

B.C. Supreme Court dismisses defamation lawsuit against Summerland mayor

SUMMERLAND – A B.C. Supreme Court justice has dismissed a defamation lawsuit brought by local resident Brad Besler against Summerland Mayor Doug Holmes.

An application filed by Mayor Holmes to dismiss the case under the Protection of Public Participation Act (PPPA) was heard by Justice Hewson in Kelowna on June 15-17. When released, the decision will be available at the following link: https://www.bccourts.ca/supreme_court/recent_Judgments.aspx.

Justice Hewson found that Mr. Besler’s claim, in which he alleged that comments made by Mayor Holmes in 2023 and 2024 during council meetings, a CBC radio interview and in two emails were defamatory, met the criteria for dismissal under the PPPA.

In respect to a comment about “*ad hominem* attacks” that Mayor Holmes made at a Council meeting on July 18, 2023, Justice Hewson said, “[r]ead literally, the words are an instruction on civil speech and conduct. Interpreted in the light of the extrinsic circumstances of Mr. Besler’s frequent criticism of council members and staff, which was often expressed in very personal terms, it is a non-defamatory caution. The impression left is of a chairperson trying to maintain a standard of decorum, which is his right, so there is not even an inferentially defamatory meaning.”

Justice Hewson also found that, even if the statements were defamatory and had substantial merit, Mayor Holmes had a valid defence of qualified privilege, as he was speaking in his capacity as mayor.

Further, even without a defence of qualified privilege, the judge said that Mayor Holmes had a defence of fair comment, as the question of civil conduct during council meetings is a matter of public interest and his comments were based on facts.

“I am satisfied that any reasonable person observing Mr. Besler while he addressed council would conclude that he was making personal attacks, because of the personally demeaning character of the specific language used,” said Justice Hewson in his Reasons for Judgment.

He added, “Mayors are statutorily required to conduct council meetings and are required to ensure the degree of decorum necessary to do so. Weighing the limited evidence of harm against the strong public interest in protecting the expression, I find that the harm is not serious enough that the public interest in continuing the proceeding outweighs the public interest in protecting the expression. Had it been necessary, in the alternative, the claim would be dismissed on this ground as well.”

Justice Hewson said he could find no serious harm done to Mr. Besler as a result of the mayor’s comments, and in fact Mr. Besler extended the reach of the statements by posting them on his Facebook page.

“That conduct is inconsistent with a finding that the statements were harmful to him or are likely to be harmful to him. It is consistent with a finding that Mr. Besler was in a political competition with the mayor and members of the Summerland Council,” said Justice Hewson.

In dismissing the claim, Justice Hewson ordered Mr. Besler to pay Mayor Holmes’ full legal costs.

Contact

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