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Islands Trust seeks TILMA exemption

'TILMA could have unintended and unexpected consequences that would diminish the ability of the Islands Trust to carry out its legislated object.' That's the conclusion of Islands Trust Council following an extensive assessment of the Trade, Investment, and Labour Mobility Agreement (TILMA) signed between the provincial governments of BC and Alberta in April, 2005.

TILMA requires that 'measures' (including legislation, regulations, and other actions) taken by provincial governments, local governments, and provincially financed institutions in the two provinces not impede inter-provincial trade in any way, and provides a 'dispute settlement procedure' which enables an appointed panel to award settlements of up to \$5 million should a private investor successfully argue that his interests were damaged by any government action.

Last December, Trust Council members passed a resolution that asked 'the Executive Committee convey to the Province that the Islands Trust Council opposes any legislation or agreement that diminishes its ability to achieve the object of the *Islands Trust Act*.'

The Islands Trust, as the only municipal government body in the province with a provincially legislated mandate, expressed its concern that many of the policies in the Trust Policy Statement, and many Local Trust Committee bylaws, could be seen as impediments to investment.

Following its assessment of TILMA, in a July 10 letter to Minister of Economic Development Colin Hansen, Islands Trust Council conveyed opposition to the inclusion of the Islands Trust in TILMA stating: 'We further request the specific

exclusion from the TILMA of all measures undertaken by Islands Trust bodies to preserve and protect the Islands Trust Area, its unique amenities and environment.'

In the letter, Trust Council Chair Kim Benson says, 'In that a key goal of the Agreement is to harmonize standards, it may threaten measures that Islands Trust bodies undertake to preserve and protect the unique character and environment of BC's coastal islands.'

Examples followed: policies 'restricting development to that which is compatible with local character and needs;' agreements with provincial agencies 'that have led to different standards or practices within the Islands Trust Area' (for example, roadway standards); land use standards which limit uses to local needs; and design guidelines and bylaws that 'indicate that construction and landscaping should incorporate local materials.' All these, says the Trust, might be challenged as contraventions of the TILMA.

In addition, the letter expresses concern that the agreement would 'prevent provincial agencies or regional governments from taking special measures to preserve and protect the Islands Trust Area. For example, we would be concerned if the TILMA prevented others from taking actions to prevent pollution, regulate pesticides, or change standards in recognition of BC's unique circumstances or environments.'

The letter also expresses concerns that additional costs would be incurred through lowering of the Trust's present tendering thresholds, reviewing new or amended measures in relation to TILMA, and contesting allegations of non-compliance. ✉

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