

September 28, 2022

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Judicial Conduct Review requested by:

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RE: Honourable Justice Lyle Zuk, Court of King's Bench for Saskatchewan Judicial Centre of Battleford

Q.B. No. 175 of 2021, heard via telephone October 20, 2021; decision rendered April 20, 2022
Citation 2022 SKQB 118

Suffern Lake Regional Park Authority, Plaintiff v John Danilak and Joanna Ritchot, Respondents

Counsel for the Plaintiff: Travis K. Kusch of Robertson Stromberg LLP

Respondents: self representing

Respondents to SKQB 175 of 2021 are asking the Canadian Judicial Council to review the conduct of Justice Lyle Zuk in this matter and to take appropriate steps to see that Justice Zuk does not continue these behaviors if he is to remain in his extremely important role within our society. Respondents to Sask. QB 174 of 2021 will also be requesting a Judicial Review of Justice Zuk's conduct. In the event both requests are actioned and reviewed by the same members of the CJC, they may note some redundancies. Should they be reviewed by different members, for additional clarity, it may help to review both complaints.

Respondents' confidence in the judicial system has been shaken considerably due to the issues covered in this request for Judicial Review.

Background

Respondents to Sask. QB 175 of 2021 are John Danilak and Joanna Ritchot. Mr. Danilak has owned a cabin situated on a lot leased from Suffern Lake Regional Park Authority (SLRPA) for over 32 years. Ms. Ritchot was Mr. Danilak's partner; however, she has clearly stated several times she has no financial interest in the cabin.

Saskatchewan Regional Parks and Regional Park Authorities

Saskatchewan Regional Parks and their related regional park authorities are defined as Other Legislated Entities, further described as public bodies performing a function of government.

They are a creation of the Saskatchewan Government and, along with other legislation, are governed under *The Regional Parks Act, 2013*. The Act states, “*A regional park authority constituted pursuant to this Act is a corporation consisting of the following members: (a) the representatives appointed by the municipalities or organizations applying for the establishment of the regional park authority; and (b) if a regional park bylaw mentioned in subsection 9(3) has been enacted, the members-at-large mentioned in that bylaw*” (S. 8(2)(a) & (b)).

The Regional Parks Act, 2013 explains its scope and purpose. There are about 100 regional parks located across the province to allow for easy park access to all communities in Saskatchewan and “*to facilitate the establishment and location of regional parks in such a way that the majority of Saskatchewan residents will be within a reasonable driving distance of a regional park*” (S. 3(c)). In general, administrative oversight for these Parks is provided by individuals appointed by participating villages, towns, and rural municipalities in order “*to assist municipalities, local government agencies and organizations in establishing and operating regional parks with a view to making the natural, cultural and recreational resources of Saskatchewan available to the public*” (S.3(b)).

There are 296 rural municipalities in Saskatchewan and most of them are administrative participants in the operation of regional parks. Some are involved with more than one regional park. Virtually every regional park in the province has direct ties to a rural municipality by way of administrative involvement. The regional parks within Saskatchewan vary in size and in the types and number of amenities they offer the public. Many have hired staff of both large teams and small, depending on the individual park. Additionally, about 25 of the regional parks in the province have cabin (cottage) communities. Where regional parks do have cabin communities, lots are leased to the owners of dwellings, usually on a long-term basis. **Those dwellings are subject to a provincial Education Property Tax (EPT).**

Taxation Processes

The Role of Saskatchewan Assessments Management Agency

Respondents to Sask. QB 175 of 2021 have never protested the validity of the EPT. They have protested the unfairness in ways taxes have been applied selectively by SLRPA, often using the term tax manipulation.

The amounts paid in taxes are based on property assessments established by Saskatchewan Assessments Management Agency (SAMA). SAMA is a Crown Corporation that oversees about 2 million properties in Saskatchewan with combined values of over \$2 billion. The sole purpose of SAMA is to monitor changes in property values across the province and change or implement assessments with fair and equitable processes as required. While it has an important role in creating Government revenue, SAMA has no powers of enforcement; it operates with oversight from the Ministry of Government Relations. Enforcement processes are handled by individual municipalities.

Regional Parks and Taxation

Cabin communities *The Regional Parks Act* and *The Municipalities Act* give regional park authorities a great deal of control over the taxation process. This includes establishing mil rates

for municipal taxes that in turn fund park operations. Mil rates for municipal taxes vary from zero to double digits according to the needs of the park. In addition, ratepayers pay EPT, which is a provincial tax with a fixed mil rate across the province. *The Regional Parks Act* allows for the funding of regional parks while *The Municipalities Act* and *The Education Property Tax Act* offer the processes over taxation.

