

# C.L.E.A.R.



Common Law Education and Rights

## ***"Promoting Freedom in B.C."***

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**Freedom activists are critical thinkers!**

**Our society is so dumbed down and indoctrinated that anyone who is a critical thinker is labeled as a Conspiracy Theorist to avoid critical debates**

**Did you know:** The term 'conspiracy theorist' was first coined and used by the CIA to ridicule anyone who opposed the gov't narrative?

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*Resistance Is **Not** Futile!*

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## ***Kelowna Courts***

***B.C. Court of Appeal victory!***

***City of Kelowna v David Lindsay et al***

**Kelowna Petition to Stop Rallies at Stuart Park**



# ***IMPORTANT LEGAL UPDATE FREEDOM OF EXPRESSION***

## **August 12, 2026 – Update B.C. Court of Appeal**

**We had an important procedural victory in the B.C. Court of Appeal last week, on Aug. 7, 2026. Thank you to God for listening to all our prayers!**

You can read after this short summary below, for a more detailed legal analysis as well.

The BC Court of Appeal just handed us a significant victory in our battle against the City of Kelowna. On August 7, 2026, the Court granted us an extension to appeal a lower court decision that threatened to gut the very law designed to protect British Columbians from being silenced by powerful governments, such as the City of Kelowna. Justice Warren didn't just allow our appeal to move forward—she noted it has real merit and that **this case matters to the entire legal profession in B.C.** Wow!

Here's what's at stake: The City is trying to use Municipal permits to shut down our Constitutionally enshrined rallies at Stuart Park, City Hall, and throughout downtown Kelowna. In plain terms, they want to convert our fundamental freedoms into privileges we have to beg the government for. When we fought back using BC's anti-SLAPP law—which exists specifically to stop governments and corporations from using lawsuits to silence critics—a lower court judge made a ruling so unusual that not a single other court in Canada has ever agreed with it. We cited twelve precedents supporting our position; the Chambers Justice could not find one supporting hers.

This victory does two crucial things. First, it means our appeal will be heard in full, likely in spring 2027. Second, and just as important, the City cannot proceed with its attempt to ban our protests while this appeal is before the Court of Appeal. Our rallies, our voices, and our Constitutional freedom to assemble and express ourselves remain protected while this struggle continues.

This is just one step in a longer battle, but it's a decisive one. The Court recognized what we've said all along: this case will set the precedent for how the anti-SLAPP law protects every British Columbian's right to speak out on matters of public interest. The City tried to dodge accountability through creative legal maneuvering. The Court of Appeal just told

them: not so fast, we have significant merit to our appeal and the judgment by the Chambers Justice, appears to have important errors in it.

**We do not have lawyers and are defending this case on our own.**

**Your support would be much appreciated as we continue this most important freedom of expression case. E-transfers can be sent to:**

**[clear2012@pm.me](mailto:clear2012@pm.me) or mailed to: CLEAR, P.O. Box 21113 Cherry Lane Mall, Penticton, B.C. V2A 8K1. Expresspost is safest. Thank you!**

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## **Legal Analysis**

Our *Protection of Public Participation Act (PPPA)* Application in this case arose from the City of Kelowna's Petition seeking injunctions to prohibit our public rallies and demonstrations at Stuart Park, City Hall and almost all of downtown Kelowna. This precedent setting case is attempting to force organizers of Constitutionally protected public assemblies and protests (only us – no one else), to obtain a licence/permit from the Municipal Government in order to do so. Put another way, Provincial governments are using Municipal bylaws to change Constitutionally protected freedoms into activities that cannot occur without permission (a licence) of the same Governments that the protests are intended to expose.

David Lindsay and Lloyd Manchester were the *PPPA* applicants, arguing that the City's proceeding arose from their expression on matters of public interest and therefore engaged the protections of the *PPPA*, including responses to COVID-19, and upcoming threats to our privacy, rights and freedoms such as digital ID and currency. We applied before J. Hardwick in the B.C. Supreme Court, to declare that the Petition is a SLAPP case (Strategic Lawsuit Against Public Participation) and should be dismissed.

The *PPPA* establishes a multi-stage statutory test, beginning with **s. 4(1)(a)**, which requires an applicant to establish that the proceeding "*arises from an expression made by the applicant*" relating to a matter of public interest. If this test is met, the Petition must be dismissed unless the City establishes all of **s. 4(2)**. Here is the relevant section of the *PPPA* at issue right now, with **s. 4(1)(a)** being the part we are dealing with on appeal as the Chambers Justice did not rule on the remaining parts of this section.

