

Fact Sheet #28: Bylaw Adjudication

Legislation

In October 2003, the Province enacted the *Local Government Bylaw Notice Enforcement Act* (BNEA) to provide an alternative approach for processing and resolving minor bylaw infractions, ranging from parking tickets to dog licensing to minor zoning infractions.

Under the BNEA, local governments may establish a local government bylaw dispute adjudication system to replace the provincial court as the venue for resolving disputes of minor municipal bylaw breaches.

The *BNEA*, and the authority it provides to an adjudication system, applies to both municipalities and regional districts. In order to proceed under the legislation, a local government must make a request to the Lieutenant Governor in Council to have a regulation enacted applying to the local government [BNEA s. 2(1) & 29]

A pilot project of the adjudication model was undertaken in 2004 in three north shore municipalities (City of North Vancouver, District of North Vancouver, and District of West Vancouver). These municipalities maintained independent ticketing processes to enforce their individual regulatory bylaws, but shared administrative processes around the adjudication of disputes. In September 2005, the Province announced that the new adjudication model would be available to other local governments in the province.

Adjudication Model

The goal of the adjudication model is to create a simple, fair, and cost-effective system for dealing with minor bylaw infractions. To meet this goal, the adjudication model:

- eliminates the requirement for personal service;
- establishes a dedicated forum for resolving local bylaw enforcement disputes;
- uses a dispute resolution-based approach to obtaining independently adjudicated decisions;
- avoids the unnecessary attendance of witnesses;
- avoids the need to hire legal counsel; and
- promotes the timely resolution of bylaw enforcement disputes – hearings may be held in person, by phone or in writing.

Establishment of Bylaw Adjudication System

To establish a bylaw adjudication system, a local government must pass a bylaw that:

- designates which bylaw contraventions may be dealt with;
- establishes the amount of the penalty – maximum penalty under the system is \$500;
- establishes the period for paying or disputing a bylaw notice and whether or not early payment discounts and/or late payment surcharges will apply; and
- establishes a bylaw notice dispute adjudication system to resolve disputes in relation to bylaw notices [BNEA s. 2(2)].

Implementation

A local government will need to establish a process for dealing with citizens who wish to dispute bylaw notices that they receive. The BNEA provides that a local government may:

- establish a position of screening officer to hear citizen complaints. While not a requirement, it is a highly recommended procedure; and
- determine the authority of the screening officer [BNEA s. 2(3)].

A local government will need to create a dispute adjudication registry and identify a location where the disputes can be heard. In developing a registry and selecting a site for the hearings, a local government must ensure that the hearing material and decisions reached are accessible to the public [BNEA s. 14-19].

The BNEA provides that a local government may, if it chooses, join with other local governments through an agreement to jointly administer and cost share the operation of a bylaw adjudication system [BNEA s. 2(4) and (5)].

Bylaw Adjudicators

The legislation provides that once one or more local governments have established a bylaw notice dispute adjudication system, that the deputy attorney general appoint one or more adjudicators to determine the disputes [BNEA s. 15].

The adjudicator must provide the person disputing the bylaw notice an opportunity to be heard:

- in person or by an agent;
- in writing, including by fax or e-mail; or
- by video/audio conference, telephone or other electronic means [BNEA s. 18].

In hearing the evidence, the adjudicator’s authority is limited to determining whether or not the contravention occurred as alleged; and is not in a position to change or alter the penalty.

The adjudicator in this process is not able to decide matters related to any of the following:

- the *Canadian Charter of Rights and Freedoms*;
- a matter for which notice under Section 8 of the *Constitutional Questions Act* is required;
- determination of aboriginal or treaty rights or claims; or
- a challenge to the validity of the bylaw that is alleged to have been contravened [BNEA s. 16].

Financial Cost

A local government that establishes a bylaw notice dispute adjudication system is responsible for:

- administrative work and costs of managing and operating the dispute adjudication system; and
- remuneration and expenses of the adjudicators [BNEA s. 23].

A local government may charge a fee of up to \$25 per person who is unsuccessful in a dispute adjudication, for the purposes of recovering the costs of the system [BNEA s. 23(2)].

A local government may charge a penalty of up to \$500 for the contravention of a bylaw under the bylaw adjudication system [BNEA s. 6].

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