While regional park authorities have significant tax administrative duties, they are not a tax authority with powers of tax enforcement. Within the group of oversight bodies dealing with a regional park, one rural municipality will act as the tax authority. That municipality will issue tax notices, collect municipal and provincial taxes, and distribute them accordingly. In the case of SLRPA, the RM of Senlac (No. 411) will send assessment and tax notices and will collect municipal taxes based on the mil rate set by the Park Authority. The RM will keep about 20% of the total collected for handling fees then provide the balance to the Park Authority as a form of operating grant. They also will forward the EPT portion of tax collected to the General Revenue Fund for the province.

The Education Property Tax is legislated to be paid by all property/improvement owners unless an exemption has been made. Another way property tax can be avoided is if a property has not been assessed. In regional parks, the main oversight RM must invite SAMA to perform property assessment services.

Establishing property value within regional parks for taxation purposes has largely been a cooperative effort between a park authority and SAMA. In typical situations across the country, property values change often according to market conditions. Real Estate Associations and similar organizations would report sale prices of specific properties making note of amenities, size and so on. A substantial number those reports would then establish baselines in turn used to estimate the value of properties in general for taxation purposes.

At Suffern Lake Regional Park (and some others) the responsibility for reporting of transactions fell on the Park Authority. If SLRPA failed to fulfill this task, responsibility then fell on the Rural Municipality of Senlac (No. 411). Typically, the Park Secretary/Administrator would take on the reporting role. When SAMA received the information, it would be analyzed accordingly and then used to establish property assessments within the Park.

Regional Parks & Government Funding

The Ministry of Parks, Culture and Sport has entered into an Administration agreement with the Saskatchewan Regional Parks Association that delegates ministerial powers to manage the Grant Program to support regional parks and to dispense capital funding assistance to regional park authorities, and, for an annual fee, regional parks can participate. Most of them do, but not all. The Saskatchewan Regional Parks Association, through this legislated Administration Agreement pursuant to *The Regional Parks Act*, has taken on several duties of the Minister of Parks, Culture & Sport, and is heavily funded by Saskatchewan government. Government funds are directed through the Association to individual regional parks to fund various projects.

While the Association is intended to be an oversight body, regional parks are notoriously independent from any meaningful oversight. During a large 2014 trade show in Western Canada

the President for the Saskatchewan Regional Parks Association proudly explained regional park independence and asserted that “no government tells us what to do”. The regional park system has power of its own and is independent in how it is operated and how it governs. Similarly, each regional park also maintains its independent operations and governance. No government tells them what to do, and so they do what they want because they can. So while regional parks have the appearance of oversight from RMs and Saskatchewan Regional Park Association, they are in reality independent organizations, known as “Other Legislated Entities”. They receive funding from government but do not need to be accountable.

In addition, *The Regional Parks Act* allows the Minister to provide direct and immediate assistance on a yearly basis of up to \$50,000 without approvals or government permissions (S.17(2) & S.18(2)). The legislation does not specify how this assistance can be used and does not say these funds cannot be used to support legal actions.

Recreational Properties, EPT & Politics

Regional parks are not the only type of operating structures that have cabin communities attached to recreational locations. Some provincial parks have residential communities as well as resort villages and hamlets that are similarly operated but fall under different legislation, primarily *The Parks Act* and *The Municipalities Act*.

EPT has long been a contentious issue in the province in circumstances where seasonal residential property owners have resented paying an education tax where no schools are involved and no additional services such as school bussing is provided. In addition, there are no voting rights allowed. This tax was implemented about 20 years ago by the NDP government of the day. It led to organized protests, political pushback and in some cases, schemes to avoid paying the tax at all. Dustin Munroe in chapters 3-5 of his thesis, *Education Property Tax Reforms in Saskatchewan 1997-2011*, clearly describes the various political confrontations and events during this time period.

Saskatchewan regional parks are politically very important in the province, and they leave a huge footprint in rural Saskatchewan. The rural vote **is vital** to any political party hoping to gain a majority government in Saskatchewan. Since 2007, the SaskParty has enjoyed a strong majority government position. Prior to 2007, the SaskParty strongly opposed the Education Property Tax. After taking control of government, SaskParty soon took steps to minimize the tax, especially for rural folks, and to take it out of the hands of School Boards. EPT is now paid directly into general revenue.

