

COURT FILE NUMBER **1101-14786**  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF(S) DANIEL W. ONISCHUK  
DEFENDANT(S) TOWN OF CANMORE, HER MAJESTY THE  
QUEEN IN RIGHT OF ALBERTA (HMQR)  
DOCUMENT **AFFIDAVIT**  
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT 9628-100A STREET  
EDMONTON, ALBERTA T5K0V8  
(780) 426-7676

Clerk's Stamp

CLERK OF THE COURT  
FILED  
JUN 05 2012  
JUDICIAL CENTRE  
OF CALGARY

**AFFIDAVIT OF DANIEL W. ONISCHUK**

SWORN on 5 JUNE, 2012

I, DANIEL W. ONISCHUK, of Alberta, hereby SWEAR AN OATH and say that:

- R
1. I HAVE PERSONAL KNOWLEDGE OF THE EVIDENCE AND ISSUES AS DEPOSED HEREIN.
  2. THIS MATTER IS ON APPEAL AND AN ACCURATE RECORD OF RELEVANT EVIDENCE IS REQUIRED.
  3. MY PERSONAL RECORDING FILED 16 MAY 2012 OF THE SAME COURT PROCEEDING 07 DEC 2011, REVEALS SEVERAL KEY ARGUMENTS WERE MADE BY ME THAT CAN BE CLEARLY HEARD YET THE CURRENT TRANSCRIPT REFERS TO AS BEING "INAUDIBLE".

I ATTACH AS "EXHIBIT A" MY NOTES OF CORRECTIONS TO THE ORIGINAL COURT TRANSCRIPT WHEREBY I REFERRED TO MY PERSONAL AUDIO RECORDING OF THE PROCEEDINGS.

I NOTE SIGNIFICANT AND SUBSTANTIAL DELETIONS ON PAGES 6,7,8,9,10,11,12,14 OF THE PROCEEDINGS AND PAGES 3,4 OF THE DECISION OF 07 DEC 2011.

4. ATTACHED EXHIBIT "B" IS TRUE COPY OF THE FIVE PAGES OF THE ORIGINAL EMAILS BETWEEN MYSELF AND VARIOUS CLERKS OF CALGARY TRANSCRIPT MANAGEMENT SERVICES CONCERNING THE TRANSCRIPTS OF 07 DECEMBER 2011 FOR THIS CASE.

I DO NOT BELIEVE THE CLERKS NON-AFFIDAVIT STATEMENT THAT THE ONLY PURPOSE OF JUDICIAL TRANSCRIPT REVIEW WAS TO ACCURATELY CLARIFY CASE LAWS AS THREE CRUCIAL CASES THAT I MENTIONED WERE OMITTED FROM PROCEEDINGS DOCUMENT - PAGE 9 WISHART ESTATES (TWICE), PAGE 10 - ARAM V NOVATEL, TOTTRUP V CLEARWATER - ALL OF WHICH WERE PREVIOUSLY ARGUED BY ME IN MY PRIOR BRIEFING AND AFFIDAVITS.

TRANSCRIPT CLERKS COULD HAVE SIMPLY EMAILED JUDGE HAWCO WITH ANY PASSAGES REQUIRING CASE CITATIONS CLARIFICATIONS. CLERKS ALREADY HAD THE CORRECT SPELLING OF NAMES OF ALL PARTIES ON FILED DOCUMENTS AND IN COURT COMPUTER SYSTEM - ALL OF WHICH WOULD TAKE A HALF HOUR, NOT SEVERAL DAYS.

5. IT IS MY BELIEF THAT JUDGE HAWCO EDITED MY ARGUMENTS IN COURT FROM THE OFFICIAL TRANSCRIPT AS EVIDENCED BY THE MANY "INAUDIBLE" PORTIONS OF MY TRANSCRIPT OCCUR WHEN I MADE SOLID ARGUMENTS OR PRESENTED NEW ISSUES FOR THE COURT TO CONSIDER.

I REFER TO SIGNIFICANT AND SUBSTANTIAL DELETIONS ON PAGES 6,7,8,9,10,11,12,14 OF THE PROCEEDINGS AND PAGES 3,4 OF THE DECISION OF 07 DEC 2011.

IT IS MY BELIEF THAT JUSTICE HAWCO MAY HAVE DIRECTED EDITING OF MY COMMENTS FROM THE TRANSCRIPT TO ENSURE THAT I WOULD LOSE BY DIRECTING TRANSCRIPT CLERKS TO SPECIFIC SECTIONS THAT WERE TO BE NOTED AS "INAUDIBLE" SO AS TO SHOW THERE WERE NO NEW ISSUES OR SUBSTANTIAL ARGUMENTS BY ME TO CONSIDER, SO THAT JUSTICE HAWCO'S DECISION WOULD APPEAR FAIR, REASONABLE AND JUSTIFIABLE TO THE COURT OF APPEAL AND TO THE PUBLIC.

a IT IS ALSO MY BELIEF SUCH DIRECTION MAY HAVE ALSO BEEN FROM ALBERTA JUSTICE OR OTHER CONSERVATIVE POLITICAL PARTY MEMBERS OF THE ALBERTA GOVERNMENT WHO WERE SEEKING RE-ELECTION AROUND THE TIME THESE TRANSCRIPTS WERE PREPARED, AND WHOM SUPPORTED THE MAYOR OF CANMORE TO BE ELECTED AS A MEMBER OF LEGISLATURE.

JUSTICE HAWCO AND ALBERTA JUSTICE WERE VERY AWARE OF MY APPEAL AND IT IS MY BELIEF THAT HE WANTED TO EDIT THE TRANSCRIPT TO AVOID THE CASE LAWS (WISHART, ARAM, TOTTRUP) I PRESENTED ON PAGES 9,10 IN THE PROCEEDINGS TRANSCRIPT. THIS WAS DONE TO UNFAIRLY FAVOUR CANMORE, HMQRA AND TO ENSURE HIS DECISION WOULD PASS A CASUAL REVIEW BY THE APPEAL COURT JUDGES.

THIS WOULD ALSO SERVE THE POLITICAL NEEDS OF ALBERTA JUSTICE MINISTERS AND OTHER AFFILIATED CONSERVATIVE POLITICAL PARTY MEMBERS WHO WERE SEEKING RE-ELECTION. THIS IS EMPHASIZED BY ALBERTA JUSTICE REFUSAL 4 JUNE TO ALLOW THE RELEASE OF THE OFFICIAL COURT AUDIO FOR VERIFICATION.

POSSIBLY UNDUE POLITICAL DURESS OR INFLUENCE, OR TORTIOUS INTERFERENCE BY POLITICAL PARTY MEMBERS OF ALBERTA GOVERNMENT AND ALBERTA CONSERVATIVE PARTY.

MY THEORY IS CONSISTENT WITH JUSTICE HAWCO REFUSING TO PROPERLY WEIGHT MY VERBAL ARGUMENTS THAT NOWHERE DID I EVER ASK FOR STATUTORY PENAL REMEDIES AS HE EVENTUALLY DECIDED (s.13 MGA ALLOWS CHALLENGING ON INCONSISTENCY OF BYLAW WITH OTHER ACTS), THAT I SHOULD HAVE BEEN ALLOWED TO PROCEED WITH MY ARGUMENTS OF BYLAW INVALIDITY UNDER THE MUNICIPAL GOVERNMENT ACT AS PER MY BRIEFING.

INSTEAD JUSTICE HAWCO DIRECTED MY COURT DISCUSSION TO FOCUS ON CIVIL RIGHTS ISSUES SO AS TO IGNORE S.13, 536-538 MUNICIPAL GOVERNMENT ACT INCONSISTENCY WITH THE WILDLIFE ACTS AND ANIMAL PROTECTION ACT AND THE COURT ALLOWING MY LEGAL RIGHTS TO AMEND MY CLAIMS (NOV 20 HEARING TO REOPEN, SUPPRTED BY MANY CASE LAWS).

JUSTICE HAWCO IGNORED AFFIDAVIT EVIDENCE THAT PROVED CANMORE OFFICIALS WERE DISCRIMINATORY AND CANMORE HAD NO EVIDENCE OF ANY OF THEIR CLAIMS (NOV 14-EXHIBIT A-1,2 ) TO SUPPORT THEIR APPLICATION TO STRIKE MY APPLICATION, THUS LACKING PROCEDURAL FAIRNESS SUCH THAT ZERO EVIDENCE DEFEATS AFFIDAVITS & LAWS.

JUSTICE HAWCO IGNORED THAT MY APPLICATION WAS VIABLE UNDER THE MUNICIPAL GOVERNMENT ACT S.536-538 (AFFIDAVIT NOV 14 - PREAMBLE), LAWS OF CONTRACTS, THE CHARTER OF RIGHTS, AND MY ARGUMENTS OF A REASONABLE REQUEST TO BE GRANTED A PUBLIC INTEREST STANDING WHICH WERE DOCUMENTED IN BRIEFING OF NOV 30.

JUSTICE HAWCO WAS CRITICIZED BY THE COURT OF APPEAL FOR IGNORING CRUCIAL FACTS AND EVIDENCE IN 2011 MILVASKY CASE WHICH I CITED IN MY BRIEF 30 NOV. 2011.

