



Court File No. **CAR-S-S-15097**

No. \_\_\_\_\_  
Campbell River Registry

*In the Supreme Court of British Columbia*

Between

NOBA ANDERSON

Petitioner

and

STRATHCONA REGIONAL DISTRICT

Respondent

### **PETITION TO THE COURT**

ON NOTICE TO:

**Strathcona Regional District**  
990 Cedar Street  
Campbell River, BC. V9W 7Z8

**Deputy Attorney General**  
Ministry of Justice  
PO Box 9280 Stn Prov Govt  
Victoria BC V8W 9J7

**This proceeding is brought for the relief set out in Part 1 below by**

☒ the person named as petitioner in the style of proceedings above

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner

- (i) 2 copies of the filed response to petition, and
- (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

**Time for response to petition**

A response to petition must be filed and served on the petitioner,

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is:  500 14 <sup>th</sup> Avenue, Campbell River, BC V9W 6P1
(2)	The ADDRESS FOR SERVICE of the petitioner is:  Paul Hildebrand Barrister and Solicitor Suite 1300 – 128 Pender Street West Vancouver, B.C V6B 1R8
(3)	The name and office address of the petitioner's lawyer is:  Paul Hildebrand Barrister and Solicitor Suite 1300 – 128 Pender Street West Vancouver, B.C. V6B 1R8

## Claims of the Petitioner

### Part 1: ORDERS SOUGHT

1. An Order quashing the resolution of the respondent Strathcona Regional District, dated October 24, 2019 censuring and sanctioning the petitioner (the “Censure Decision”);
2. A declaration that the petitioner is entitled to be indemnified by the respondent Strathcona Regional District for the legal costs incurred by the petitioner in defending the petition filed in SCBC No. CAR-S14585;
3. In the alternative, an Order quashing the resolution of the respondent Strathcona Regional District, dated May 8, 2019, resolving not to indemnify the petitioner for the costs of defending the petition filed in SCBC No. CAR-S14585 (the “Indemnification Decision”), and remitting the decision back to the Board of the respondent Strathcona Regional District, with directions;
4. An order pursuant to section 17 of the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241, directing the respondent to produce and file the record before it when making the Censure Decision and the Indemnification Decision;
5. An order that the Respondent produce to the Petitioner copies of all reports and materials to be considered by the Board of the Directors of the Respondent in advance of the *in camera* meetings at which they are to be considered;
6. An Order that the Respondent pay the costs of this Petition; and
7. Such further declarations, orders or directions as this Court considers appropriate.

### Part 2: FACTUAL BASIS

#### A. The Parties

1. The petitioner, Noba Anderson (the “Petitioner” or “Director Anderson”) is an individual with an address of c/o 1300-128 Pender Street West, Vancouver, BC V6B 1R8, and a duly elected Director of the Board of Directors of the Strathcona Regional District, representing SRD Electoral Area B (Cortes Island).
2. The respondent, Strathcona Regional District (“SRD”), is a regional district created and operating pursuant to the *Local Government Act*, R.S.B.C. 2015, c. 1 and governed by a 13-member Board of Directors.

#### B. The Investigation and Disqualification Petition

3. In late 2018 and early 2019, the SRD initiated an investigation into the petitioner relating to a go-fund-me fundraising effort to assist with the costs of rebuilding a home for the petitioner’s father, which had been destroyed in a fire (the “Investigation”). The SRD hired

an investigator, Mr. Craig Peterson to interview the petitioner and a number of other residents of Cortes Island, and to write a report on his findings.