Civil Litigation & CJC Judicial Conduct Reviews

Previous & Current Litigation

Origins of SKQB 175 of 2021 go back to taxation issues coming to light in 2016 and are strongly tied to SKQB 174 of 2019, SKQB 230 of 2019, SKQB 231 of 2019 and SKQB 232 of 2019. These ties are so strong that Counsel for SLRPA brought forward a broad range of materials from those cases when presenting his arguments for SKQB 174 of 2021 and SKQB 175 of 2019.

Applications for SKQB 230 of 2019 and SKQB 231 of 2019 were identical save for the names of Respondents. Applications for SKQB 174 of 2021 and SKQB 175 of 2019 are identical save for the names of Respondents.

Justice Lyle Zuk heard SKQB 230 of 2019, SKQB 232 of 2019, SKQB 174 of 2021 and SKQB 175 of 2019.

SKQB 230 of 2019 was dismissed by Justice Zuk. However, Respondents did request the CJC conduct a review of Justice Zuk's courtroom behavior and his written decision. This request was granted. **Chief Justice Christopher Hinkson of British Columbia conducted the review.** In his reviews of Justice Zuk (and a similar conduct review of Madam Justice Goebel) Chief Justice Hinkson noted that **addressing perjury was at the discretion of the Judge.**

All the cases noted above were initiated by the same Applicant (SLRPA), using the same law firm, Robertson Stromberg. In every case, Respondents have been self representing.

While every action was initiated by SLRPA as an organization, a vast majority of affidavits used by the Applicant (in the order of 90%) came from one man, **SLRPA Park Secretary David Kiefer.** During the period in which Justice Zuk held his decisions for QB 174 and QB 175 of 2021 in reserve, Mr. Kiefer left his position of secretary/treasurer.

Former Request for a Conduct Review QB 230 of 2019 (CJC File: 20-0335)

Respondents to this action took strong exception to comments made by Justice Zuk in his written decision. Of primary concern were his defamatory statement that Respondents claim of tax manipulation was "disingenuous at best" and in the court room he sharply criticized John Danilak who asked about why taxation penalties were only applied to some parties but not to others. Justice Zuk responded, "you got caught".

Justice Zuk seemed blissfully unaware it was Mr. Danilak who had brought tax concerns to the forefront and did not get caught at all. Oddly, in following written commentary he said Danilak's claims of tax manipulation were disingenuous at best. It begged the question what did Justice Zuk think Mr. Danilak got caught at?

Subsequent information supplied by Irwin Blank CEO of SAMA showed that SLRPA **had not been adequately supplying sales reports** to his organization, and as a result, some property values were dramatically skewed to the low side. Secretary David Kiefer had already used the excuse SLRPA (him) had erred on the side of caution because they did not have price information from property buyers. Respondents took the position that this claim was nonsense. If buyers refused to supply required purchase information, why were they then allowed to transfer leases into their name?

This information was supplied to Government Officials and Respondents about 2 months prior to Justice Zuk delivering his COVID delayed decision. **Among the Officials notified of incomplete sales information and low property assessment values was Saskatchewan Government Justice Minister/Attorney General, Donald Morgan.**

Respondents considered the possibility that Minister Morgan had not advised the court there had been tax irregularities, and therefore, Justice Zuk was unaware of the circumstances when he

made his “disingenuous at best” comment. Nevertheless, even while dismissing the action Justice Zuk seemed determined to discredit Respondents. A now retired lawyer looked at the outcome and commented “this is a you won, shut up and go away decision”. He also suggested, based on material he reviewed in summer 2020, there were the makings of a **Tort Conspiracy**. He suggested further research should take place. Further research was conducted with startling results.

Whistleblowers Labeled as Trouble-makers

The court has been inconsistent in the way information has been allowed or disallowed regarding this vexatious collection of lawsuits initiated by SLRPA. It seems the one constant has been the willingness of the court to ignore perjury at the discretion of the Judge. Respondents believe that Secretary David Kiefer was taking advantage of the judicial leniency, knowing Justice Zuk would not take it into consideration. It is unconscionable and demoralizing that perjury is considered discretionary in a court of law.