6. IN FAIRNESS, COURTS SHOULD PROVIDE A COMPARISON TO MY PERSONAL RECORDING. THE VERACITY OF MY RECORDING CAN BE DETERMINED WITH A STOPWATCH BY COMPARING SPEAKING TIMES TO THE ORIGINAL COURT RECORDING. ATTENTION SHOULD BE PAID TO PITCH CHANGES INDICATING DIFFERENT RECORD-PLAYBACK SPEEDS WHICH WOULD ALTER TIMING. NOTE THAT A HIGHER PITCH VOICE MEANS A FASTER PLAYBACK THAN RECORDED OR A SLOW RECORDING WITH NORMAL TO FAST PLAYBACK.

DESPITE THESE SUPERFICIAL PLAYBACK ISSUES, I DO NOT HAVE A COPY OF THE COURT OFFICIAL RECORDING SO I COULD NOT POSSIBLY SYNTHESIZE EVEN AN APPROXIMATE MATCH TO "INAUDIBLE" PORTIONS OF THE OFFICIAL COURT RECORDING. AS NOTED ABOVE, THE COURT ALREADY HAS MY PERSONAL AUDIO RECORDING THAT WAS FILED 16 MAY 2012.

7. IF THE ABOVE IS NOT TRUE, THEN THE COURTS SHOULD PROVIDE THE OFFICIAL RECORDING TO PROVE THE AFOREMENTIONED ALLEGATIONS ARE NOT TRUE, AND FOR "INAUDIBLE" PORTIONS, APPLY COMPUTER SOFTWARE FOR AUDIO ENHANCEMENT VIA EXPERT RESTORATION. a

a

8. THAT PROCEDURAL FAIRNESS ( REFER TO MY BRIEFING OF 20 NOV 2012), THAT IN COURT OF QUEENS BENCH AND FOR THE COURT OF APPEAL I SHOULD BE ALLOWED AND ENABLED TO ADDRESS ALL OF THE ARGUMENTS AND ISSUES I PRESENTED AND VOICED IN QUEENS BENCH, AS NOTED IN MY PERSONAL AUDIO RECORDING AND CORRECTIONS TO THE TRANSCRIPTS OF 07 DEC 2011.

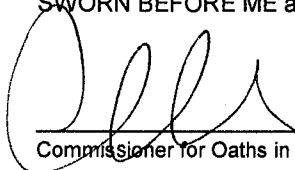
IT IS UNFAIRLY DISABLING TO HAVE A DEFICIENT TRANSCRIPT THAT IS EASILY CORRECTABLE. RESPONDENTS HAVE A COPY OF THE AFFIDAVIT AND MY PERSONAL RECORDING AND SO COULD HAVE SUBMITTED AN AFFIDAVIT TO REFUTE ANY OF WHAT I HAVE RECORDED – BUT THAT MUST BE WEIGHED AND COMPARED TO THE BOTH AUDIO RECORDINGS OF THE COURT PROCEEDINGS WHICH ARE INTER-COMPARABLE, VERIFIABLE EVIDENCE.

9. THAT THE AFORMENTIONED CLEARLY SHOWS AN INFRINGEMENTS AND VIOLATIONS MY LEGAL CIVIL RIGHTS FOR A FAIR HEARING AND FAIR TRIAL AS SET OUT IN THE CHARTER OF RIGHTS AND FREEDOMS S.1,2,7,8,12,15,24 AND THE ALBERTA BILL OF RIGHTS s.1(a,b,d),2,3,4 AND CANADIAN BILL OF RIGHTS 1(a,b,d),2(b,e),3 – AND CONSTITUTES GROUNDS FOR MISTRIAL DUE TO THE LACK OF PROCEDURAL FAIRNESS, SUBSTANTIAL DEFICIENCY OF COURT RECORDING AND TRANSCRIPT, AND BY AFOREMENTIONED CIVIL RIGHTS.

ATTACHED EXHIBIT "C" IS CANADIAN BILL OF RIGHTS, EXHIBIT "D" ALBERTA BILL OF RIGHTS

10. THAT MY TRUE SIGNATURE IS AFFIXED BELOW. *an*

SWORN BEFORE ME at CALGARY, Alberta, this 5 day of JUNE, 2012

  
Commissioner for Oaths in and for the Province of Alberta

  
DANIEL W. ONISCHUK (DEPONENT)

**CYNTHIA SAWYER**  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires July 30, 2012

Action No.: 1101-14786  
E-File No.: CVQ12ONISCHUKDANI1  
Appeal No.: \_\_\_\_\_

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF CALGARY

BETWEEN:

DANIEL W. ONISCHUK

Plaintiff

and

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA and  
THE TOWN OF CANMORE

Defendants

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PROCEEDINGS  
EXCERPT

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Calgary, Alberta  
December 7, 2011

Transcript Management Services, Calgary  
Suite 1901-N, 601-5th Street SW  
Calgary, Alberta T2P 5P7  
Phone: (403) 297-7392 Fax: (403) 297-7034

This is Exhibit "A" referred to in the  
Affidavit of  
Daniel W. Onischuk

Sworn before me this 5 day

of July A.D., 2012

[Signature]  
CYNTHIA SAWYER  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires July 30, 2012

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1 Proceedings taken in the Court of Queen's Bench of Alberta, Courthouse, Calgary, Alberta

2

3 December 7, 2011

Morning Session

4

5 The Honourable Mr. Justice Hawco

Court of Queen's Bench of Alberta

6

7 (No Counsel)

For the Plaintiff

8 M.D. Aasen

For the Defendant (Town of Canmore)

9 K.F. Mason

For the Defendant (Town of Canmore)

10 C.R. Hykaway

For the Defendant (Her Majesty the Queen,  
Alberta)

11

12 A. Gault

Court Clerk

13

14

15 THE COURT:

Good morning.

16

17 MR. AASEN:

Good morning, My Lord.

18

19 MS. HYKAWAY:

Good morning.

20

21 MR. ONISCHUK:

Hi, Your Honour.

22

23 THE COURT:

Okay. I have Mr. Onischuk.

24

25 MR. ONISCHUK:

Yes, Sir.

26

27 THE COURT:

Okay. Who have I got Mr. Aasen?

28

29 MR. AASEN:

You have Mr. Aasen. I'm here, Sir. And

30 Mr. Mason is also attending by phone.

31

32 THE COURT:

Mr. Aasen and Mr. Mason, good morning,

33 gentleman. And Ms. Hykaway.

34

35 MS. HYKAWAY:

Yes, Sir.

36

37 THE COURT:

Thank you. Mr. Onischuk, I received, through  
38 my assistant, a note from you last night to the effect that you -- you wish to adjourn this.

39

40 MR. ONISCHUK:

That is correct, Your Honour.

41

1 THE COURT: And on what basis, sir?

2

3 **Submissions by Mr. Onischuk**

4

5 MR. ONISCHUK: On the basis that the reply from Canmore was  
6 due on Monday at 9 AM, but I didn't receive anything until (INDISCERNIBLE)  
7 yesterday afternoon at 4:30. And that's certainly not enough time to -- to prepare to  
8 address their particular issues.

9

10 THE COURT: Which -- which letter did you not get until  
11 yesterday?

12

13 MR. ONISCHUK: Mr. Aasen's letter dated December 6th to you  
14 regarding -- what's it say -- a praecipe of submissions made to you in court.

15

16 THE COURT: Yeah. Yeah, but Mr. Aasen in his letter simply  
17 repeated what he said and did in -- in the original application. He -- he did no more than  
18 tell me what had -- what he had done in the original application, so that could not have  
19 come as a surprise, Mr. Onischuk.

20

21 MR. ONISCHUK: If -- yes, if you say so, Your Honour. I -- I  
22 also had concerns about the document that -- that I had submitted to all parties in the last  
23 couple of days and whether the Court had enough time to review those materials properly  
24 and whether the opposing parties also had sufficient time to do that as well.

25

26 THE COURT: Well, I didn't review the -- the materials that  
27 you sent the last few days, Mr. Onischuk, quite frankly, because your material was due  
28 quite some time ago, and this appeared to me -- some of it to be repetitious in the  
29 material that you had already filed. And if it wasn't repetitious then it was new material  
30 which the Court was not going to receive. Okay?

31

32 MR. ONISCHUK: Well, I -- I see that, Your Honour, but however  
33 they are relevant materials. They are in response of materials submitted by HMQRA  
34 (phonetic) after the fact of when my particular response was due. So, it doesn't seem fair  
35 in terms of procedure to me for HMQRA to be able to submit materials long after I had  
36 submitted mine, and then claim to be able to pursue those grounds as reasons to defeat  
37 my particular position.

