



BRIEFING NOTE FOR INFORMATION

Date: February 24, 2019
Prepared For: Honourable Selina Robinson, Minister of Municipal Affairs and Housing
Title: Potential House Amendments to the *Cultus Lake Park Act* (Act)
Issue: s.12; s.13

SUMMARY:

- **Bill 3, *Municipal Affairs and Housing Statutes Amendment Act, 2019* proposes targeted and specific amendments modernizing the *Cultus Lake Park Act* (Act). The proposed amendments provide modern bylaw enforcement authority, procedural rules, and corporate powers to the Park Board. In addition to these substantive changes, Bill 3 modernizes the language of the remaining provisions of the Act without changing their purpose and intent.**

s.12; s.13; s.14; s.16

BACKGROUND:

Cultus Lake Park (the Park) is a large park within the Fraser Valley Regional District. The Park was granted in trust to the City of Chilliwack by the federal Crown in the 1920s and subsequently transferred to the Provincial Crown. The 1932 *Cultus Lake Park Act* (Act) established the Park's governing body, the Cultus Lake Park Board (Park Board).

The Park Board is not a local government; it is a special purpose governance body with limited powers and duties. Bill 3, *Municipal Affairs and Housing Statutes Amendment Act, 2019* proposes targeted and specific amendments to the Act. These amendments, which passed second reading on February 14, 2019, are focused on providing modern bylaw enforcement authority, procedural rules, and corporate powers to the Park Board. In addition to these substantive changes, the amendments modernize the language of the remaining provisions of the Act without changing their purpose and intent (see Appendix 1 for an example). The proposed amendments do not change to the scope of the Park Board's regulatory authority.



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DISCUSSION:

s.12; s.13; s.14; s.16



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FINANCIAL IMPLICATIONS:

- None

Appendices:

1. Example Comparison of the *Cultus Lake Park Act* Before and After Modernization Language Proposed in Bill 3
2. **s.13**

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DATE APPROVED:

February 24, 2019



APPENDIX 1: Example Comparison of the *Cultus Lake Park Act* Before and After Modernization Language Proposed in Bill 3

Current Language of the Act:

Sale of goods within park

- 19** (1) No person or persons shall within the park follow, practice, carry on, or exercise any trade, occupation, profession, business, or calling without written permission of the Board.
- (2) The Board shall have power to grant permission to any person to follow, practice, carry on, or exercise any trade, occupation, profession, business, or calling, and may fix the conditions under which such permission is granted, but such permission shall not be granted for a period exceeding five years.
- (3) Notwithstanding anything contained in this Act or in the by-laws of the Board, the Board may by unanimous vote of all the members present at any meeting refuse in any particular case to grant any such permission.

s.13



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s.13

February 25, 2019

Honourable Selina Robinson,
Minister of Municipal Affairs & Housing

Re: Bill 3 – 2019: Municipal Affairs and Housing Statutes Amendment Act, 2019

Dear Ms. Robinson,

On behalf of the **Cultus Lake Business Association**, representing 14 commercial businesses in Cultus Lake. We encourage and support necessary changes that permit and help the Cultus Lake Park Board govern in a more efficient and less restrictive manner. However, we have some concerns about recommended changes that could be quite detrimental to commercial operators in the Park. One in particular that has become urgent in our opinion:

Business activities within park

19 (1) In this section, "**business**" includes a profession, calling trade or occupation

2) A person must not engage in any business within the park without the prior written permission of the board.

3) The Board may do the following:

a) grant permission, for a period not exceeding 5 years, to a person to engage in business within the park;

b) set terms and conditions for permissions granted under paragraph (a).

(4) Despite this Act and the by-laws of the board, the board may, by unanimous vote of all members present at any meeting, refuse in any particular case to grant a permission under subsection (3)(a).

If paragraph 19(4) was considered, a tenant who holds a 20 year lease with a subsequent option to renew every five years, then the Board, for no supportive reason could cancel the lease by a unanimous vote with as few as 3 commissioners voting. This clause could jeopardize the tenant and force them out of business. This undermines the security of tenure that a business is granted by having options to renew. There are many clauses in leases that allow a landlord to terminate a lease if the tenant is in breach, however, this clause gives extraordinary and unnecessary power to a landlord.

Your consideration is urgent and appreciated as we ask for your coordination in the removal of clause 19(4) without it jeopardizing the bill from being withdrawn.

