

**Publisher’s Note**

**An Update has Arrived in Your Library for:**

<b>Please circulate this notice to anyone in your office who may be interested in this publication.</b> <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

<p><b>ANNOTATED BRITISH COLUMBIA LOCAL GOVERNMENT ACT AND COMMUNITY CHARTER</b> <b>Peter Johnson</b> <b>Release No. 2, July 2024</b></p>
--

Under the editorial leadership of Peter Johnson, this work is a publisher’s unofficial consolidation of the British Columbia *Local Government Act*, R.S.B.C. 2015, c. 1, the British Columbia *Community Charter*, S.B.C. 2003, c. 26, and selected regulations.

This release features updates to case law and commentary under the *Local Government Act* as well as updates to the Words and Phrases Appendix.

<b>THOMSON REUTERS®</b>	<b>Customer Support</b> 1-416-609-3800 (Toronto & International) 1-800-387-5164 (Toll Free Canada & U.S.) E-mail CustomerSupport.LegalTaxCanada@TR.com
-------------------------	---

This publisher’s note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

## Highlights

- **Local Government Act — PLANNING AND LAND USE MANAGEMENT — NON-CONFORMING USE AND OTHER CONTINUATIONS — NON-CONFORMING STRUCTURES: RESTRICTIONS ON MAINTENANCE, EXTENSION AND ALTERATION** — The annotation for *Vanderhaeghe v. Sunshine Coast (Regional District)*, 2022 BCSC 2100 (B.C. S.C.) has been updated with commentary on the 2024 appeal decision, 2024 BCCA 169, 2024 CarswellBC 1272. On appeal to the B.C. Court of Appeal (2024 BCCA 169) the court agreed with the judge below that the regional district’s interpretation of s. 529 of the *Local Government Act* was unreasonable. The regional district had concluded that the petitioner (the respondent on appeal) could construct an entirely new building within the footprint of the petitioner’s older waterfront cottage despite the fact that the cottage was well within the setback imposed under the regional district’s current zoning bylaw. The regional district had concluded that a new building could be constructed under s. 529 as long as the new structure was “volumetrically identical” to the old cottage. The regional district argued on appeal that its interpretation of s. 529 was reasonable, given that there were no express statutory restrictions on a non-conforming structure maintaining its non-conforming status under s. 529, in contrast to the sections of the *Local Government Act* that dealt with non-conforming uses, and further that the words “maintained, extended or altered” were broad enough to include a full rebuild of a non-conforming structure. The Court of Appeal disagreed. The judge below did not err in holding that what s. 529(1) allows to be “maintained, extended or altered” is a building constructed before the adoption of the bylaw that caused the building to be non-conforming. It was apparent from the context of s. 529 that “maintained” was to be read as being synonymous with “repaired”. The word “repair” cannot reasonably capture the destruction of a building in its entirety and its replacement with a new building.
- **APPENDICES —APPENDIX WP. WORDS AND PHRASES — ASSESSMENT** — An assessment is an estimate of the value of a property as at a certain date. (*Affinity Holdings Ltd. v. Shaunavon (Town)*(2022), 32 M.P.L.R. (6th) 177, 2022 SKCA 83, [2023] 3 W.W.R. 251, 474 D.L.R. (4th) 71, 2022 CarswellSask 345 (Sask. C.A.)).
- **APPENDICES —APPENDIX WP. WORDS AND PHRASES — BOARD OF REVISION** — A board of revision is an administrative tribunal, typically consisting of three individuals appointed by the council of a municipality, that hears appeals against property assessments ... (*Affinity Holdings Ltd. v. Shaunavon (Town)*(2022), 32 M.P.L.R. (6th) 177,

2022 SKCA 83, [2023] 3 W.W.R. 251, 474 D.L.R. (4th) 71, 2022 CarswellSask 345 (Sask. C.A.)).

- **APPENDICES —APPENDIX WP. WORDS AND PHRASES — CONFIRMING BY-LAW** — A confirming by-law ratifies decisions that have already been made by council in which specific by-laws have not been passed. (*Friends of Nellie Lunn et al. v. Township of Wollaston*(2023), 42 M.P.L.R. (6th) 263, 86 E.T.R. (4th) 121, 2023 ONSC 1327, 2023 CarswellOnt 2230 (Ont. S.C.J.)).
- **APPENDICES – APPENDIX WP. WORDS AND PHRASES – JUDICIAL REVIEW** — ... a process, whereby the decision of the administrative decision-maker is reviewed by a judge based on the record that was before the decision-maker at the time of its decision. (*Springfield Taxpayers Rights Corp. v. Rural Municipality of Springfield and Berger Peat Moss Ltd.* (2022), 2022 MBKB 180, 33 M.P.L.R. (6th) 216, 2022 Carswell-Man 380 (Man. K.B.)).
- **APPENDICES – APPENDIX WP. WORDS AND PHRASES – LARGE AND LIBERAL INTERPRETATION** — A large and liberal interpretation is not simply the most expansive reading a statute can bear. It is constrained by the purpose, text and context of the legislation, as well as respect for legislative intent. (*Cardston (Town) v. Alberta (Municipal Affairs)* (2022), 2022 ABKB 802, 36 M.P.L.R. (6th) 6, 2022 CarswellAlta 3480 (Alta. K.B.)).