38

39 THE COURT: Are you talking about Ms. Hykaway's letter of  
40 December 2?

41

- 1 MR. ONISCHUK: That's correct, Your Honour. I received that on  
2 Monday.  
3
- 4 THE COURT: Yeah. Okay. Mr. Onischuk, I am not going to  
5 grant your application for -- for an adjournment. This -- we've been going on this since  
6 November 14th. You made the application to -- to give me an opportunity or to give you  
7 an opportunity to prevent (sic) your full case to me and that has been done, so  
8 everybody's ready to go today. And we -- we are going to go today. Okay? All right,  
9 sir?  
10
- 11 MR. ONISCHUK: Okay.  
12
- 13 THE COURT: All right. So, it's basically your application  
14 then, Mr. Onischuk.  
15
- 16 MR. ONISCHUK: Your Honour, I've got -- sorry, just one  
17 moment I've got a persistent door knocker here that's distracting.  
18
- 19 THE COURT: All right.  
20
- 21 MR. ONISCHUK: Go away. Go away. I'm on the phone and --  
22 with the court and I cannot talk to you now. Come back at a later time and date, okay.  
23 Thank you.  
24
- 25 UNIDENTIFIED SPEAKER: You're welcome.  
26
- 27 MR. ONISCHUK: Sorry, Your Honour.  
28
- 29 THE COURT: That's fine.  
30
- 31 MR. ONISCHUK: Please, could you go ahead, Sir. What were  
32 you saying?  
33
- 34 THE COURT: I said it's your application, sir. So, you -- what  
35 I suggested to you when -- when I allowed you to present this -- this material was to  
36 satisfy the Court that you indeed have standing to seek the remedies that you're asking the  
37 Court for. And I wanted you to reply to the -- to the Town's position initially that this  
38 was an abuse of process. And I wanted you to address the *Cassells v. University of*  
39 *Victoria* particularly.  
40
- 41 I notice in your materials you have certainly spent some time with respect to all of the --



1 the issues. And if I understand your position correctly you're saying that you do have  
 2 standing before the Court because your civil rights have been infringed. Do I read that  
 3 correctly?  
 4

5 MR. ONISCHUK: Well, that's part of it, Your Honour. And I -- I  
 6 think the real issue here is that Canmore fails to recognize there's a much larger context  
 7 that this case is based on. The contract discrimination and frustration. There's my civil  
 8 rights, and the broad powers of *Municipal Government Act* that come into play here  
 9 which -- which give me rights to appear at Queen's Bench. What Canmore attempts to  
 10 argue is that -- and tries to constrain the Court to is that only *Cassells* and -- and *Reece*  
 11 should be applied when in fact those cases specifically address a litigant who is  
 12 (INDISCERNIBLE) penal remedies for a statutory violation. That is not my -- the case  
 13 here. And in fact, I challenged Canmore to show the Court exactly where I specifically  
 14 request that a person or the Town of Canmore must be charged with a statutory violation.  
 15

16 THE COURT: Well, you have -- you -- you haven't done so,  
 17 Mr. Onischuk. What -- what you've -- what you have done is you have alleged that the --  
 18 that the Town has breached the provisions of the *Wildlife Act* and -- and indeed that --  
 19 that the Crown -- the Province has also breached the provisions of the *Wildlife Act*. And  
 20 so, that is one of the positions that you take. You also say -- say that you have been  
 21 discriminated against (INDISCERNIBLE), and that -- that your rights have been infringed.  
 22 So, let me go back to -- to the initial position which I understand you to be putting  
 23 forward and that is that your civil rights have been infringed. Do I understand that to be  
 24 correct?  
 25

26 MR. ONISCHUK: Well, that's correct, Your Honour. And part of  
 27 this -- the issue here is that the *Municipal Government Act* through sections 13, 536 to  
 28 538 give me the right to bring these -- those types of issues forward to the Court of  
 29 Queen's Bench to challenge the Canmore bylaws and the bylaw passing process. And <sup>in</sup> <sup>so</sup>  
 30 <sup>DO</sup>

31 THE COURT: Well, let me -- let me touch on that firstly  
 32 because I noticed that in -- in your -- your argument. This application that you have  
 33 brought is an --  
 34

35 (UNREPORTABLE SOUND)

36  
 37 THE COURT: Is everyone -- what's going on?  
 38 (INDISCERNIBLE). What's going on here, madam clerk?  
 39

40 THE COURT CLERK: Hello. Are you guys still there?  
 41

1 THE COURT:

Yes.

2

3 MR. ONISCHUK:

I'm here.

4

5 MS. HYKAWAY:

Yes.

6

7 MR. AASEN:

Yes.

8

9 THE COURT:

Okay. We've got some rever -- reverberations

10 here, so excuse me. Let me go back to the breach of the -- of the *Municipal Government*  
11 *Act*. You're asking that the -- that the Court quash the -- the bylaw. Do I understand that  
12 to be your position, sir?

13

14 MR. ONISCHUK:

Well, that should be a consideration for the

15 Court because it -- obviously the bylaws do contravene the *Wildlife Act*, the *Animal*  
16 *Protection Act*. And according to section 13 of the *MGA* that -- those parts of it should  
17 be -- they're inconsistent. And part of the reason for asking for quashing is because the  
18 new bylaw also enables further discrimination such that the volunteer rescue groups are  
19 not specifically authorized for feral rabbit removal.

20

21 THE COURT:

Okay.

22

23 MR. ONISCHUK:

And the Court is an appropriate forum for

24 review and shouldn't be separated because these are closely interrelated issues.

25

26 THE COURT:

Well, one of the difficulties there though,

27 Mr. Onischuk, is in your originating application that you filed you haven't asked that the  
28 bylaw be -- be quashed. You've asked for an injunction to prevent the Town from  
29 trapping and killing the rabbits and for an order for the Crown to share the costs and to  
30 pay the legal costs. So, you haven't asked that the bylaw be quashed.

31

32 MR. ONISCHUK:

Well, I understand that, Your Honour.

33 However the Court did allow me to submit amendments in terms of what I'm -- I'm  
34 submitting to the Court and -- for -- for remedies. So, I -- I of course leave it open to the  
35 Court's discretion as to -- as to what is the most -- most reasonable type of -- of  
36 remedy -- remedy for this particular situation taking all factors into account.

37

38 THE COURT:

Okay. Yeah. I'm just making sure that I

39 understand your position. Okay. And you say that your civil rights have been infringed.

40 Which -- which rights are those?

41

1 MR. ONISCHUK: Well, essentially the -- the -- the process of the  
 2 RFP that we -- we discussed in previous had infringed upon my -- my right for fair -- for  
 3 fair hearings and for -- for essentially for some freedom of speech and section 15  
 4 violations.

5  
 6 THE COURT: Well which -- which -- which section 15 is -- is  
 7 what? I don't have the Charter in front of me.

8  
 9 MR. ONISCHUK: Oh. Section 15 of -- gee I had it written  
 10 down -- the -- section 15 deals essentially with -- with discrimination where there  
 11 is -- isn't treated equally under the law and not being granted fair consideration.

12 *a party #1 PD*  
 13 THE COURT: And well section 15 deals with equality rights  
 14 actually that -- that provides that there should be no discrimination. But it -- it says there  
 15 shouldn't be any discrimination because of race, nationality, ethnic origin, religion, sex et  
 16 cetera among those things. It's -- it's -- it's really not applicable on this.

17  
 18 MR. ONISCHUK: Well, it -- it does -- it does mention that there  
 19 should be fair and equal treatment and protection under the laws as well. And in terms of  
 20 pro-life positions that -- that can be construed as I argue as -- as being a religious issue as  
 21 well which certainly does fall within the ambit of section 15. And --

22  
 23 THE COURT: Okay. Well -- okay. So, you're -- you're --  
 24 sorry, I just want to make sure that I understand your position, Mr. Onischuk. So, you're  
 25 arguing that you -- you've been denied a fair hearing. Is that right?

26  
 27 MR. ONISCHUK: Well, with respect to Canmore's -- and  
 28 Canmore's process of passing the bylaws and with respect to their RFP -- discriminatory  
 29 RFP tendering process for the bids and for their selection process as well --

30  
 31 THE COURT: Okay. But --

32 *"Because they were operating" PD*  
 33 MR. ONISCHUK: -- (INDISCERNIBLE) in a -- in a quasi judicial  
 34 fashion.

35  
 36 THE COURT: Well, I -- let me go back just to -- so, the  
 37 request for proposals that -- to which you refer you submitted a proposal didn't you?

38  
 39 MR. ONISCHUK: Yes, I did.

40  
 41 THE COURT: And the Town did not accept it?