As previously noted, applications for SKQB 230 of 2019 and SKQB 231 of 2019 were identical. In SKQB 231 of 2019, Madam Justice Goebel noted that old grievances had been raised by Respondents but were not relevant to the arguments at hand. In a complete reversal of that claim of irrelevant arguments, the lawsuits of 2021 were indeed based on old grievances as noted by SLRPA Counsel’s use of historic court materials and the very telling wording of a motion (from minutes of a SLRPA meeting). Former Board member Norm Wright said this, *“due to all the trouble the cabin owners of 27, 56 and 54 have caused the Park and all the lawyer fees and for not paying any of the invoices for the past three to four years, the Park Authority do not renew their leases that expired on December 31, 2020. Secoded by Alex, Carried unanimous”* (Exhibit G, Affidavit of David Kiefer, SKQB 175 of 2021).

The trouble these cabin owners caused to which SLRPA members refer and the reason for lease nonrenewal are as follows.

- Cabin Owners contacted officers at Saskatchewan Environment and alerted them to the fact SLRPA was importing barked pine wood logs from Alberta, processing the logs and selling it to campers. In addition, the Park Secretary of the day and a former Board member used the same wood supplier, used the Park as a holding ground while wood was processed for resale outside the Park. In total this amounted to about 40 metric tonnes (2 tractor trailer loads). This was in direct violation of Federal /Provincial laws regarding Mountain Pine Beetle infestations. Warnings were issued to the Park and no further steps were taken.
- Cabin Owners contacted Saskatchewan Liquor and Gaming Authority (SLGA) and pointed out irregularities in financial reporting and apparent conflict of interest issues where SLRPA members and their families were taking part in prize awards, which is in violation of Regular Raffle regulations. (SLRPA termed these raffles as lotteries.) SLGA investigated Respondents’ inquiries. No further Regular Raffles have been conducted by SLRPA.

- Cabin owners identified a \$17,500 difference in financial reporting between reports SLRPA supplied to SLGA and those SLRPA provided to stakeholders (who were given the smaller amount). SLGA has acknowledged there were differences in the reporting. Saskatchewan Government has consistently refused to address the matter. SLRPA Secretary David Kiefer has sworn an affidavit saying he is unaware of what Respondents are talking about.
- SLRPA commenced a Queen's Bench action against James Duffee late 2017 (owner of Cabin 54 also a Co-Respondent in Sask. QB 174 of 2019). This action was withdrawn by SLRPA counsel 2 days before scheduled Chambers hearings. No explanation was given.
- During April 2018, SLRPA terminated leases held by John Danilak and Lisa Wildman with the false claim of they had refused to pay taxes. Both Danilak and Wildman had agreed to pay taxes when it was explained why taxes on some cabins increased by as much as 71% while only 14% on others when no improvements took place in the tax assessment period. No explanation was given.
- Later in 2018, SLRPA initiated a Provincial Court action against Mr. Duffee in mid 2018. This case found its way to unsuccessful Case Management. A trial was scheduled to begin early July 2018. John Danilak, Joanna Ritchot, Lisa Wildman, and Norm Zigarlick all agreed to appear as witnesses on Mr. Duffee's behalf. This case was adjourned indefinitely and eventually abandoned. During this same period, SLRPA Chairman of the day, took it upon himself to physically remove underground water lines that hooked Cabin 27 (Danilak) and Cabin 56 (Wildman) to the Park water system.
- During late June 2019, John Danilak, James Duffee, Joanna Ritchot, Lisa Wildman and Norm Zigarlick were all named in SKQB 174 of 2019. This action was discontinued by Madam Justice Zerr. During Sept. 2019 John Danilak and Joanna Ritchot were named in SKQB 230 of 2019. Lisa Wildman and Norm Zigarlick were named in SKQB 231 of 2019. James Duffee was named in SKQB 232 of 2019. All were dismissed. In those dismissals were demands for payment for fines such as putting up Christmas decorations without Park approval, picking up dead wood (in winter) for use as firewood and assisting in picking up deadwood. Also dismissed were the \$11 per day year-round rent fees SLRPA had arbitrarily applied after leases were terminated.

Madam Justice Goebel and Justice Zuk had ordered leases be reinstated for all Respondents. Before reinstating the leases, SLRPA had demanded payment for past years lease payments along with charges for water service and Regional Park passes since 2018. Respondents agreed to pay past lease fees but disputed the idea that they should pay for water services physically removed by the Park three years earlier. They also disputed having to pay for past annual Regional Park passes which are provincial in nature and had been purchased each year by Respondents from approved provincial outlets. Respondents had visited numerous other Regional Parks while utilizing those passes.

