Regional Director Garth Hendren to the Salt Spring Island Water Council Society were authorized contrary to the Community Charter and Trustee Christine Torgrimson, Trustee George Ehring, Regional Director Garth Hendren and each of them is hereby ordered to repay those amounts;
5. In the alternative, an order that Trustee Christine Torgrimson, Trustee George Ehring and Regional Director Garth Hendren are in a position of conflict of interest at common law, and that the Court make a declaration to that effect and order that their respective offices are hereby ordered vacant; and
6. Costs.

Part 2: FACTUAL BASIS

1. Trustee Christine Torgrimson, and Trustee George Ehring are Trustees elected to represent the electors of the Salt Spring Island Local Trust Area at the Islands Trust Council pursuant to the *Islands Trust Act, RSBC 1996, c 239*. Pursuant to the *Islands Trust Act*, as an incidence of such election, Trustee Christine Torgrimson, and Trustee George Ehring also sit on the Local Trust Committee in their capacity as Trustees.

2. Regional Director Garth Hendren is a Director elected to represent the electors of the Salt Spring Island Electoral Area at the Capital Regional District Regional Board and committees pursuant to *the Local Government Act*, RSBC 1996, c 323.
3. Trustee Christine Torgrimson, Trustee George Ehring are founding and current directors of the Salt Spring Climate Action Council Society (the "Climate Action Society") and the Salt Spring Island Water Council Society (the "Water Council Society"). Regional Director Garth Hendren is also a director of the Water Council Society.
4. The bylaws of the Climate Action Society and the Water Council Society, both not-for-profit organizations, allow for the payment of directors.
5. Trustee Christine Torgrimson is chair of the Climate Action Society. Trustee Ehring is chair of the Water Council Society.
6. Trustee Christine Torgrimson and Trustee George Ehring have voted to allocate public money to the Climate Action Society and the Water Council Society without declaring themselves, or each other, to be in conflict or otherwise disclosing their respective interest in the societies.
7. Regional Director Garth Hendren has voted to allocate public money to the Water Council Society without declaring himself to be in conflict or otherwise disclosing any interest in the society.
8. In addition to direct allocations of Local Trust Committee funding, Trustee Christine Torgrimson and Trustee George Ehring have used Local Trust staff to facilitate the goals of the Climate Action Society and the Water Council Society.
9. Trustee Christine Torgrimson, Trustee George Ehring have met in private and, by implication have discussed matters of relevance to the Local Trust Committee, as part of their work as directors on the Climate Action Society and the Water Council Society. In particular, Trustee Christine Torgrimson participated in and voted on September 1, 2011 to grant public money to the Water Council Society.
10. Trustee Christine Torgrimson, Trustee George Ehring also participated in and voted on grants of public money to the Water Council Society's unincorporated predecessor on March 4, 2010, December 2, 2010 and to the Climate Action Society's unincorporated predecessor on July 8, 2010, October 7, 2010 and March 2011.
11. Trustee Christine Torgrimson has represented expressly, or by implication, that she did not have firsthand involvement in the Water Council Society.
12. The Climate Action Society is operated without transparency and has been restrictive in terms of its membership requirements.
13. At least some of the Local Trust Committee decisions to allocate public money to the Climate Action Society and the Water Council Society were

not advertised and formed no part of the meeting agenda, including the late submissions agenda.

Part 3: LEGAL BASIS

1. Trustee Christine Torgrimson and Trustee George Ehring are the elected representatives to the position of local trustees. As such, they sit on the Local Trust Committee for Salt Spring Island Local Trust Area, a corporation constituted under the *Islands Trust Act*, R.S.B.C. 2996 c. 239 and represent the Salt Spring Island Local Trust Area on the Islands Trust Council.
2. Trustee Christine Torgrimson and Trustee George Ehring are subject to subject to Division 7 [Disqualification] of Part 4 of the *Community Charter* as members of the trust council by virtue of the *Islands Trust Act* section 6(7).
3. Regional Director Hendren is subject to Division 6 [Conflict of Interest] of Part 4 of the *Community Charter* by virtue of section 774 of the *Local Government Act*.
4. A person is disqualified from holding office under section 110(c) and (d) of the *Community Charter* if he or she is captured by any of the following sections:
 - (c) the person is disqualified under any of the following:
 - section 101 [restrictions on participation if in conflict];
 - section 102 [restrictions on inside influence];
 - ...
 - section 105 [restrictions on accepting gifts];
 - section 106 [disclosure of gifts];
 - (d) the person is disqualified under section 191 [liabilities for use of money contrary to Act]
5. Monies paid to the Water Council Society and the Climate Action Society or their predecessor unincorporated committees or groups constitute a gift directly or indirectly to the respondents.

