



Tiny town runs up huge bill suing a taxpayer who blogs with sarcasm on political decisions

BY STEPHEN HUME, VANCOUVER SUN MAY 5, 2011

Union Bay Improvement District on Vancouver Island, which serves a population of about 1,000, reported an operating surplus of \$211,300 in 2010.

But over the last six months, the tiny improvement district -median after-tax income in the 2006 census was \$21,392 -has run up legal bills of \$118,000 suing a gadfly taxpayer, who expressed sarcastic, satirical and sometimes harsh opinions on a local blog, for defamation.

Items for which the blogger is being sued by eight board members, former board members and administrative staff include:

- . A caricature that portrayed the board's chairman as Barney Fife, the bumbling deputy sheriff in the sleepy southern town of Mayberry, from the early 1960s television comedy The Andy Griffith Show.

- . Comments about whether the romantic relationship between a trustee on the improvement district board and an executive from a development company (the couple eventually wed) that was negotiating with the district created a conflict of interest.

- . Accusations that board members put themselves in an apparent conflict of interest by publicly supporting a developer's plans while serving on the board that was negotiating arrangements essential to the developer obtaining zoning approval.

- . The gadfly's mocking of an email from the board, which told the blogger she was being treated as respectfully as any other landowner, but to which had inadvertently been appended a note to other trustees that included a derogatory comment about the blogger's intelligence.

Much of the blogger's criticism that triggered the improvement districts' lawsuit -the board describes it as a "crusade" -revolved around board negotiations with a developer who seeks to secure potable water for a proposed subdivision.

The development would increase the number of dwellings in Union Bay from 479 to more than 3,500, a sevenfold jump in the community's size.

Now, however, the improvement district's legal action is itself under fire in the community for what some ratepayers see as politicians using public money to seek personal redress.

Board resolutions make the improvement district's ratepayers responsible for court costs in the suit.

"I don't mind you using your own dime [to sue]. I sure do not like you using my money," one irate taxpayer said at a meeting that packed the community hall last weekend, just before two of the board members who are party to the lawsuit failed in a re-election bid.

Meanwhile, the blogger is suing the improvement district in small claims court, seeking \$25,096 from Union Bay for disconnecting her residential water service and then refusing to reconnect it promptly when requested.

The improvement district has asked that this claim be dismissed as an abuse of process.

In addition to unspecified damages in their own suit, the Union Bay officials are also seeking a permanent injunction to prevent publication and display of comments on the blogger's website.

Which raises once again the issue of democratic governments curbing criticism by seeking damages from constituents who might mock, ridicule, denounce or impugn the integrity of political decisions.

In a 2009 case, the B.C. Supreme Court ruled that the City of Powell River had no legal right to sue citizens for defamation -or even to threaten citizens with lawsuits -for saying disparaging things about their own government.

The B.C. Civil Liberties Association warned Powell River in 2008 that a court in Ontario had already ruled that protecting citizens from government sanctions for speaking their minds, however offensive government might find those comments, was fundamental to democracy itself.

"Governments are accountable to the people through the ballot box, and not to judges or juries in courts of law. When a government is criticized, its recourse is in the public domain, not the courts," said the Ontario ruling. "Litigation is a form of force and the government must not silence its critics by force."

And so, suddenly, this sleepy don'tblink-or-you'll-miss-it community south of Courtenay finds itself at the vortex of a free-speech tempest. The rest of us will await the outcome with interest.

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