Respondents offered to pay the total in trust and have an adjudicator decide the fairness of the billings. Respondents also suggested mediation be used to settle differences. The Park refused the trust payment and Counsel for SLRPA advised that the Park was not interested in mediation. SLRPA then initiated two more lawsuits thus adding to their inhouse expenses. **In the Applications for SKQB 174 and SKQB 175 of 2021, SLRPA claimed Respondents had forced them to go to court. Justice Zuk was aware of these circumstances and agreed with SLRPA in every instance. He stated in his decisions that mediation, trust payment or trial/examinations were not appropriate in these matters.**

Justice Zuk effectively silenced Respondents in one fell swoop; in removing all reasonable avenues available to solve the problem, he contrived the only action that could be taken to suppress Respondents, which was for him to adjudicate the circumstances himself in a summary fashion. This seems to show a bias of Justice Zuk against the Respondents instead of neutrality.

Law Firm Tactics

Respondents are aware the Judicial Council cannot address the behaviors of law firms or their lawyers, but the relationship between various players in these disputes and the law firm who handled all the relative legal actions that made it to a court room is concerning.

Robertson Stromberg is a high-profile prestigious Saskatchewan firm. It has senior members who act in important positions in the Saskatchewan Law Society. The most troubling issue from the perspective of the Respondents is this firm has written and published online, a guideline as to how a well funded client can overcome “financial weaklings” in court proceedings. It begins with the following: “You will not find in this paper a detailed analysis of legal niceties. That kind of thing is well covered in the thorough and citation-filled texts and reporting services.”

The article by Robertson Stromberg makes a mockery of both the Courts and the legal profession never mind what it does to the confidence of the general public. Respondents find it shocking that what is described is acceptable and considered fair. The main elements of the tactics in the guide are an overload of time and money consuming activities that run opponents out of money and the energy to fight back. This is a rather intimidating prospect for self representing senior citizens trying to protect their assets from a wave of lawsuits launched by a publicly funded agent of government.

The Non-Recusal of Justice Zuk

Because of COVID restrictions as of October 21st, 2021, court appearances were scheduled by telephone for SKQB 174 of 2021 and SKQB 175 of 2019. Joanna Ritchot appeared by telephone conference call from Edmonton Alberta, and John Danilak, Lisa Wildman and Norm Zigarlick appeared by telephone conference call from Suffern Lake Regional Park.

The call opened with Justice Zuk stating his surprise when he found that Danilak and Ritchot were appearing before him again. He also acknowledged that Wildman and Zigarlick had requested a Judicial Conduct Review regarding the behavior and commentary of Madam Justice Goebel who heard Sask. QB 231 of 2019, an Application identical to that of the Danilak/Ritchot Sask. QB 230 of 2019.

The Court recording will show that Justice Zuk acknowledged the previous complaints **had been valid**. (He had little choice given Chief Justice Hinkson had already conducted reviews.) Justice Zuk then offered to recuse himself from the proceedings but did stress he had taken an oath of office that presumably guided him to be fair and impartial. John Danilak advised Justice Zuk he would put his faith in the integrity of the court. Joanna Ritchot said she would follow Mr. Danilak's lead. Justice Zuk then made the same offer to Wildman and Zigarlick. Both agreed to have Justice Zuk proceed. Given the Applications were again identical, Respondents unanimously agreed to have the cases heard simultaneously.

These choices were not entirely altruistic on behalf of the Respondents who for years had been painted as uncooperative troublemakers. Adding to the reputation of being difficult by being seemingly unfair to a Judge would not benefit anyone, especially a Judge who Respondents believed to have been misled by former Justice Minister Morgan by omission. At the time, it did not seem to make sense that Justice Zuk had any personal interest in the SLRPA initiated cases other than to perhaps demonstrate integrity from the judiciary.

The Draconian Lease

It would be easy to say Respondents are requesting a Conduct Review of Justice Zuk **because they lost**. A closer look at his decisions will show the party that lost the greatest amount in dollar value is SLRPA with the cost of launching this and seven other legal efforts. Justice Zuk did not award Writs of Possession to SLRPA. He provided a six-month window for Respondents to sell their properties or remove them from the Park. This alone brings his decision into question.

