

Report

Date April 1, 2026

File:

Subject Town of View Royal Judicial Review Coalition

PURPOSE

To provide Council with analysis and recommendation regarding the December 4, 2025, letter from Town of View Royal Mayor Sid Tobias concerning a potential judicial review of provincial legislation.

BACKGROUND

On December 17, 2025, Council received a letter (Attachment 1) dated December 4, 2025, from Town of View Royal (Town) Mayor Sid Tobias, sent to all BC municipalities and regional districts, inviting participation in a Judicial Review Coalition regarding provincial bills 44, 43, 13, 15 and M216 and the process and speed with which they were introduced. Council resolved:

"THAT Council directs staff to provide a report with an analysis and recommendation outlining the benefits and costs of joining other municipalities in a potential coordinated judicial review, of recent provincial housing legislation effecting [sic] local government authorities."

Since this direction, the Town has issued a follow-up letter dated March 18, 2026 (Attachment 2) in which it indicates that District of West Vancouver, District of Oak Bay, Regional District of North Okanagan, and Township of Spallumcheen have all formally confirmed participation. It also indicates an estimated cost of \$150,000 for commissioning a legal opinion and asks recipients to confirm intent to join the coalition by March 31, 2026.

DISCUSSION

Basis for Judicial Review

The letter outlines dissatisfaction with the speed and scope of legislative change and concerns about potential overstep into Municipal authority. The BC *Community Charter* sets out the fundamental powers of local governments, resulting in the often-quoted phrase that local governments are "creatures of the Province". The meaning of this is that it is the provincial government itself that establishes a system of local governments in BC as an alternative to the impractical prospect of direct administration by the province of all the land under its jurisdiction.

The letter does not outline any specific legal arguments as to why they believe a judicial review might be successful, citing instead broader concepts of "due process", "procedural fairness" and "democratic accountability" which have limited applicability to legislative acts. Concerns regarding the "pace and scale of legislative change" and the possible infrastructure, service delivery and financial implications to local governments are fundamentally political in nature rather than legal issues bringing into question the authority of the Province to enact legislation.

There is a clear distinction between disliking or disagreeing with the effect or intent of legislation and claiming it was unlawfully enacted. A judicial review can only concern itself with the lawfulness of legislation such as whether the Canadian Charter of Rights and Freedoms has been breached and will not debate its merits.

In general, where a procedural irregularity or misstep is held to nullify a decision, the victory for the claimants can sometimes be a “pyrrhic” one in that the decision-makers can re-determine the question, ensuring any procedural errors are corrected, but still arrive at exactly the same decision, leaving no further legal basis for appeal.

While it is *possible*, therefore, that on judicial review, some aspects of the Province’s legislative activities are deemed faulty and set aside; that is no guarantee of an ultimately different outcome. The response from the Province may simply be to re-enact the impugned legislation in a way that addresses whatever legal errors may have occurred, but without fundamental change.

Costs & Benefits

The Town has estimated a cost of \$150,000 to commission a legal opinion, proposed to be split between participating parties subject to a cost-sharing agreement. There is very little information about the basis for such an estimate, but a sum of this magnitude implies a significant amount of work – over 330 hours at a senior lawyer charge-out rate of \$450/hr. Clearly the eventual number of participants will determine the cost borne by each, but assuming either equal cost-sharing or that North Cowichan is the median participant (however it is determined) *and* that no further parties join, the direct cost share to North Cowichan might be expected to be ~\$25,000.

This cost is for the initial legal opinion and does not include further costs of acting on that opinion. Staff consider that North Cowichan’s own legal counsel would be capable of providing a reasonably robust screening opinion on the basis of provincial authority to enact legislation affecting local governments, and could likely do so under a budgetary limit less than North Cowichan’s share of the coalition costs.

It is also the case that should judicial review be initiated and succeed (and barring any appeals the provincial government might make if so) then all local governments would likely be equally affected by that court decision and the impacts of any legislation being set aside, whether or not they were parties to the judicial review application. Although participation at this stage does not commit a partner to join an eventual judicial review, should North Cowichan ultimately join such an action, it may have little control over subsequent events, including liabilities. Should the lawsuit fail, it is possible an award of costs may be made against the parties.

Other than being privy to the full legal opinion being commissioned, staff do not identify any benefit to North Cowichan in participating in this initiative. It may or may not ultimately influence North Cowichan in the unlikely event that legislative change is the eventual outcome, but this will not depend on whether North Cowichan was a participant. The only reason staff can identify Council may wish to participate is in solidarity with the named local governments and to demonstrate “neighbourliness” in contributing to exploring a common concern. While such concepts are undoubtedly important, staff do not recommend them as a sufficient basis on which to commit ~\$25,000 of taxpayer funds and an unknown amount of staff time.

The Town's specified deadline of March 31 does not align with Council's meeting schedule; however, should Council decide to participate it seems unlikely that the Town would refuse North Cowichan's participation if it is informed on April 2 of Council's decision the evening prior.

OPTIONS

1. **(Recommended Option)** THAT Council takes no further action with regards to the letter dated December 4, 2025, from Town of View Royal Mayor Sid Tobias.
 - Staff have not identified meaningful benefits that outweigh the costs of participation.
2. THAT Council directs staff to confirm North Cowichan's formal willingness to participate in the Town of View Royal's Judicial Review Coalition and take such follow-up actions as may be necessary.
 - Council will need to identify or approve a funding source.
 - Staff will provide updates to Council as needed.

IMPLICATIONS

None identified with declining to participate. Should Council wish to participate it would be assuming direct cost and commitment of an as-yet unknown amount of staff time.

RECOMMENDATION

THAT Council takes no further action with regards to the letter dated December 4, 2025, from Town of View Royal Mayor Sid Tobias.

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Approved to be forwarded to Council:



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Attachments:

- (1) Letter dated December 4, 2025
- (2) Letter dated March 18, 2026