Sincerely,



Jeff Bahnman
Vice Chair, Cultus Lake Business Association

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s.13; s.14

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s.13; s.14

From: Steve Marks
Sent: February 21, 2019 8:10 AM
To: mah.minister@gov.bc.ca; selina.robinson.mla@leg.bc.ca; laurie.throness.mla@leg.bc.ca; john.martin.mla@leg.bc.ca
Subject: BILL 3, Proposed Amendments to the Cultus Lake Park Act

February 21, 2019

Dear Minister Robinson:

Re: Problems with Bill 3 (*Municipal Affairs & Housing Statues Amendment Act*)

I am reaching out to you out of a deep concern about Bill 3, the *Municipal Affairs and Housing Statutes Amendment Act* and its which among other things proposes numerous changes to the 1932 *Cultus Lake Park Act*.

I am the owner/operator of the Cultus Lake Marina, which operates within Cultus Lake Park, and recently learned that you introduced BILL 3 last week.

I am very concerned about the proposed section 19 for the *Cultus Lake Park Act* and s.22

s.22 That's because the Legislature is being asked to explicitly confer a power to the Park Board to shut down a business (by refusing to grant it permission every five years to engage in business within the park) even if the business is complying with bylaws and other laws, and is complying with whatever type of lease, concession or licence it has with the Park Board.

From my knowledge, no other local government in British Columbia has this type of power, and s.22

Let me explain the basis for my concerns in more detail.

As drafted, section 19 would require me to go before the Cultus Lake Park Board every 5 years to ask permission continue my “business activity,” despite my existing long-term lease and concession to carry on my long established business. Why is this a problem?

1. This requirement overlaps with, and is inconsistent with, the express power under section 14 to grant and sell **concessions** for more than five years and to charge for them. A concession is a contractual right to carry on a business in the park. Since the Board has the power as park owner to grant a concession for 20 years and charge for it, it should not have the power to cancel that concession after five years by refusing the business permission to continue. It is difficult to conceive of how the Legislature would want to create such a conflict.
2. Section 19 conflicts with the express power to grant **leases** for more than five years. It is a grave concern to me that the Park Board could grant a commercial lease for 20 years and then shut down the business holding the lease only 5 years later, leaving the tenant still liable for the rent on the lease but with no business to pay for it. Again, this is a result that a reasonable Legislature cannot intend to occur.
3. The provision is inconsistent with commercial reality. Any business that has to go before an elected body to seek discretionary permission to stay in business every 5 years is one that cannot borrow money or invest capital even when they have a long-term lease that should permit it. How does the Board expect businesses in the park to finance updates and meet increasingly strict environmental and other responsibilities with no security?
4. The provision is ripe for abuse. It allows the Park Board as a political body to exert enormous pressure on businesses in the park to “play ball” on any political issue under the sun (campaign donations, anyone?) or else face the prospect of losing their business. The Board is already arguably in a conflict of interest with these businesses in that it is their landlord and at the same time, supposedly, an impartial regulator. This provision makes the relationship even more one-sided.
5. There is no compensation specified and no guidance or explanation in section 19 as to the basis for the discretionary power of the Board to refuse permission for a business to operate. The Board is a political body given an unfettered power by the legislation to take away my business without compensation.
6. Instead of a bylaw laying out a standardized process to obtain a business licence ‘over the counter’ with the same rules for every business (as with other local governments), an applicant must go before the Board every five years and ask for “permission” on an individual basis, leaving the situation wide open to unequal treatment, including favouritism and discrimination between businesses and their owners.

There is no stated requirement for the Park Board to have any reason to deny permission to a business to carry on, and there are no stated procedural fairness or even notice provisions required before the Park Board can invoke section 19 (4).

You have to wonder, who would invest millions of dollars in improving a business at Cultus Lake if the business can be arbitrarily shut down in 5 years by the Park Board?

Bill 3 has already passed 2nd Reading and will soon be going to Committee Stage debate in the Legislature, which provides an opportunity to delete this flawed provision before Bill 3 becomes law.

Given the other authorities given to the Cultus Lake Park Board to establish bylaws, issue licences and enter into leases and concessions, section 19 is not required. The proper solution is remove section 19 and the let the Park Board handle business licences in the ordinary way, which seems to work for every other local government in British Columbia.

Please, I urge to your reconsider the Bill and in particular the proposed section 19 for the *Cultus Lake Park Act*. If passed, [s.22](#)

[s.22](#)

Now is the time to act before Bill 3 brings economic disaster to the Cultus Lake business community.

Please call me to discuss this further if you have any questions.

Sincerely

Steve Marks
Cultus Lake Marina & Rentals Ltd.

[s.22](#)