

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Date: 20220106  
Docket: S2110770  
Registry: Vancouver

**RE: In the Matter of an Application Pursuant to Sections 129(4) & (5) of  
the *Community Charter*, S.B.C. 2003, c. 26**

Between:

**The Corporation of the Village of Belcarra**

Petitioner

Before: The Honourable Justice G.C. Weatherill

**Oral Reasons for Judgment**

In Chambers

Counsel for the Petitioner, appearing by  
video conference:

J. Tikhonova

Attendees, Esmail Shoolestani and Amir  
Shoolestani, appearing on their own behalf  
by video conference:

E. Shoolestani  
A. Shoolestani

Place and Date of Hearing:

Vancouver, B.C.  
January 6, 2022

Place and Date of Judgment:

Vancouver, B.C.  
January 6, 2022

[1] **THE COURT:** I will first deal with the application by Mr. Esmail Shoolestani (“Mr. Shoolestani”) to be added as a party to the petition as an intervenor, as well as the other ancillary orders set out in his notice of application filed December 22, 2021.

[2] Having read the materials and heard from Mr. Shoolestani and his son, Amir Shoolestani, speaking on his father’s behalf, it is my view that to the extent Mr. Shoolestani has a remedy in respect of this matter, it is by way of judicial review of any decision that the council of the petitioner, the Corporation of the Village of Belcarra (the “Village”) may or may not make in the future, as well as the judicial review of the highway encroachment agreement application that he says he submitted on May 10, 2021 that he claims was improperly rejected.

[3] I accept all of the submissions of Ms. Tikhonova, counsel for the Village as set out in her application response to Mr. Shoolestani’s application filed December 31, 2021. In my view, he is not entitled to intervenor status in respect of the petition. Mr. Shoolestani’s application is dismissed.

[4] Now, regarding the petition itself, I am of the view that having declared a conflict of interest in relation to the Bedwell Bay Wharf Program Report (the “Report”), it would be inappropriate for Mayor Jamie Ross and Councillors John Snell and Liisa Wilder to be permitted to participate, discuss, and vote on any matter arising from or in relation to that Report.

[5] However, I agree with Ms. Tikhonova that Councillors Carolina Clark and Bruce Drake, having been elected as independent councillors, are unlikely to be impacted by the Report itself. I do not accept Mr. Shoolestani’s assertions that they will not participate in discussing and voting on matters relating to the Report independently. Merely having previously participated in or made decisions that Mr. Shoolestani does not agree with does not mean that these Councillors did not exercise their decision-making function independently.

[6] Accordingly, I am making the orders sought at paragraph 2 of the petition, namely, that Councillors Carolina Clark and Bruce Drake constitute a quorum for the council of the Village in relation to the Report.

[7] All right. Is there anything further, Ms. Tikhonova?

[8] CNSL J. TIKHONOVA: No, thank you, Mr. Justice. Can we arrange to have that order picked up?

[9] THE COURT: I -- well, you have provided a draft, which I have. I will sign it and you can have it picked up.

[10] CNSL J. TIKHONOVA: Okay. Thank you very much.

[11] THE COURT: Thank you.

[12] AMIR SHOOLESTANI: My Lord, I would like to -- with respect to the orders that Mr. Shoolestani sought in his application, one of the -- so he -- he did -- and I believe Your Lordship did grant the orders he sought, that one of the orders in the application was that the councillors with conflict of interest not be permitted to vote, which is the order that Your Lordship made, having considered the evidences that Mr. Shoolestani presented.

[13] THE COURT: The order that I made is that Councillors Carolina Clark and Bruce Drake constitute a quorum for the council of the Village on matters arising from and in relation to the Report.

[14] AMIR SHOOLESTANI: I just wanted to clarify that there is no costs of -- Your Lordship is --

[15] THE COURT: I do not believe the Village has been seeking costs. She did not make any submissions.

[16] AMIR SHOOLESTANI: Thank you, My Lord.

[17] THE COURT: All right. Thank you.

"G.C. Weatherill J."