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Reprint from Volume 28 Number 8

April 21, 2016

Bowen's docks bylaw supported by Supreme Court - Patrick Brown

In a March 31 decision, Mr Justice Punnnett of the BC Supreme Court upheld Bowen Island's Bylaw N°381, which bars any further construction of private docks from the shore of Cape Roger Curtis.

The construction of docks on the waterfront at Cape Roger Curtis has been controversial from the start. Public concern as to the visual impact of docks was considerably increased when the first dock was built, giving access to a float in the middle of the bay and significantly longer than originally planned. The visual impact of the dock was substantial.

As a result, the Bowen Island Municipal Council passed Bylaw N°381, barring the construction of any further docks beyond the four originally approved.

Two Cape Roger Curtis waterfront property owners challenged Bylaw N°381 on the basis that it was inconsistent with the Official Community Plan, it was passed in haste and in

bad faith, it was discriminatory, consultation was inadequate, disclosure to the public before the bylaw was passed was deficient, that when the bylaw was passed certain councillors failed to consider the matter objectively, and there was a lack of procedural fairness when the bylaw was passed. They sought to have the bylaw quashed for these reasons.

Bowen Island Municipality said that the bylaw was enacted in good faith and was compatible with the Official Community Plan; that zoning is naturally discriminatory in its nature and no improper motive has been shown, and that there was no breach of any procedural fairness rule.

Mr Justice Punnnett, in a very comprehensive judgement, rejected each of the property owners' claims. He held that the Municipal Council had acted legally, and that the Court should not substitute its opinion for that of the Mayor and Councillors.