1  
 2 MR. ONISCHUK: That's correct.  
 3  
 4 THE COURT: Okay. But -- so, simply because they didn't  
 5 accept it doesn't mean that you didn't get anymore of a hearing than anybody else who  
 6 submitted a proposal surely, Mr. Onischuk.  
 7

8 MR. ONISCHUK: Well, part -- part of the problem there was --  
 9 Your Honour, is that the entire RFP document was heavily skewed to introduce bias to --  
 10 to discriminate against people who are presenting pro-life types of options. And that was  
 11 further advocated by the bid selection process. And then subsequently by the formulation  
 12 of the bylaw of itself which further discriminates against volunteer rescue groups and --  
 13 and essentially ~~pro~~ -- pro-life options.  
 14 *for "DO"*

15 THE COURT: Okay. Well, discrimination against pro-life is --  
 16 I don't think this is really anything that's covered by -- by the Charter, quite frankly.  
 17

18 MR. ONISCHUK: Mmm (phonetic).  
 19

20 THE COURT: Okay. All right. What -- what do you say with  
 21 respect to the -- to the City's argument that you simply have no standing. You're --  
 22 you're not a resident of Canmore. You don't own property there. You -- you purport to  
 23 act on -- on behalf of -- of a number of people. You've got some statements from some  
 24 of them, but their argument is that you really have no legitimate standing.  
 25

26 MR. ONISCHUK: Well, I believe I addressed that to a degree in --  
 27 in my briefing of November 30th, and in the exhibit -- Exhibit ~~D~~ or -- and to the Court  
 28 itself. Ultimately, the *Municipal Government Act* allows me to (INDISCERNIBLE) to  
 29 challenge Canmore's bylaws and the incentives of the bylaw passing process. And that's  
 30 a statutory right. And it doesn't --  
 31 *"G" DO*  
*"provide" DO*

32 THE COURT: Okay. Which -- which carries -- which --  
 33 which carries a certain approach as -- in and of itself. But go ahead.  
 34

35 MR. ONISCHUK: Certainly. And so *MGA* 536 to 538 grants that  
 36 right for any person to -- and it says literally any person -- to -- to make such applications  
 37 to the Court of Queen's Bench. So, there's no -- no residency requirement. And in fact  
 38 being a resident of Alberta is a factor.  
 39 *"therein" DO*

40 A couple of the other -- other issues of consideration is that my -- my relationship to -- to  
 41 the rabbits and some of the people involved in the community with the well-being of the

1 rabbits further strengthens my position. And quite frankly, I was -- I was very deeply  
2 moved when I -- I saw the news articles and read off of the Internet video about what was  
3 happening in Canmore. And I believe that, you know, as a citizen I have a -- I have a  
4 right to -- to make these kinds of applications and (INDISCERNIBLE) *Municipal*  
5 *Government Act.* "to proceed" DO "to employ the" DO  
6

7 THE COURT: Okay.

8  
9 MR. ONISCHUK: (INDISCERNIBLE).

10  
11 THE COURT: Okay.

12  
13 MR. ONISCHUK: It also mentions that I have been in touch with  
14 some people in Canmore regarding some -- some business activities which I -- I do as a  
15 photographer, selling retail products for -- for tourism industry and -- and Canmore was --  
16 was -- this is why I came across some of this because I had stopped in Canmore to -- to  
17 discuss some of my sales activity related to tourism which the rabbits are a favourite  
18 tourist attraction. That -- that I was (INDISCERNIBLE) for Canmore for this. So, there  
19 is -- but mostly it's -- I have a -- a (INDISCERNIBLE) for the well-being of -- of the  
20 animals that are the subject of our discussion. "strong affinity" DO "going to be developing some products" DO  
21

22 THE COURT: Okay. What -- what -- what do you say to -- to  
23 the -- to the decision out of British Columbia, the *Cassells* decision? And I've -- I've  
24 read your -- your brief, but -- basically the -- the Court in -- in that situation said that  
25 the -- the person may have had some legitimate concerns and didn't question that  
26 woman's sincerity and -- and feelings, but said that this wasn't -- this wasn't an  
27 appropriate process for the courts, right?  
28

29 MR. ONISCHUK: Right. I -- and I understand that -- that aspect  
30 of the case. However I think the reason for -- and this is my -- my understanding of it is  
31 that the reason that *Cassells* was -- was rejected, was because she -- she had  
32 (INDISCERNIBLE) to seek a statutory penal remedy "is" DO where people were being charged  
33 with violations was why she was rejected that. *attempted* DO You know, that was the primary thing.  
34 And I wasn't -- I'm not -- I'm not seeking, you know, a statutory penal remedies. I'm  
35 simply employing the *MGA* to point out the fact that these are violations which is an  
36 entirely different legal context that *Cassells* did not use, so -- and I think probably the "most" DO  
37 fundamental difference between my case and *Cassells'* case. And that's  
38 (INDISCERNIBLE) -- and that's something that Canmore is trying to (INDISCERNIBLE) "improperly characterize" DO  
39 my case limited to that very narrow (INDISCERNIBLE). "views on Cassells" DO  
40

41 THE COURT: Okay.

1  
2 MR. ONISCHUK: So, I think that there were a number of other  
3 differences between my case and *Cassells* which -- which I wrote about on pages 4 to 5  
4 of my November 30th, which goes in detail to various sections, *"various sections of Cassells"*  
5

6 THE COURT: (INDISCERNIBLE) and -- and I understand.  
7 You -- you make the point that you -- your attack is really under the *Municipal*  
8 *Government Act*.

9  
10 MR. ONISCHUK: *"tried"* Yes. And -- and my contract discrimination  
11 and frustrations thereof which are (INDISCERNIBLE) against <sup>"to"</sup> my civil rights. So,  
12 Ms. Cassells didn't (INDISCERNIBLE) the *Municipal Government Act* and didn't have  
13 any contract issues or have any *civil rights -- related civil rights issues.*

14 *"employ mechanisms such as"*  
15 THE COURT: Okay. You keep referring to civil rights. And  
16 I'm -- I'm just -- I have some difficulty because I -- I did take a quick look at the Charter  
17 last evening. And -- and I'm having some difficulty establishing which of the rights set  
18 forth in the Charter has been infringed, quite frankly, Mr. Onischuk, so. . .

19  
20 MR. ONISCHUK: Well --

21  
22 THE COURT: Okay. Is there anything else you -- you wish to  
23 add then, Mr. Onischuk?

24  
25 MR. ONISCHUK: I -- if I may briefly address what some of the  
26 issues of HMQRA or do you want me to address those later?

27  
28 THE COURT: No. You've got the floor now. You may as  
29 well take it. You got about another five minutes here.

30  
31 MR. ONISCHUK: Okay. I think that perhaps what the Court may  
32 wish to consider is what's going to be good public policy in terms of recent donations and  
33 the *Calgary Animal Bylaw* offering help to -- for pro-life options to sterilize, remove and  
34 save the rabbits. It's going to give everybody a -- winning solution. And it's the only  
35 one where the well-being of many people will be respected and everybody wins. And  
36 Canmore has previously noted in news articles that the public is evenly split on the issue *"Wishart's*  
37 for -- for resident people. So, if we take a look at something like the (INDISCERNIBLE) *estates"*  
38 that I put my affidavit of November 14th, you know, public policy addresses -- good  
39 public policy addresses things like senseless destruction should be held in disfavour by  
40 society. You know whereas (INDISCERNIBLE). *shouldn't be upheld and*  
41 *"destruction of healthy animals should not be approved"*  
*"Wishart also addressed moral and religious concerns"*

1 THE COURT:

Oh -- oh -- who -- who's going to --

2

3 MR. ONISCHUK:

(INDISCERNIBLE) moral and religious

4 concerns.

5

6 THE COURT:

But -- but -- but --

7

8 MR. ONISCHUK:

I -- I think the -- the real issue here is

9 Canmore's eagerness to show they are taking action really mislead the Court as to the  
10 severity of the problem. And that many people I spoke to have remarked there are much <sup>DO</sup>  
11 fewer rabbits this year. And that addresses the lack of evidence by Canmore on the <sup>key</sup>  
12 issues. And the (INDISCERNIBLE) nature of -- of -- of population. The lack of fact  
13 gathering by Canmore -- "cyclical" <sup>DO</sup>

14

15 THE COURT:

The lack of -- sorry, what -- the lack of what?

16

17 MR. ONISCHUK:

The lack of facts gathered by Canmore and the

18 lack of -- "supporting evidence" <sup>DO</sup>

19

20 THE COURT:

Okay.

21 <sup>DO</sup> "the lack of fact gathering and lack of evidence" <sup>supporting</sup>  
22 MR. ONISCHUK: -- (INDISCERNIBLE) --

23

24 THE COURT:

I understand. Yes.

25

26 MR. ONISCHUK:

<sup>DO</sup> "to support" <sup>NOVATEL</sup> <sup>DO</sup> Yeah. As per those affidavits and the emails

27 from -- from the Town of Canmore. The -- the Court really doesn't have substantial  
28 evidence (INDISCERNIBLE) Canmore's application. And I certainly provided substantial  
29 contrary evidence. So, as per (INDISCERNIBLE) once the Court has to review and  
30 weigh evidence the beyond a doubt test for striking claims isn't met. And a -- and a trial  
31 is required to fairly address all the issues. And some of the issues are my claim for <sup>of</sup>  
32 discrimination in bid tendering and the awards process. Some of the (INDISCERNIBLE) <sup>Canada and</sup>  
33 these all relate to the MGA Canmore bylaws and other facts. They're complex and <sup>Alberta</sup>  
34 (INDISCERNIBLE), <sup>INTERVIEWED</sup> <sup>DO</sup> so it may be necessary to have a full trial for the proper decision as <sup>Charter</sup>  
35 per (INDISCERNIBLE). "Tottrup v Clearwater" <sup>of Rights</sup> <sup>DO</sup>

36

37 With regards to the HMQRA the Wildlife Act regulation 42/97, because there are over 12

38 million species of animals and only a very small percentage are domestic animals or

39 common pets. In fact there are over 50 species of rabbits, but not all of them are listed in

40 regulation 142 (INDISCERNIBLE). Now you've got --

41

"143/97 yet they still are wildlife" <sup>DO</sup>

1 THE COURT: But you -- you would agree though,  
 2 Mr. Onischuk, surely that -- that the feral rabbits as -- as defined by both the Crown and  
 3 the Town that those are not specifically included in the various schedules to the *Wildlife*  
 4 *Act*? You -- you would agree with that?

