



Official Community Plan Consultation: What's Happening in Your Shop?

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In the B.C. Supreme Court decision in *Baynes Sound Area Society for Sustainability v. Comox Strathcona (Regional District)* 2009 BCSC 565 of April 28, 2009 the court concluded that the “local government”, rather than staff, must make the determination regarding the consultation that may be required for official community plan (“OCP”) bylaws under section 879 of the *Local Government Act*. In this case, there was no bylaw, resolution or minute of the regional district board having considered those requirements and the court therefore set aside the bylaw for illegality (in addition to other reasons).

Since the inception of section 879, many local governments have unofficially delegated how the consultation process should be carried out to planning staff. While we believe that this determination can be delegated, delegation may only be lawfully made by bylaw. We recommend you review your planning process for OCP bylaws to ensure that either (1) there has been a bylaw delegation of the determination of what OCP consultation will be required, or (2) a staff report to the elected officials for each proposed OCP bylaw includes a recommendation, which can be approved or rejected, regarding the consultation that should be conducted.