### ***Protection of Public Participation Act***

**"expression"** *means any communication, whether it is made verbally or non-verbally, publicly or privately, and whether it is directed or not directed at a person or entity;*

## ***Application to court***

**4(1)** *In a proceeding, a person against whom the proceeding has been brought may apply for a dismissal order under subsection (2) on the basis that*

- (a) the proceeding arises from an expression made by the applicant, and*
- (b) the expression relates to a matter of public interest.*

**(2)** *If the applicant satisfies the court that the proceeding arises from an expression referred to in subsection (1), the court must make a dismissal order unless the respondent satisfies the court that*

- (a) there are grounds to believe that*
  - (i) the proceeding has substantial merit, and*
  - (ii) the applicant has no valid defence in the proceeding, and*
- (b) the harm likely to have been or to be suffered by the respondent as a result of the applicant's expression is serious enough that the public interest in continuing the proceeding outweighs the public interest in protecting that expression.*

Justice Hardwick dismissed our anti-SLAPP Applications against the City at this initial threshold, **s. 4(1)(a)**. The central ground of appeal is that she erred by effectively requiring, in **s. 4(1)(a)**, that the content of the expression must be a material element of the City's Petition, rather than applying the statutory test of whether the proceeding arose from the Applicants' expression. In other words, unless the City claimed that it wanted the injunction because it did not approve of the content of our expressions, and it did not expressly say so, our application would fail. But make no mistake, attacking and prohibiting our public opposition to the Government by any manner it can find, remains the intended result.

The Chambers Justice's finding however, is directly opposed to every single case law on this section, from the Supreme Court of Canada to the lower courts – where we provided no less than **12** such cases to J. Warren. Not one case has agreed with J. Hardwick's interpretation.

As you can clearly see by the definition of “*expression*” and **s. 4(1)(a)** above, content is only required under **s. 4(1)(b)**. Legally, if content was required in **s. 4(1)(a)**, it would have read: “*the proceeding arises from the content of an expression made by the applicant.*” The omission of these words shows the legislative intention to not include them in this section.

Lindsay and Manchester immediately decided to appeal to the British Columbia Court of Appeal. However, an extension of time was required because they had acted on incorrect information provided by the Court of Appeal concerning when the appeal period began to

run, resulting in the filing deadline being missed. The extension Applications were therefore considered under the *Davies* case criteria, considering:

- i. whether there was an intention to appeal;
- ii. the explanation for the delay;
- iii. if there was any prejudice to the Respondent;
- iv. the merits of the proposed appeal, and
- v. ultimately the interests of justice.

The explanation for the delay was an important part of satisfying that test.

On August 10, 2026, the Court of Appeal granted the extension of time, allowing the appeals to proceed. Importantly, J. Warren stated in her oral reasons that there was merit in the proposed appeal, and that this was case of interest to the legal profession in B.C.

Because this appeal lies from a decision on **s. 4(1)(a)** of the *PPPA*, which must be decided first before any other part of this section, our case will affect every single case from this point forward, on this legislation. J. Warren agreed that that the present situation would create uncertainty in the law because Chambers J. Hardwick was the only judge to ever make this finding and no other court has supported it. This needed to be corrected, now before others waste thousands of dollars in legal fees.

In effect, the City and Province are trying to narrow the application of the *PPPA* so they can use creative drafting of pleadings to avoid the *PPPA*, which they admitted in court was binding upon them. They are trying to change the law that has already been settled for years – to indirectly shut down freedom of expression, which it cannot do directly.

This was not a determination of the appeal itself, but it was a significant procedural victory. The Court accepted that the circumstances justified extending the deadline and that the proposed appeal had sufficient merit to proceed. This all but ensures that our appeal will be heard on the merits, and we have significant law and authorities to support us.

Success on appeal will ensure that the entire Petition of the City of Kelowna, is dismissed.

The appeals will now proceed from Chambers J. Hardwick's decision on our anti-SLAPP application against the City's Petition.

The substantive appeal can now address the correct interpretation of **s. 4(1)(a)**, including that the Chambers Judge improperly introduced a content requirement into a provision concerned with whether the proceeding arose from expression made by the Applicants, or simply whether there was a communication or not. Anyone seeing our protest rallies, can confirm that there were communications at every rally.

We are seeking that our appeal be granted, that J. Hardwick erred in her interpretation of **s. 4(1)(a)**, that content is not required under this section, and because the City has already accepted that **s. 4(1)(b)** test has already been met, that the case be send back to J. Hardwick to then rule on the remaining **s. 4(2)(a)(b)** of the *PPPA*.

A case management judge is being appointed to assist setting future dates in this matter, in the next couple of weeks. The appeal itself likely will not be heard now until the spring of 2027. Meanwhile, as this case remains before the B.C. Courts, the City cannot proceed with its injunction Application until this is heard by the B.C. Court of Appeal.

Our Constitutionally enshrined freedom of assembly and protests, will continue!!!

**We do not have lawyers and are defending this case on our own.**

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