5  
 6 MR. ONISCHUK: Yes. And I also point the Court out to the fact  
 7 that schedule -- the *Wildlife Act* says, subject animals <sup>means</sup> -- a wildlife animal, a controlled  
 8 animal or any other kind of animal and also refers to a fur bearing animal. And wildlife  
 9 means big game, birds of prey, fur bearing animals, non-game animals, non-licenced  
 10 animals and includes any hybrid offspring. So, when we're looking at this we can't just  
 11 limit it to -- we have to look at the various ways in which wildlife is defined because the  
 12 regulation is simply defining which can be licenced, which aren't requiring licences  
 13 (INDISCERNIBLE) et cetera, et cetera. It's not an all encompassing definitive definition.  
 14 And proof of this is found in schedule 5.3, note number 3 which says, "This schedule  
 15 excludes all wildlife animals." And those ones are excluded from being a controlled  
 16 animal. And in there they list three, six, seven, ten, <sup>about</sup> almost eleven species of rabbits as  
 17 well in addition to what's listed in schedule 4.

18  
 19 Now, in schedule 4 there is maybe half a dozen. So, out of the entire 15 that Canmore  
 20 mentions there is -- that's only less than a third of the total 50 species. And ultimately  
 21 out of the 12 million species of animals the *Wildlife Act* regulation can't be  
 22 (INDISCERNIBLE). That's unreasonable to expect that. So, we have to look at whether  
 23 laws written for administrative convenience <sup>exhaustive</sup> (INDISCERNIBLE) doesn't change the  
 24 relative scientific definition and established facts, <sup>for categorization</sup>

25  
 26 Wildlife is defined in terms of domestic animals gone feral as well. Domestic animals  
 27 living outside of regular human contact by their owners become feral, reverting back to  
 28 (INDISCERNIBLE) and live as wildlife. The criteria here for wildlife is how long the  
 29 animal is free of the direct meaningful human contact before being considered as wildlife.  
 30 Second or third generations cats or dogs or rabbits who are descendants of formerly  
 31 domesticated parents are no longer domestic. They have become wildlife because they  
 32 have never been possessed or interact regularly with people.

33  
 34 THE COURT: Okay. I have to tell you that most of your  
 35 information in that regard comes from Google. Isn't that right?

36  
 37 MR. ONISCHUK: Some of it does and --

38  
 39 THE COURT: Yeah.

40  
 41 MR. ONISCHUK: -- some of it is based on a reference book



1 that --

2

3 THE COURT: Yeah.

4

5 MR. ONISCHUK: -- information is based upon from the  
6 Smithsonian. For example, the --

7 *"Institution" DO*

8 THE COURT: Okay.

9

10 MR. ONISCHUK: -- in (INDISCERNIBLE) and Encyclopedia of  
11 Mammals, New York, New York I -- and Mammal Species of the World, Taxonomic and  
12 Geographic reference.

13

14 THE COURT: Okay.

15

16 MR. ONISCHUK: These are all scientific literature, Sir, and -- or  
17 Your Honour. And if you were to pick up any -- any book on biology and feral animals  
18 it -- they constantly and without a doubt have the same definition, This is established  
19 scientific fact. That's -- that's all there is, Your Honour. And no amount of  
20 administration changes fundamental facts of science.

21

22 THE COURT: Okay. Your time is up. Is there anything in  
23 closing you want to say, Mr. Onischuk?

24

25 MR. ONISCHUK: Well, first of all, because the Canmore rabbits  
26 are several generations, we know that there aren't any professional evidence of what  
27 species there are -- are in Canmore. So --

28 *"at" DO*

29 THE COURT: Okay, sorry. Mr. Onischuk, that's repetitive.  
30 Is -- is there anything new that you want to add?

31

32 MR. ONISCHUK: *"a fiat" DO* Yes. I was wondering would the Court be able  
33 to provide (INDISCERNIBLE) for my mail filing? I'd planned to personally file all the  
34 documents on Friday, but the weather prevented travel. I was then delayed Monday.  
35 And I was finally able to get (INDISCERNIBLE) Exhibit H and G issues I had to submit  
36 everything all as one package *"because of" DO* by mail last night. So, it should be there by -- I -- I'm  
37 hoping by Monday at the latest.

38

39 THE COURT: The -- the -- I'll direct the Court -- the clerks  
40 office to -- to receive it. It's -- it's probably not admissible as -- as such because of it's  
41 late filing, Mr. Onischuk. But I'll -- it won't be thrown out, okay. Okay. Thank you,

1 sir.

2

3 MR. ONISCHUK:

*Thank you,* Your Honour.

4

5 THE COURT:

Who wants to -- to reply, firstly?

6

7 **Submissions by Mr. Aasen**

8

9 MR. AASEN:

Sir, I'll take the lead. It's --

10

11 THE COURT:

Mr. Aasen.

12

13 MR. AASEN:

-- Mr. Aasen.

14

15 THE COURT:

Yeah.

16

17 MR. AASEN:

I don't know whether there's any specific area that you'd like me to address, Sir. But from the submissions -- oh, actually I'll let you answer, Sir. Is there any specific area you'd like me to address?

20

21 THE COURT:

You might address the issue of the *Municipal*

*Government Act.*

23

24 MR. AASEN:

Sure. Sir, as you know, and as we said at the beginning, and then you pointed out at the beginning of these submissions, this application is governed by what's in the originating application, and what is the relief sought. Although there's passing reference to the *Municipal Government Act*, Mr. Onischuk has not asked to judicially review the decision, the bylaw which he is entitled to do in law and still has the entitlement to do because if he's referring back to the trapping bylaw which was passed on November 1st he has 60 days from that date to file a proper judicial review application.

32

Our submission is that this is not a judicial review application. This is an attempt to argue that the actions of the Town are contrary to the other statutes, the *Wildlife Act* and the other statutes referenced by Mr. Onischuk. So, it isn't truly a *Municipal Government Act* judicial review application. That being said, we're entirely satisfied, Sir, that the argument again isn't that there's been a procedural difficulty with the Town's perspective -- or done by the Town. Everything in relation to the relevant bylaw was passed appropriately in accordance with the terms of the *Municipal Government Act*. And Mr. Onischuk's own evidence confirms that was the first, second and third reading and it being done in a regular meeting of council which is open to the public, and of note prior

1 to the Town having knowledge of Mr. Onischuk's intention to file an application on  
 2 November 4th, which was three days later.

3  
 4 So, in that context, Sir, even though he does have the ability under the *Municipal*  
 5 *Government Act* to judicially review the bylaw the relief he's asking for in his originating  
 6 application in terms of an injunction and declaration that the Town's in violation of the  
 7 *Wildlife Act* (INDISCERNIBLE) for violating the *Wildlife Act*. In our view, nothing that  
 8 Mr. Onischuk has provided to you has satisfied us that our original submissions were not  
 9 accurate. He lacks standing. *and should be enjoined* PD

10  
 11 And secondly, that even though he's referenced the *Municipal Government Act*, if you  
 12 look up the actual relief he's seeking it is an abuse of process. And we would want to  
 13 repeat that's not a (INDISCERNIBLE) term. It's simply a term of (INDISCERNIBLE)  
 14 used by the Court when there is an (INDISCERNIBLE) -- *and art 1* PD  
 15 *"perjorative" "action that"* PD

16 THE COURT: I understand.

17  
 18 MR. AASEN: -- is -- is deemed to be inappropriate. So,  
 19 unless there -- we've reviewed his materials, and as we said there's nothing that we think  
 20 has addressed those substantive issues. And we don't doubt Mr. Onischuk's earnestness  
 21 and his desire to -- to advance his cause, but our legal argument remains the same that he  
 22 does not have the legal ability to do so. And how he has chosen to do it constitutes an  
 23 abuse of process of the Court.

24  
 25 THE COURT: Thank you. Ms. Hykaway?

26  
 27 **Submissions by Ms. Hykaway**

28  
 29 MS. HYKAWAY: Yes, Sir. The submissions of Her Majesty are  
 30 quite -- quite simple actually. He seeks three different remedies in his originating  
 31 application, none of which are recoverable as against Her Majesty. Firstly, he seeks an  
 32 injunction. Her Majesty hasn't done anything and doesn't plan on doing anything, and so,  
 33 it doesn't make sense to seek an injunction against Her Majesty. I appreciate perhaps  
 34 Mr. Onischuk believes Her Majesty should be doing something.

