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New Westminster residents hope court case will limit Quayside train noise

Federal Court of Appeals to decide in September whether trains must abide by noise, vibration restrictions

BY EVAN DUGGAN, VANCOUVER SUN AUGUST 12, 2011 7:47 AM



James Crosty, president of the Quayside Community Board in New Westminster, stands at the train yard near the Quay. Residents are fighting to have a few hours of quiet during the night.

Photograph by: Jenelle Schneider, PNG, Vancouver Sun

Residents in New Westminster's Quayside neighbourhood, frustrated by noisy overnight trains in the central rail yard, are hoping their sleepless nights are numbered.

A Federal Court of Appeal case in September will decide how much power the Canadian Transportation Agency has to enforce federal noise and vibration restrictions against rail companies. The court's decision could strengthen the CTA's mandate, potentially giving Quayside residents the peace they're looking for.

For Quayside resident Allan Morris, the banging of trains in the city's central rail yard and nearby rail lines has caused six

years of disrupted nights.

"It feels like that train is going over the end of my bed," said Morris, who owns a condo in a highrise on Quayside Drive.

He said as many as four trains "clack, click and bang," past his building at all hours of the night.

Quayside is half urban living and half heavy industry, squeezed onto a strip of Fraser River-front land about one kilometre long and approximately four city blocks deep, Morris explained.

The Quayside Community Board tried to find a solution to the industrial racket by negotiating an agreement in December 2008 with Canadian National, Canadian Pacific and BNSF Railway in Vancouver, said James Crosty, the board's current president.

The parties agreed to a set of guidelines to ease the strain on residents without disrupting rail yard business, but the problems continued, he said.

"We embarked on a process to get some peace and quiet," Crosty said. "It failed."

Crosty said the Quayside board asked the CTA to intervene after the companies wouldn't honour the "confidential" mediated settlement, but the rail companies fired back by challenging the CTA's jurisdiction.

The rail companies argued that the matter was closed and outside of the purview of the CTA because of the mediation agreement.

"The agency [the CTA] is taking the position that it has jurisdiction to adjudicate," said CTA spokeswoman, Jacqueline Bannister. Without providing details, Bannister said the agency hopes its jurisdiction isn't limited on Sept. 20, when the Federal Court decides if the CTA can force the rail companies to change their operations' practises, despite the existence of mediated agreements.

In addition to the Federal Court case, help for the residents may come from a local MP who has been battling train noise for more than six years.

"Every Canadian should have the right to get a good night's sleep," said Burnaby-New Westminster MP Peter Julian, who has been advocating on behalf of Quayside residents in the dispute over late-night rail noise.

For his part, Julian proposed a private member's bill during the last Parliament to toughen the Canada Transportation Act - enforced by the CTA - by specifically prohibiting idling, shunting and coupling of cars on weekends and overnight between 10 p.m. and 8 a.m.

He said the bill got lost because of the federal election in May, but he plans on proposing it again when Parliament resumes.

Julian said he doesn't have much confidence in the CTA's mediation process and he'll push to change the legislation no matter what happens in court.

There are dozens of communities in Canada with the same noise problem, he said.

If the rail companies win in Federal Court "that means that the current legislation is completely useless for communities struggling to reduce unnecessary noise," Julian said.

The lawyer for the rail companies, Richard DeFilippi, said he couldn't comment on the matter while it is before the courts.

Spokesmen for Canadian Pacific, Canadian National and BNSF Railway also declined to comment because of the coming court date.

For Allan Morris, the bestcase scenario would be "eight hours of uninterrupted sleep."

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