



**I'll Take the High Road:
Defamation Claims in Political Disputes**

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The "concerned taxpayer" is a long-standing feature of local government life. However, some passionately held opinions can lead to contention, hostility and political campaigns. Addressing such campaigns, and campaigners, is challenging. Attempts to address the campaign head-on may inflame the situation, and boil over into legal proceedings.

A recent case, *McVeigh v. McWilliam* 2010 BCSC 34 is an example of that very situation. However, the court's decision may offer protection to elected officials dealing with hostile campaigns. It is also an excellent example of how taking the "high road" is the correct response.

The plaintiff "concerned ratepayer" unsuccessfully sued an elected official for defamation. The plaintiff was a former Chair of the Gillies Bay Improvement District Board. The defendant succeeded the plaintiff as Chair. The plaintiff began a campaign, through email, letters and public mail-outs, to have the Board's activities taken over by the regional district. In his campaign, the plaintiff, in his words, "posed questions and advanced theories" of criminal conduct, breach of fiduciary duty, improprieties, negligence and incompetence on the part of Board employees and elected officials.

In January 2008, the Board held a special general meeting to determine whether the public continued to have confidence in the Board in light of the plaintiff's campaign. At the meeting, the defendant disseminated two documents, which were attempts to summarise and comment on the plaintiff's numerous accusations. The documents set out the accusations and brief responses. In contrast with the plaintiff's communications, the documents did not accuse the plaintiff of wrongdoing, but did call the plaintiff's accusations "irresponsible" and "malicious fables".

The plaintiff sued for defamation. The defendant pleaded justification (truth), and that the documents were published on an occasion of qualified privilege. The court agreed with the defendant on both grounds. The court found that the plaintiff's communications in his campaign were defamatory, demeaning, patronizing and offensive.

On the issue of qualified privilege, the court held that the defendant had a legal, social and moral interest in having matters addressed by the ratepayers at a special general meeting and in seeking direction whether he and others of the Board should resign. Further, the ratepayers attending the meeting had an obvious corresponding duty or interest in receiving the information

The court commented:

The plaintiff claims the right in a free society to publicly criticise elected officials and public employees and to publicly accuse them of serious improprieties. In my opinion, the defendant had the legal right to a privileged response.

A key lesson from the case for local governments is that when faced with a hostile, nasty campaign, it is best to remain measured in response and refrain from retaliatory actions.