35  
 36 The business about whether or not feral rabbits constitute wildlife for the purposes of the  
 37 *Wildlife Act*, again although I appreciate that Mr. Onischuk believes they should be  
 38 wildlife, and believes that a text book scientific definition of wildlife should be employed  
 39 the definition is actually set by the *Act* (INDISCERNIBLE). *and the regs* PD  
 40 was provided to the Court in terms of some context and background to explain why it has  
 41 been the Town of Canmore and not Her Majesty who have been taking steps to address

1 the feral rabbit population, and to point out that we haven't taken any steps and don't plan  
2 on taking any steps, so an injunction as against Her Majesty doesn't make sense in this  
3 case.

4  
5 And, Sir, those are -- those are all the submissions that Her Majesty wishes to make  
6 unless you have any specific questions.

7  
8 **Ruling**

9  
10 THE COURT:

No. Thank you, ma'am. All right.

11  
12 I've had an opportunity to read all of the materials that have been submitted by the  
13 parties, particularly, Mr. Onischuk, your extensive materials. I take note of the originating  
14 document in this matter which is the originating application whereby you are seeking an  
15 injunction to prohibit the Town and Her Majesty the Queen and the right of Alberta from  
16 trapping and killing the rabbits, and an order directing the Crown to share the cost of -- of  
17 resolving the issue in a -- in a more humane manner and an order directing the Crown to  
18 pay legal costs.

19  
20 I am satisfied on the arguments and the law put forward by both the Crown and the Town  
21 that your application cannot succeed, Mr. Onischuk. And I am therefore granting the  
22 Crown and the Town's application to -- to strike.

23  
24 (PORTION OF PROCEEDINGS OMITTED BY REQUEST)

25  
26 \_\_\_\_\_  
27 EXCERPT CONCLUDED  
28 \_\_\_\_\_  
29  
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1 **Certificate of Record**

2

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4 the Court of Queen's Bench held in courtroom 1201 in Calgary, Alberta on December 7,  
5 2011, and I was the court official in charge of the sound recording machine during the  
6 proceedings in the AM.

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2

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39 File Locator: 9c760ee2897111e1af7e0017a4770810

40 Digital Fingerprint: efd4a3de9865fc807857f1bb0136308bcc864d857b2b1dfdf3de37ee38179ecb

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Order No. 2296-12-1	
Page Statistics	
Title Pages:	1
ToC Pages:	1
Transcript Pages:	17
Total Pages:	19
Line Statistics	
Title Page Lines:	52
ToC Lines:	7
Transcript Lines:	700
Total Lines:	759
Visible Character Count Statistics	
Title Page Characters:	552
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Multi-Take Adjustment: (-) Duplicated Title Page Characters	25842

Action No.: 1101-14786  
E-File No.: CVQ12ONISCHUKDANI  
Appeal No.: \_\_\_\_\_

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF CALGARY

BETWEEN:

DANIEL W. ONISCHUK

Plaintiff

and

HER MAJESTY THE QUEEN, ALBERTA and  
TOWN OF CANMORE

Defendants

---

PROCEEDINGS

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Calgary, Alberta  
December 7, 2011

Transcript Management Services, Calgary  
Suite 1901-N, 601-5th Street SW  
Calgary, Alberta T2P 5P7  
Phone: (403) 297-7392 Fax: (403) 297-7034



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1 Proceedings taken in the Court of Queen's Bench of Alberta, Courthouse, Calgary, Alberta

2

3 December 7, 2011

Morning Session

4

5 The Honourable Mr. Justice Hawco

Court of Queen's Bench of Alberta

6

7 (No Counsel)

For the Plaintiff

8 M.D. Aasen

For the Defendant (Town of Canmore)

9 K.F. Mason

For the Defendant (Town of Canmore)

10 C.R. Hykaway

For the Defendant (Her Majesty the Queen,  
Alberta)

11

12 A. Gault

Court Clerk

13

14

15 (PORTION OF PROCEEDINGS OMITTED BY REQUEST)

16

17 **Reasons for Judgment**

18

19 THE COURT:

I do so for -- for these reasons, Mr. Onischuk,

20 some of which I had referred to when the matter first came before me, but before you had  
21 a full opportunity to present all of your arguments and materials, Mr. Onischuk. The --  
22 the Town must show that the application put forward by you simply discloses no  
23 reasonable claim and -- and/or is frivolous and/or is an abuse of process. And as you  
24 rightly point out, Mr. Onischuk, the Court should only strike an application -- or strike  
25 pleadings which the originating application is a part when -- in the clearest of cases.

26

27 In this particular case, Mr. Onischuk, I -- I am indeed satisfied that you have no  
28 appropriate standing to bring the application which is not to quash the bylaw, but to -- but  
29 to prevent, prohibit by injunction the Town and the Crown from proceeding with their  
30 plan to -- to remedy the feral rabbit problem in the Town of Canmore.

31

32 The -- in this particular case you -- you base your claim, Mr. Onischuk, it appears to me,  
33 primarily on what you allege to be the breach of the *Wildlife Act* by both the Crown and  
34 -- and the -- the Town. And that *Act* as the -- as the court in *Cassells v. University of*  
35 *Victoria* considered -- that *Act* establishes a regime of quasi-criminal legislation under  
36 which prosecutions may be mounted by the Attorney General of the province. That being  
37 the case this -- this is an attempt to compel, by a round about way, the Attorney General  
38 to take a step which -- which cannot be done under this particular process that you have  
39 initiated, Mr. Onischuk.

40

41 The -- in -- in the *Cassells* case the Court at paragraph 55 refers -- or makes this

1 statement:

2  
3 In general, private individuals have no inherent right to seek  
4 injunctive relief to protect the public at large from a wrongful  
5 invasion of its rights. It is for the Attorney General to discharge  
6 that function. An Attorney General is always competent to  
7 institute proceedings to protect the public at large, but a private  
8 citizen may sue it seems in two situations. One, where  
9 interference with the public right interferes with a private right of  
10 his own, or two, where no private right of his own is inferred --  
11 interfered with -- sorry -- but in respect of his public right he  
12 suffers specific damage peculiar to himself from the interference  
13 with the public right.  
14

15 In this particular case, Mr. Onischuk, it is clear that the law does not allow a person such  
16 as yourself in situations such as this to enforce what you claim to be public rights, unless  
17 the issue of public rights is -- as the Court says is incidental to some private cause of  
18 action asserted. And that is not the case here.  
19

## 20 **Ruling**

21  
22 So, for the reasons which Justice Cullen with the BC Supreme Court referred to in the  
23 *Cassells* case I -- I am dismissing your case because it is an abuse of process. It is an  
24 attempt to -- to enforce quasi criminal laws in a private matter. There has -- you have not  
25 demonstrated, Mr. -- Mr. Onischuk that you have a private right or that you will suffer  
26 any parti -- damage peculiar to yourself sufficient to establish a legal entitlement to  
27 invoke this Court's jurisdiction in this case, Sir.  
28

29 The -- the -- I am satisfied that the *Wildlife Act* is not applicable; that the definition of  
30 wildlife is contained in the *Act*. The Court is not permitted to go beyond that and -- and  
31 take research gathered from -- from the Internet or from texts when the *Act* itself provides  
32 for what the definition of wildlife is. These animals are not wildlife. The Crown is --  
33 does not own these particular animals and therefore the Crown cannot be compelled to  
34 take any steps in dealing with their -- dealing with their ongoing existence.  
35

36 It -- it -- it should be pointed out to you as well, Mr. Onischuk, that you cannot obtain an  
37 injunction against the Crown because of the existence of the proceedings against the  
38 *Crown Act* in this particular province.  
39

## 40 **Ruling (Costs)**

41

1 You're asking, sir -- have asked that the Crown share the cost of this and that has not  
2 been requested by the Town and indeed is not something that you can request the Crown  
3 to do.

4  
5 Having considered all of the materials and the arguments today, for which I thank  
6 everybody, I'm dismissing the application. And I am doing so with costs.

7  
8 I -- I finally mention, if I may, the -- the reference to the breach of the *Municipal*  
9 *Government Act*, Mr. Onischuk. And as Mr. Aasen points out there is a procedure  
10 whereby a person can strike -- can apply to strike a -- a bylaw of a -- of -- of a town  
11 council. There is a particular procedure set forth. It is by way of judicial review. That  
12 has not been done in this particular case. I must look at the -- the documents that give  
13 the Court its jurisdiction. In this particular case that is the originating application and that  
14 document does not seek the remedy to which you have asked. The -- that remedy may  
15 have been available. I don't know if it is still available and I make no comment on that.

16  
17 Is there anything further, please?

18  
19 MR. ONISCHUK: <sup>DO</sup> "personal right and" Well, Your Honour, with respect to *Cassells*  
20 and the personal (INDISCERNIBLE) interest, I believe I addressed those in my -- my last  
21 brief of 30th of November. <sup>DO</sup> "which were addressed to you"

22  
23 THE COURT: Yes.