SLRPA had harshly requested a Writ of Possession be applied to John Danilak's property and had dismissed all attempts to find a different solution. Justice Zuk did not award what was requested. He delivered something that looked more like a mediated settlement that exonerated SLRPA from its abuses and misdeeds but gave them no reward for their many litigation efforts. This behaviour is in direct contrast to the fact he flatly refused to acknowledge the veracity of any opportunity for mediation when it was requested. If there was no valid reason for a Writ of Possession to be awarded why did Justice Zuk find it necessary to award an odd decision forcing people who had done no wrong to give up their properties?

Compounding problems for Respondents was Justice Zuk ignoring a lease so draconian that real estate agents want no part in marketing the properties (Exhibit M, Affidavit of John Danilak & Joanna Ritchot, SKQB 175 of 2021). Justice Zuk mocked Respondents for suggesting the court should concern itself with lease conditions (2022 SKQB 118, para, 117) while at the same time forcing them to sell into circumstances where the only viable buyer would be one who had no fear that the Park Authority would ever direct their harmful, vindictive behaviours at them in the future.

Justice Zuk did not seem aware, nor did he care that the lease offered to Cabin Owners is in fact a sublease. The Park Authority leases land from the Crown. Subleases must meet terms and conditions set out in the agreement between the Crown and the Park Authority. At the time of this writing and 5 full months since Respondents have raised the issue, no government agency has yet to confirm the sublease implemented by SLRPA is consistent with the terms and conditions set out in the Crown Lease.

At the time of this writing and according to anecdotal evidence, a former SLRPA Chairman and a current SLRPA member have concerns about potential sales of their own cabins. One claims lenders have turned down applications for funding the purchase of Suffern Lake properties **because of lease conditions. If this is correct Justice Zuk has forced a total loss situation for Respondents.** These dwellings cannot easily be moved, and with no practical market opportunities, the properties will revert to the Park by way of Writs of Possession. With that task complete, lease conditions can then be changed, and properties sold into a normal market.

Justice Zuk and Wakaw Regional Park Authority

In the past Justice Zuk, as a practicing lawyer, represented Wakaw Lake Regional Park in a Saskatchewan legal dispute (Hildebrant v. Wakaw Lake Regional Park Authority, 1999 CanLII 12447 (SK QB)). That Park has very different leasing circumstances. The land is not crown land. It is owned by a corporation. Lots are leased to RV owners over for long periods of time, some are called “permanent leases”. These are not sub-leases. There are no permanent privately owned dwellings on leased lots at Wakaw Lake Regional Park, and leases are offered by a corporation acting in a private capacity and no permanent dwellings are involved.

There are typically 168 such arrangements at Wakaw Lake Regional Park. At Suffern Lake Regional Park the longest term available for an RV type unit is one operating season. Saskatchewan Assessments Management Agency has confirmed that at Wakaw Lake, the Park has never undergone a property assessments process since its founding, well before Justice Zuk represented that Park as a lawyer.

Much like the “you won, shut up and go away” decision as noted by our retired lawyer friend, this new decision seems to be a “shut up, take the money (if you can sell it) then go away decision”. In his decision, Justice Zuk found it necessary, in each of the 13 issues listed to discredit Respondents to the point of appearing as if he might be Counsel for SLRPA. He went out of his way to belittle Respondents while at the same time ignoring or disputing viable evidence they had presented.

Justice Zuk’s decision favours neither the Applicant nor the Respondents, but it does appear to favour the Government of Saskatchewan. Respondents began an earnest effort to learn why this might be the case. Up until the time Justice Zuk delivered his unusual and disparaging decision, Respondents had only a passing interest in taxation in other Regional Parks. Respondents researched regional parks comparable to SLRP. Only one other Park had seemed to have notable EPT issues. In retrospect and after finding additional unsavory and dubious information since the hearing, one would have expected Justice Zuk to create as much legal distance as he could from the 2021 cases.

Instead, he was convincingly eager to take part and offered his assurances of impartiality. He went so far as to say that in order to avoid any perception of bias, he would consult with colleagues from across the country when making judgements he believed would be precedent setting. He also stated that as a result of his consultations, he may present Respondents with other legal points and allow them to respond. Neither occurred and in fact, in the decisions presented by Justice Zuk on April 21st (six months to the day after the hearings), there is

absolutely no evidence that such consultations took place. If he did set precedent that evolves the judicial decision-making processes in this country, we have not recognized it.