6. Section 111 of the *Community Charter* allows a petition to be brought by 10 or more electors in Supreme Court when a person is disqualified under section 110 of the *Community Charter* and is continuing to act in office.
7. Section 109 of the Community Charter allows the court to direct the repayment of financial gain from undisclosed pecuniary interests.
8. Section 113 of the Community Charter directs that if the court declares that the person challenged is not qualified to hold office, the municipality must promptly pay the electors' costs within the meaning of the Supreme Court Civil Rules.
9. Section 191(4) of the Community Charter creates a right to an elector to recover money expended by a council member, including the Trustees or Regional Director, contrary to the Act.
10. In the alternative, if any of Trustee Christine Torgrimson and Trustee George Ehring or Regional Director Hendren is not subject to Division 6 [Conflict of Interest] of Part 4 of the *Community Charter* then the common law respecting conflicts of interest applies.
11. The common law with respect to municipal conflicts dictates that a municipal councillor, is disqualified if he or she has an interest which is so related to the exercise of a public duty that a reasonably well-informed person would conclude that the interest might influence the exercise of that duty.
12. The activities of Trustee Christine Torgrimson and Trustee George Ehring in meeting as the Water Council Society and the Climate Action Society contravene the open meeting provisions of the *Community Charter* and the requirements of the *Islands Trust Act*.

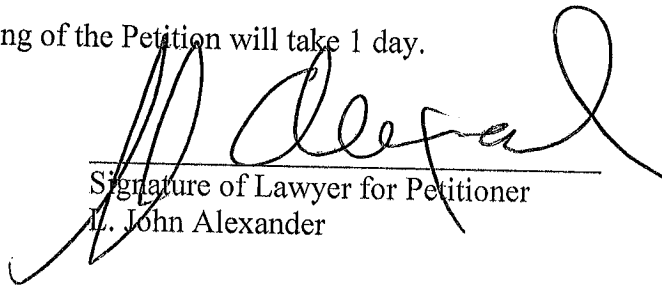
Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Norbert Schlenker made on October 6, 2011.
2. Affidavit #1 of Ted Bartrim made on October 6, 2011.
3. Affidavit #1 of Allan Leslie Crane made on October 6, 2011.
4. Affidavit #1 of Alison Mary Cunningham made on October 6, 2011.
5. Affidavit #1 of William Patrick Curtin made on October 6, 2011.
6. Affidavit #1 of Wayne Moise Joseph Fraser made on October 6, 2011.
7. Affidavit #1 of Harold Derek Hill made on October 6, 2011.

- 8. Affidavit #1 of Malcolm George Legg made on October 6, 2011.
- 9. Affidavit #1 of Dietrich Luch made on October 6, 2011.
- 10. Affidavit #1 of Victoria Linda Mihalyi made on October 6, 2011.
- 11. Affidavit #1 of Gilbert William Mouat made on October 6, 2011.
- 12. Affidavit #1 of Richard Gerald Ringrose made on October 6, 2011.
- 13. Affidavit #1 of Mark Lyster Toole made on October 6, 2011.
- 14. Affidavit #1 of Alan Rosson Wiggan made on October 6, 2011.
- 15. Affidavit #1 of Elizabeth Susan Wood made on October 6, 2011.
- 16. Affidavit #1 of Julia Lucich made on October 6, 2011.

The Petitioners estimate that the hearing of the Petition will take 1 day.

Date: 07/Oct/2011



Signature of Lawyer for Petitioner
L. John Alexander

To be completed by the court only:

Order made
 in the terms requested in paragraphs of Part 1 of this Petition

with the following variations and additional terms:
.....
.....
.....

Date: _____

.....
Signature of Judge Master

No.
Victoria Registry

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BETWEEN:

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CRANE, ALISON MARY CUNNINGHAM, WILLIAM PATRICK CURTIN,
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PETITIONERS

AND:

**CHRISTINE TORGRIMSON, GEORGE EHRRING
and GARTH HENDREN**

RESPONDENTS

PETITION

File: S-1564-1*AFK/lkr

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