24  
25 MR. ONISCHUK: So, I would say that there is  
26 (INDISCERNIBLE). <sup>DO</sup> "some contrary position from my perspective"

27  
28 THE COURT: I -- I -- I do understand that is your -- that is  
29 your position, Mr. Onischuk, and I have with -- with due respect to -- to the work that  
30 you've put into this I have taken consideration of that application. I'm simply not  
31 satisfied that you have sufficiently established that difference is applicable here.

32  
33 MR. ONISCHUK: <sup>DO</sup> "I understand your Honour" (INDISCERNIBLE).

34  
35 THE COURT: Mr. Aasen or Ms. Hykaway is there anything  
36 further from your part?

37  
38 MS. HYKAWAY: No, My Lord.

39  
40 MR. AASEN: All I would ask, Sir, is that -- I believe it's an  
41 order pursuant to -- or that the order that we will <sup>DO</sup> be drafting waive rule 9.4  
<sup>DO</sup> "grant will"

*is the proper* *DO*

1 (INDISCERNIBLE) rule with respect to whether it be approved by the Court without  
2 Mr. Onischuk's endorsement on it or whether you would like (INDISCERNIBLE).

*DO*  
*"him to see it and endorse it"*

4 THE COURT: Mr. -- Mr. Onischuk, what Mr. Aasem is  
5 suggesting here is that he and Ms. Hykaway draft an order which would reflect the terms  
6 of my decision this morning and that he simply present it to me without the need to --  
7 excuse me -- without the need to have you approve it. I will do this. I will ask that  
8 counsel prepare an order; that they forward it to you.

10 If you take any particular issue with the terms of the order in -- and -- and that simply  
11 means that if you don't agree that it corresponds with the reasons that I've given to the  
12 parties this morning that you may advise me by way of email that you don't and -- and  
13 what it is that you disagree with. I will consider those and then decide whether I will  
14 issue an order in the form that the parties (INDISCERNIBLE) or send to me or whether it  
15 will issue in a different form. All right, sir? *a proceed* *DO*

17 MR. ONISCHUK: Yes, Your Honour. I just have one -- one  
18 question or --

20 THE COURT: Yes. Go ahead.

22 MR. ONISCHUK: With respect to the judicial review this  
23 application came *for* *DO* about because of the very short time pressure that was imposed upon me  
24 (INDISCERNIBLE) where Canmore was proposing to kill the rabbits  
25 (INDISCERNIBLE). And a judicial review wasn't available for several months which  
26 would have been too late. *"immediately"* *DO*

28 THE COURT: I -- I do understand that. I do understand that,  
29 Mr. Onischuk. Thank you. The -- the fact is that if you wished to speed that up there  
30 may have been another way. I -- I don't -- I don't criticize the -- the manner in which  
31 you have proceeded. I just say it's -- it's not a -- a process that was -- that was open to  
32 you. But thank you for -- for pointing that out. All right. Thank you very much for  
33 your submissions. The court stands adjourned.

35 MR. AASEN: Thank you, My Lord.

37 THE COURT: Thank you.

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EXCERPT CONCLUDED

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1 **Certificate or Record**

2  
3 I, Aixa Gault, certify that this recording is a record of the oral evidence of proceedings in  
4 the Court of Queen's Bench held in courtroom 1201 in Calgary, Alberta on December 7th,  
5 2011, and I was the court official in charge of the sound-recording machine during the  
6 proceedings in the AM.

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1 **Certificate of Transcript**

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I, Linda Thornton, certify that

(a) I transcribed the record, which was recorded by a sound-recording machine, to the best of my skill and ability and the foregoing pages are a complete and accurate transcript of the contents of the record, and

(b) the Certificate of Record for these proceedings was included orally on the record and is transcribed in this transcript.

Digitally Certified: 2012-04-20 16:03:27  
Linda Thornton, Transcriber  
Order No. 2641-12-1

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Pages: 9  
Lines: 327  
Characters: 8424

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File Locator: c1ee19b48b3111e1882b0017a4770810  
Digital Fingerprint: c82e7f02532c441aab93f0f958ac772e073d70ccd1932e17685fead1021ba4fb

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Detailed Transcript Statistics	
Order No. 2641-12-1	
Page Statistics	
Title Pages:	1
ToC Pages:	1
Transcript Pages:	7
Total Pages:	9
Line Statistics	
Title Page Lines:	51
ToC Lines:	6
Transcript Lines:	270
Total Lines:	327
Visible Character Count Statistics	
Title Page Characters:	544
ToC Characters:	107
Transcript Characters:	7773
Total Billable Characters:	8424
Multi-Take Adjustment: (-) Duplicated Title Page Characters	7880



dan onischuk <dan.onischuk@gmail.com>

**transcript process> Onischuk v Canmore 1101-14786**

1 message

**dan.onischuk@gmail.com** <dan.onischuk@gmail.com>  
Reply-To: dan.onischuk@gmail.com  
To: Carol Clark <Carol.Clark@just.gov.ab.ca>

Sat, Apr 21, 2012 at 10:47 AM

Thanks Carol ! cheers, dan

**From:** Carol Clark  
**Sent:** Friday, April 20, 2012 10:43 AM  
**To:** dan.onischuk@gmail.com  
**Subject:** Re: Judgement> Onischuk v Canmore 1101-14786

Hi Dan,

We really strive for ensuring the transcripts are complete and accurate. The transcripts go to the Justice for review to ensure that any cases mentioned are cited correctly, and in some cases the typist can only use phonetics, so is also clarifies any spelling.

I hope this helps explain the process a bit more.

Carol

>>> <dan.onischuk@gmail.com> 04/20/2012 09:14 AM >>>

Thanks Carol !  
Please thanks Judge Hawco & his assistants...

I really don't understand why he has to review it at all this is simply a transcript of what was in court - there should be no changes !

Is this the normal procedure that judges review and edit the transcripts before release ?  
dan

**From:** Carol Clark  
**Sent:** Friday, April 20, 2012 9:08 AM  
**To:** TMS Calgary ; dan.onischuk@gmail.com  
**Cc:** Natasha Remtulla  
**Subject:** Re: Fwd: Judgement part> Onischuk v Canmore 1101-14786

Good morning Dan,

I have just spoken with Justice Hawko's assistant and even though Justice Hawko is out of the country, a copy has been sent to him. He recognizes the urgency of this matter and we are anticipating that it will be back ASAP.

I will keep in touch within him and advise you of any updates. I can assure you that we are doing everything we can to have this to you by the end of the day.

This is Exhibit "B" referred to in the Affidavit of  
*Daniel W. Onischuk*  
5  
June 5, 2012  
*[Signature]*

CYNTHIA SAWYER  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires July 30, 2012

Carol

>>> TMS Calgary 04/20/2012 08:05 AM >>>

>>> <[dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)> 04/19/12 09:11 PM >>>  
I see Marlene is away please investigate if you can resolve this.  
I need the judgement portion to file my appeal record by  
Monday 23 April or it will be struck (i lose) for being late...  
thanks, dan 780-426-7676 please reply by email

From: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Sent: Thursday, April 19, 2012 8:38 PM  
To: Marlene John  
Cc: [cara.schlenker@albertacourts.ca](mailto:cara.schlenker@albertacourts.ca)  
Subject: Judgement part> Onischuk v Canmore 1101-14786

I got the email of the transcript front-end thanks !!  
I will pickup original SIGNED transcript from your office in Calgary.

OH OH I need that judgement portion regardless of whether Hawco approves.  
Why is he sitting on it while he is out of the country ? Please obtain and forward !!  
The judgement portion was ordered 06 April and is ESSENTIAL to my filing the Appeal Record.  
Need Reasons for Decision to file appeal record !!

dan

From: Marlene John  
Sent: Thursday, April 19, 2012 3:29 PM  
To: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Subject: Re: THANKS !! Onischuk v Canmore 1101-14786

I just noticed that you don't have the judgment portion, just everything else leading up to that. Justice  
Hawco is out of the country and I don't know when you will be receiving that portion. Will keep you  
posted on it though.

Marlene

Marlene John - Order Clerk - Admin 3 -(Court of Queen's Bench)  
Alberta Justice Department and Attorney Generals Office  
Transcript Management Services  
Calgary Courts Centre  
Suite 1901-N, 601 - 5 Street SW  
Calgary, AB T2P 5P7  
Phone - 403-297-8413  
Fax - 403-297-7034

>>> <[dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)> 4/19/2012 3:18 PM >>>

Hi Marlene i just got it now THANK YOU ALL !!  
You gals are awesome !! Sorry I was stressed and grumpy...  
cheers, dan & the bunnies > ; )

From: Marlene John  
Sent: Thursday, April 19, 2012 8:30 AM  
To: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Subject: Re: update: overdue: Onischuk v Canmore 1101-14786

The transcript is still with Justice Hawco. I will get in touch with the Justice's assistant today to see what time we can expect the transcript. Will keep you posted.