Additional Unsavory and Dubious Information

Respondents discovered that \$35 million dollars worth of properties in recreational locations in rural Saskatchewan had been inappropriately exempted from paying EPT. These occurred in RMs, regional parks, resort villages and other recreational locations in rural Saskatchewan (SAMA calls them Seasonal Residential properties). These exemptions were occurring at the same time Saskatchewan Government was cost cutting education services. Education Property Tax is at the very core of education funding. Furthermore, while SLRPA was in the process of once again suing Danilak, Ritchot, Wildman, and Zigarlick, in the background Saskatchewan Government was quietly dismantling these inappropriate exemptions affecting about \$35 million worth of seasonal residential properties.

Eston-Riverside Regional Park had already been identified as having allowed 32 cabins to be inappropriately EPT tax exempt. The Administrator for the RM of Snipe Lake, the tax authority and prime oversight body for the Park explained these exemptions had been allowed because of a “misinterpretation” of the legislation that had in fact been in place for decades. For how many years had exemptions occurred? Decades? What are the implications for years, or decades, of missing EPT? Who is responsible for that?

According to SAMA, the combined value of these properties was just over \$3.3 million, making the average value about \$34,000. A quick search of properties for sale at Eston-Riverside showed the least expensive property for sale was advertised at \$47,500. Respondents visited the Park to get an on the ground understanding. The property noted at \$47,500 was deservedly the least expensive property. There are many 2-story, sophisticated dwellings on river view lots. The previous assessed values were not just low, they were ridiculously low.

Respondents were also advised by the Snipe Lake RM administrator that SAMA would be conducting a complete reassessment of all 97 properties in this riverside park. The implication was not only were the properties inappropriately exempt, but properties in general were also undervalued for EPT purposes. This same state of undervalued property at a regional park was the same as the situation at Suffern Lake Regional Park that had been exposed by SAMA subsequent to Respondents raising the alarm. People, whoever they were, were not paying their taxes for their recreational properties.

Eston- Riverside Regional Park is more significant to this submission than most other Regional Parks because of Bill Boyd. Mr. Boyd has long been an important figure in the well being of this Park. Mr. Boyd is also known as a co-founder of the SaskParty. He was described by former Saskatchewan Premier Brad Wall as the very DNA of the party.

Mr. Boyd was a major player in the fight against EPT when it was first introduced by the NDP. Prior to taking part in founding the SaskParty in 1997, he had been the leader of the Saskatchewan Progressive Conservative Party. The period between 1997 and when Mr. Boyd temporarily stepped away from politics in 1992, was when most of the major rural political battles took place regarding EPT. To suggest the Administration for the RM of Snipe Lake and

home to Eston-Riverside Regional Park did not understand EPT regulations is a bit far fetched. Mr. Boyd still has an active presence with this Park. Interestingly, just a short distance away also on the banks of the South Saskatchewan River was Lemsford Ferry Regional Park. This Park had also been identified by Respondents as having been avoiding EPT on an entire cabin community for 20 years or so.

Justice Zuk: Political Ties & Conservative Roots

Simple online searches show that early in his legal career Justice Zuk had acted as a business manager for a candidate in a Provincial election. The candidate in question was representing the Progressive Conservative Party of Saskatchewan. This was prior to Mr. Boyd becoming the leader of that party. Mr. Boyd then split with the Provincial PCs and took part in forming the SaskParty. Justice Zuk, at some point, became a cash contributor to the SaskParty, also shown in online searches.

When Justice Zuk received his Queens Council appointment, Mr. Boyd was considered a powerful man in the SaskParty. Then Justice Minister, Don Morgan who orchestrated the appointment was also considered a powerful man in the SaskParty. Mr. Boyd and Mr. Morgan were both closely connected and near the top of the SaskParty hierarchy. As we understand it, Mr. Wyant and Mr. Zuk received their QC appointments at the hand of Minister Morgan on or near the same day in 2008. This was published in the Law Society's magazine and is still available online and easily found. When Justice Zuk was given his Judgeship (2013), Mr. Boyd was still an important player in the Party as was Don Morgan who had changed portfolios; Gordon Wyant QC had become the new Justice Minister.

Saskatchewan Judicial appointments involve several high-ranking individuals and included there would be input from the Justice Minister of the day and representatives from the Saskatchewan Law Society. Among the most influential law firms associated with Saskatchewan Law Society is Robertson-Stromberg, the same law firm representing SLRPA in the Respondents' cases. Justice Minister, Gordon Wyant would have played a meaningful role in Justice Zuk's appointment to the bench. By the time Respondents Danilak and Ritchot appeared before Justice Zuk in 2019, Don Morgan had retaken the position of Justice Minister.

