

Grassroots Group Challenges BC's Reconciliation Law

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Pender Harbour, British Columbia--(Newsfile Corp. - September 11, 2024) - A petition has been filed in BC Supreme Court, challenging the Declaration on the Rights of Indigenous Peoples Act (DRIPA). That is the law the BC government uses to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in BC.

The petition was filed by the Pender Harbour and Area Residents Association (PHARA), asking the court to rule that the DRIPA violates a number of constitutional principles and is of no force and effect.

"We strongly support reconciliation, but people have become divided by the DRIPA, so we look forward to the court ruling and giving some certainty to everyone" said PHARA President Peter Robson. "While court is the last place we want to be, we feel this step is necessary and we are committed to it."

The case stems from PHARA's longstanding concerns about the role the province has given the shíshálh Nation in decision-making under the BC Land Act related to dock permits. This includes a 2022 Cabinet Order directing ministers to negotiate a formal agreement to give the shíshálh Nation legal powers over Land Act decisions. Those negotiations have been underway for more than two years and PHARA has repeatedly been denied any meaningful engagement.

The petition argues, among other things, that:

- the DRIPA and the Cabinet Order are beyond the province's constitutional authority,
- DRIPA and the Cabinet Order breach the democratic rights of citizens by leaving them governed by an entity they had no say in electing, and
- DRIPA illegally tries to tie the hands of future governments by dictating what types of laws they must pass (so as to be "consistent" with the UNDRIP)

"We know there are many British Columbians worried about where BC is heading with an agenda that seems one-sided and secretive" said PHARA director Sean McAllister. "We also know many of the people who feel this way are afraid to speak up, so we see the court as a safe, appropriate and respectful way to determine if these concerns are valid".

PHARA's petition will be updated to the PHARA home page at www.phara.ca, along with a button for those wishing to donate in support of the litigation.

COMMENTS FROM OTHERS

Ellis Ross, MLA and former Chief Councilor of the Haisla Nation -

I have spent my career studying section 35 constitutionally protected Aboriginal rights and used them to help my region develop and prosper. DRIPA in its current form is complicating things and causing division. I look forward to what the court has to say on this important legal challenge.

Jock Finlayson, Chief Economist, Independent Contractors and Businesses Association (ICBA) -

British Columbia's unusual 'go it alone' approach to pursuing reconciliation with Indigenous peoples carries risk for many business operators as well as for the overall investment climate. Among other things, the government's actions and policy proposals presented over the last year or so are likely to foster greater uncertainty for the private sector. British Columbians need to work together to build a fair, prosperous economy that welcomes investment and encourages productive entrepreneurship.

Tom Isaac - lawyer and author of "Aboriginal Law" (6th edition) -

This case tackles the fundamental question of whether a single Canadian province can develop its own Indigenous rights laws, and whether that can be squared with the Indigenous rights framework already found in Canada's Constitution and related case law. These are serious questions that until now have not received the attention they deserve. And because this affects how Indigenous rights are balanced with other people's rights, it is an important case for every British Columbian and will be followed very closely by the legal community.

Scott Ellis, CEO, Guide Outfitters Association of BC -

We 100% support reconciliation - but BC's efforts to shoehorn a United Nations document (UNDRIP) into Canada's constitutional framework has complicated things and caused some to feel left behind. We need clear guidance from the court on whether the DRIPA can be squared with our legal system.

Werner Stump, President, BC Cattlemen's Association -

The British Columbia Cattlemen's Association believes that reconciliation with First Nations is one of the most important tasks facing British Columbia. Both the process and outcomes must be fair and balanced. Guidance from the courts on the Province's approach is essential, and we will be watching this case very closely.

Dave Butler, Strategic Advocacy Coordinator, HeliCat Canada -

HeliCat Canada looks forward to obtaining clarity from the courts around the Province of BC's responsibility to consider the interests of businesses and communities before it makes decisions under the umbrella of reconciliation.

ABOUT PHARA

PHARA is a volunteer organization which exists to support the vitality of the communities of Pender Harbour and Egmont areas as excellent places to live, work and play for residents and visitors. The Association provides a structure that allows residents to identify issues of broad community concern and have them effectively addressed.

Contact: **board@phara.ca**

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SOURCE Pender Harbour and Area Residents Association