Marlene

Marlene John - Order Clerk - Admin 3 -(Court of Queen's Bench)  
Alberta Justice Department and Attorney Generals Office  
Transcript Management Services  
Calgary Courts Centre  
Suite 1901-N, 601 - 5 Street SW  
Calgary, AB T2P 5P7  
Phone - 403-297-8413  
Fax - 403-297-7034  
>>> <[dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)> 4/18/2012 7:17 PM >>>

last date to file is monday 23rd BUT have to be in edm  
monday for another event and cannot get done monday.

so i will need 7 Dec. transcripts by 4 pm Thursday 19th pls email  
so that I have enough time to get them printed, bound (wait time),  
filed & served Friday 20th.  
will pickup original signed in Calgary Thurs if ready.

ps mail arrived got originals for 14 Nov OK ...  
thanks, dan

From: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Sent: Wednesday, April 18, 2012 4:21 PM  
To: Marlene John ; TMS Calgary  
Cc: [cara.schlenker@albertacourts.ca](mailto:cara.schlenker@albertacourts.ca)  
Subject: overdue: Onischuk v Canmore 1101-14786

Onischuk v HMTQ, Canmore 1101-14786

Hi Marlene I have ccd the Appeal Case Mgr.  
because it is getting very close to my last day for  
filing my appeal record which requires this transcript  
before they will let me file.

As you may recall, the decision part was paid for April 06th  
with 10 day service. It is still not in my email box.  
The attached order for 5 day service was sent per msg below  
and was expected to be ready yesterday.

Will this entire transcript be ready by noon Friday 20 Apr ??  
I tried checking the status but TMS voicemail is full.

For the transcripts of 14 Nov 2011 I have not received any original signed certified documents by postal mail.

dan 780-426-7676

From: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Sent: Thursday, April 12, 2012 2:30 PM  
To: TMS Calgary  
Subject: Fw: Onischuk v HMTQ, Canmore 1101-14786

please process this order if marlene has not done so already.

someone called about a refund of \$10 please apply to this order or refund to credit card on attached order.  
thanks, dan 780-426-7676

From: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Sent: Thursday, April 12, 2012 12:36 PM  
To: Marlene John  
Subject: Onischuk v HMTQ, Canmore 1101-14786

Hi Marlene as per attached order, would like to add to the Dec 7 transcript so as to include all the talk before the decision. ok if they are separate pieces do not delay decision part to combine all. please email all to this email address.  
thanks, dan 780-426-7676

From: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Sent: Thursday, March 29, 2012 9:25 AM  
To: Marlene John  
Subject: THANK YOU: Estimates - Onischuk and HMTQ et al 1101-14786

THANKS MARLENE !!

From: Marlene John  
Sent: Thursday, March 01, 2012 1:54 PM  
To: [dan.onischuk@gmail.com](mailto:dan.onischuk@gmail.com)  
Subject: Estimate of transcripts -- Nov 14, Nov 22 and Dec 7, 2011 -- Onischuk and HMTQ et al 1101-14786

Hi Mr. Onischuk,

The estimated cost of these transcripts are as follows:

Nov 14, 2011

All counsel's submissions except yours.

10 day service -----\$56.00

Nov 22, 2011

Justice's decision to end of transcript

10 day service -----\$32.00

Dec 7, 2011

Justice's decision to end of transcript

10 day service -----\$60.00

The full deposit is required before we can process your request. If you prefer to pay by Visa or Master Card, I have attached a credit card authorization form for your convenience.

Kind regards,

Marlene John

Marlene John - Order Clerk - Admin 3 -(Court of Queen's Bench)  
Alberta Justice Department and Attorney Generals Office  
Transcript Management Services  
Calgary Courts Centre  
Suite 1901-N, 601 - 5 Street SW  
Calgary, AB T2P 5P7  
Phone - 403-297-8413  
Fax - 403-297-7034



# Canadian Bill of Rights, SC 1960, c 44

Current version: in force since Feb 28, 1992

Link to the latest version : <http://canlii.ca/t/7vnh>

Stable link to this version : <http://canlii.ca/t/j05x>

Citation to this version: Canadian Bill of Rights, SC 1960, c 44, <<http://canlii.ca/t/j05x>> retrieved on 2012-06-04

Currency: Last updated from the Justice Laws Web Site on 2012-06-01

Share: [Share](#)

This is certified to be a true and correct copy of the original as it appears in the Statutes of Canada.  
 Daniel W. Drischuk  
 Justice Secretary to the Privy Council  
 June 12 AD. 2012

## Canadian Bill of Rights

**S.C. 1960, c. 44**

Assented to 1960-08-10

CYNTHIA SAWYER  
 A Commissioner for Oaths  
 in and for the Province of Alberta  
 My Commission Expires July 30, 2012

An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms

Preamble

The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which shall ensure the protection of these rights and freedoms in Canada:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### PART I

#### BILL OF RIGHTS

Recognition and declaration of rights and freedoms

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

Construction of law

2. Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the *Canadian Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

- (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;

- (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained
  - (i) of the right to be informed promptly of the reason for his arrest or detention,
  - (ii) of the right to retain and instruct counsel without delay, or
  - (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self crimination or other constitutional safeguards;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

#### Duties of Minister of Justice

**3.** (1) Subject to subsection (2), the Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every regulation transmitted to the Clerk of the Privy Council for registration pursuant to the *Statutory Instruments Act* and every Bill introduced in or presented to the House of Commons by a Minister of the Crown, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity.

#### Exception

(2) A regulation need not be examined in accordance with subsection (1) if prior to being made it was examined as a proposed regulation in accordance with section 3 of the *Statutory Instruments Act* to ensure that it was not inconsistent with the purposes and provisions of this Part.

1960, c. 44, s. 3; 1970-71-72, c. 38, s. 29; 1985, c. 26, s. 105; 1992, c. 1, s. 144(F).

#### Short title

**4.** The provisions of this Part shall be known as the *Canadian Bill of Rights*.

## PART II

#### Savings

**5.** (1) Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.



#### "Law of Canada" defined

(2) The expression "law of Canada" in Part I means an Act of the Parliament of Canada enacted before or after the coming into force of this Act, any order, rule or regulation thereunder, and any law in force in Canada or in any part of Canada at the commencement of this Act that is subject to be repealed, abolished or altered by the Parliament of Canada.

#### Jurisdiction of Parliament

(3) The provisions of Part I shall be construed as extending only to matters coming within the legislative authority of the Parliament of Canada.

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by  for the  Federation of Law Societies of Canada



# Alberta Bill of Rights, RSA 2000, c A-14

Current version: in force since Jan 1, 2002

Link to the latest version : <http://canlii.ca/t/822m>

Stable link to this version : <http://canlii.ca/t/j8x8>

Citation to this version: Alberta Bill of Rights, RSA 2000, c A-14, <<http://canlii.ca/t/j8x8>> retrieved on 2012-06-04

Currency: Last updated from the Alberta Queen's printer on 2012-06-01

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## ALBERTA BILL OF RIGHTS

### Chapter A-14

CYNTHIA SAWYER  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires July 30, 2012

*Handwritten signatures and stamps:*  
Daniel W. Onischuk  
J. J. J. J. J.  
A. J. J. J. J.

#### Preamble

WHEREAS the free and democratic society existing in Alberta is founded on principles that acknowledge the supremacy of God and on principles, fostered by tradition, that honour and respect human rights and fundamental freedoms and the dignity and worth of the human person;

WHEREAS the Parliament of Canada, being desirous of enshrining certain principles and the human rights and fundamental freedoms derived from them, enacted the Canadian Bill of Rights in order to ensure the protection of those rights and freedoms in Canada in matters coming within its legislative authority; and

WHEREAS the Legislature of Alberta, affirming those principles and recognizing the need to ensure the protection of those rights and freedoms in Alberta in matters coming within its legislative authority, desires to enact an Alberta Bill of Rights;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

#### Recognition and declaration of rights and freedoms

**1** It is hereby recognized and declared that in Alberta there exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely:

- (a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association;
- (f) freedom of the press.

RSA 1980 cA-16 s1

#### Construction of law

**2** Every law of Alberta shall, unless it is expressly declared by an Act of the Legislature that it operates notwithstanding the *Alberta Bill of Rights*, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared.

RSA 1980 cA-16 s2

#### Saving

**3(1)** Nothing in this Act shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated

herein that may have existed in Alberta at the commencement of this Act.

(2) In this Act, "law of Alberta" means an Act of the Legislature of Alberta enacted before or after the commencement of this Act, any order, rule or regulation made thereunder, and any law in force in Alberta at the commencement of this Act that is subject to be repealed, abolished or altered by the Legislature of Alberta.

(3) The provisions of this Act shall be construed as extending only to matters coming within the legislative authority of the Legislature of Alberta.

RSA 1980 cA-16 s3

**Notice to Minister of Justice and Attorney General**

4(1) If in any action or other proceeding a question arises as to whether any law of Alberta abrogates, abridges or infringes, or authorizes the abrogation, abridgment or infringement, of any of the rights and freedoms herein recognized and declared, no adjudication on that question is valid unless notice has been given to the Minister of Justice and Attorney General.

(2) When the Minister of Justice and Attorney General has notice under subsection (1), the Minister may, in person or by counsel, appear and participate in that action or proceeding on such terms and conditions as the court, person or body conducting the proceeding may consider just.

RSA 1980 cA-16 s4;1994 cG-8.5 s89

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