

Publisher's Note

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Coates and Waqué

New Law of Expropriation

Release Highlights

This release of the *New Law of Expropriation* features updates to the case law, commentary and legislation found under the following divisions of the service: Evidence, Ontario, Alberta, Manitoba, New Brunswick, Nova Scotia, Canada, and British Columbia.

Commentary Highlights

- Updates to the commentary in the British Columbia division include discussion of two inquiries under section 14 of the Expropriations Act, R.S.B.C. 1996, c. 125. The first inquiry involved a proposed expropriation by the City of Prince Rupert of land owned by Sun Wave Forest Products Ltd. for the redevelopment of Watson Island, site of a former pulp mill that had closed in 2001, and addressed issues of 'necessity' and the evidentiary burden on the parties. The second inquiry involved the proposed acquisition of a parcel of approximately 32 acres by the Corporation of the Township of Langley in order to establish a 'passive park' – ultimately recommending approval for the expropriation, the Inquiry Officer identified four distinct issues or steps in the interpretation of section 14, as follows:

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- Whether the proposed expropriation of the property would be necessary to achieve the town's objectives;
 - Whether the town's objectives could be better achieved with an alternative site;
 - Whether the amount of land proposed to be expropriated could be varied; and
 - Whether the nature of the interest in the land could be varied.
- Updates for British Columbia also include commentary concerning the unreported *Bowlin v. British Columbia Transportation Financing Authority* (June 19, 2017), Doc. Kelowna S114900 (B.C. S.C.). Therein, Groves J. made a number of orders under the *Judicial Review Procedure Act*, R.S.B.C. 1996, c. 241, regarding issues arising from an advance payment made in connection with a highway expropriation – due to its inadequacy in compensating for the value of gravel found on the land, the learned justice set aside the advance payment, as well as expropriation and vesting notices. Issues raised by this decision include whether and the extent to which offers made during the course of negotiation may be used as evidence of value.

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