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Editorial: Respecting the Rules

Time was when the Islands, like most of rural BC, did not have much in the way of rules, (The Islands still don't, compared to more heavily populated places.) Sometimes this led to perpetual feuds, sometimes to someone taking a long row to another Island or the Mainland. But Islanders needed to cooperate to survive, so most disputes were settled by supertime.

In due course, local government came to the Islands; first regional districts, then the Islands Trust. We still have both. Most of the original land-use bylaws were simply written to describe what was already there, so there seemed little need for enforcement. Rules regarding the shape, size, use and location of new construction were enforced by the building inspectors of regional districts—if you did not comply, you could not occupy the building.

Population has increased. The Islands Trust has been largely, but not completely, effective in protecting the Islands from inappropriate and irresponsible development. Disputes are often between individual property owners and their communities.

A few years ago, a newcomer, frustrated by some restrictions on her planned new house, asked: 'Don't the laws of Canada apply here?' The answer is—of course, yes. And in addition each Island has a few unique laws of its own. These are also laws of Canada.

For a long time the Trust had only one enforcement officer for thirteen major Islands and all the little ones! Enforcement—officers, lawyers and the courts—cost money that the Trust didn't have.

But as the Islands have their share of marvelous eccentrics, they also have their share of those who find Islands Trust bylaws inconvenient to their objectives. Some are newcomers; others have been here for many years.

Now that Island properties are no longer cheap, and many are worth millions, potential financial gain may be significant. Landowners have the money to fight prosecutions, even if the Trust does not.

The Trust, as a result, is very cautious about taking disputes to court, whether they are challenges to bylaws or prosecutions for infractions. Knowing this, some individuals deliberately ignore bylaws. And Local Trust Committees may be inclined to delay prosecutions so as not to overburden the Trust's enforcement staff—or to avoid political harassment or legal chill.

All of this encourages some people to treat the Trust, and its bylaws, with contempt. The result can only be more land-use infractions, such as short-term vacation rentals, or industrial or commercial operations on land not appropriately zoned. Such individuals display their contempt not only for the Trust, but also for their neighbours and other Islanders.

One of the unwritten rules of development on the Islands used to be: 'Just do what you want, and ask permission afterwards' (if they catch you). This is no longer acceptable, if it ever was. Deliberate infractions that remain unprosecuted lead, inevitably, to further deliberate infractions.

It is time that the Trust enforced its bylaws. Islanders, newcomers and old-timers alike, should expect nothing less. Fairness and due process are part of the law. Trustees must not have the power to delay specific enforcement actions, or to declare moratoria on enforcement. If enforcement is to be selective, the criteria for this should be spelled out in OCPs and LUBs.

It's clearly time to separate justice from politics, on the Islands as anywhere else. The Trust will need a little courage to accomplish this, but it would be more respected if it did. And it would allow trustees to perform their duties without pressure. ☞

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