4. A number of the petitioner's constituents subsequently filed a disqualification petition in the BC Supreme Court, alleging that the petitioner had acted in a conflict of interest as a Director of SRD Electoral Area B in voting on grants in aid to various non-profit organizations in the SRD. The allegations and evidence put forward in support of the Disqualification Petition were highly inaccurate, both factually and legally.
5. The petitioner advised the SRD Board of the disqualification petition and requested that she be indemnified for her legal costs in defending it pursuant to the SRD Indemnification Bylaw No. 287.
6. In February 2019 the SRD Board received two staff reports relating to the Investigation and indemnification of the petitioner. The petitioner sought legal advice in respect of the Investigation and indemnification in response to the February 2019 staff reports, providing the reports to her legal counsel so as to obtain independent legal advice.
7. In May 2019 the SRD Board resolved to refuse to indemnify the petitioner for the legal costs in defending the disqualification petition. The Board provided no reasons for its decision.
8. In June 2019 the disqualification petition was dismissed with costs payable to the petitioner.
9. In October 2019 the SRD Board resolved to censure and sanction the petitioner for seeking legal advice with respect to the February 2019 staff reports as well as a March 14, 2019 staff report relating to the report of the Investigation.
10. Between April and October 2019 SRD staff and the SRD Board have refused to provide copies of reports and materials to be considered by the SRD Board *in camera*, despite the fact that the petitioner did not have a declared conflict of interest with respect to those materials.

### **Part 3: LEGAL BASIS**

1. The petitioner relies on the following enactments:
  - a. *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241;
  - b. *Local Government Act*, R.S.B.C. 2015, c. 1;
  - c. *Community Charter*, 2003 S.B.C. c. 26;
  - d. *Interpretation Act*, R.S.B.C. c. 238;
  - e. Strathcona Regional District Indemnification Bylaw No. 287;

f. The Supreme Court Civil Rules; and

g. Such further and other material as counsel may advise and this Court may allow.

**A. The Board Was Unreasonable and Incorrect Not to Indemnify the Petitioner**

2. The SRD Indemnification Bylaw No. 287 requires the SRD to indemnify one of its Board members for any claim, action or prosecution brought against a member, including reasonable legal costs incurred in relation to the “proceeding”.
3. A proceeding is defined in the SRD Indemnification Bylaw No. 287 as “an action, trial, hearing or application before a court, tribunal or other body that has authority to impose civil or criminal penalties...”
4. The disqualification petition was a proceeding and the SRD was required to indemnify the petitioner for the legal costs incurred in defending the disqualification petition. It’s adoption of the Indemnification Decision was unreasonable and incorrect.
5. The Board failed to provide reasons for the Indemnification Decision and there is no clear rationale or reasoning for the decision.

**B. The Board Was Unreasonable and Incorrect to Censure and Sanction the Petitioner**

6. While the authority to censure one of its members is within the authority of the Board, the Board was unreasonable and incorrect to censure the petitioner as no factual basis for censure was borne out in the evidence before the Board.
7. The allegation made of the petitioner was that she revealed confidential information in breach of section 117 of the *Community Charter*, S.B.C. 2003, c. 26 or the Director Code of Conduct.
8. The petitioner did not reveal confidential material as alleged or at all, rather, she sought legal advice with respect to materials that affected her personal interests. The petitioner’s actions were not a breach of s. 117 of the *Community Charter* and the Respondent was unreasonable and incorrect to find otherwise when adopting the Censure Decision.
9. The right to seek legal advice is not abrogated by section 117 of the *Community Charter*.
10. The Respondent further relied on material in making the Censure Decision that had not been provided to the Petitioner in advance of the Censure Decision, which amounts to a breach of procedural fairness.

**C. The Board Has No Authority to Withhold *In Camera* Board Materials from the Petitioner**

11. The SRD’s practice of withholding *in camera* reports and materials from the petitioner in the absence of a declared conflict of interest is without foundation or lawful authority.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #1 of Noba Anderson, sworn 30 JUN 2020;
2. Affidavit #2 of Noba Anderson, to be provided *in camera*;
3. The pleadings filed herein;
4. Such further and other material as counsel may advise and this Court may allow.

The petitioner estimates that the hearing of the petition will take **1 day**.

Date:

  
\_\_\_\_\_  
Signature of  
[x] lawyer for petitioner  
**Paul Hildebrand**

***To be completed by the court only:***

Order made

[ ] in the terms requested in paragraphs ..... of Part 1 of this petition

[ ] with the following variations and additional terms:

.....

.....

.....

Date: .....[dd/mm/yyyy].....

.....

Signature of [ ] Judge [ ] Master