As previously noted, Respondents had requested and were granted a CJC Conduct Review on Justice Zuk's behavior in that matter. The review was conducted by Chief Justice Christopher Hinkson of British Columbia. The prime concern was Justice Zuk's commentary that Respondents claims of tax manipulation were *disingenuous at best*.

Respondents were aware that CEO Irwin Blank, SAMA had advised Justice Minister Morgan and others that Respondents had identified a weakness in the SAMA honor-based sales transaction reporting process as it applied to situations like those at Suffern Lake. CEO Blank thanked Respondents for bringing the matter forward. SAMA later verified information that had been supplied, acted upon, and a complete reassessment of dwellings located at Suffern Lake Regional Park had been done. This resulted in a doubling of EPT revenue from SLRPA properties paid to Government. It was about 2 months before Justice Zuk delivered his decision that Justice Minister Morgan was made aware of the tax circumstances by CEO Blank.

Danilak and Ritchot (SKQB 230 of 2019) were puzzled by Justice Zuk's *disingenuous* comment because, in contrast, the highest property tax Authority specialists in the province confirmed that irregularities did indeed exist, and the Justice Minister made aware of it by SAMA. Respondents assumed that Justice Zuk had not been made aware of the SAMA findings and thus made his highly damaging remarks.

Wildman and Zigarlick (SKQB 231 of 2019) had run into similar circumstances with Madam Justice Goebel who referred to the taxation issues raised as *the now debunked theory of tax manipulation*. They took the same position in assuming the SAMA findings had not been made available to her. All four Respondents are now less sure that SAMA's findings were made unavailable to both Justices.

Closed Loops & Tightly Knit Groups of Legal, Judicial and Political Associates

In both cases noted above, James D Steele represented SLRPA. He was with the firm Robertson-Stromberg. Madam Justice Goebel who heard Sask. QB 231 of 2019 was a former partner at Robertson-Stromberg. The wife of then Justice Minister Morgan appears to have been a legal assistant at Robertson Stromberg during the 2019 hearings. In the most recent cases initiated by SLRPA and heard by Justice Zuk, SLRPA was represented by Travis K. Kusch of Robertson Stromberg. It appears as if former Justice Minister Morgan's wife was still a legal assistant there at the time of the Sask. QB 174 of 2021 and Sask. QB 175 of 2021 being heard.

This tight knit community of lawyers, politicians and judges is troubling enough but even more so when the matters at hand involve politically important government agencies. **Justice Zuk's proximity to broader Education Property Tax issues compounds the impression that political concerns have entered his decision-making process.**

The Crowning Jewel: Wakaw Lake Regional Park & Tax-Free Living

As previously noted, Justice Zuk had direct experience as a lawyer representing Wakaw Lake Regional Park. The Park is located only a few kilometers from Justice Zuk's hometown. Also nearby are several resort villages situated along the lake shore. Most dwellings along the lakeshore are valued in low to mid range six figure bracket. When RV type accommodations are included, there are more than 750 permanent or long-term lease dwellings within 20 kilometers of the Town of Wakaw. Prior to taking a bench position, Justice Zuk's law firm operated a satellite office in the community of Wakaw. The extended Zuk family still has a strong presence in the area.

The Town of Wakaw has a population of just under 1000. The Town of Cudworth has a population of just under 800. The Rural Municipality of Hoodoo has a scattered population of about 700. During summer months, the resort villages and Regional Park users can outnumber the combined resident populations. The bulk of properties in the seasonal residential areas are owned by individuals not from the local area. Wakaw is known for its most famous lawyer, former Conservative Prime Minister, John G. Diefenbaker.

The RM of Hoodoo is noted for being involved in the inappropriate use of property tax exemptions. Of the \$35,000,000 of inappropriately exempted properties across the province, a

stunning 20% (\$7 million) of them are seasonal residential properties located in the small RM of Hoodoo. All of this information is freely available on SAMA's website.

It is not unreasonable to believe a lawyer who had represented a nearby Regional Park in court might also have some knowledge of other seasonal residential real estate situations located only minutes away from the Regional Park. It would be unusual if he didn't; one resort community shares a land boundary with Wakaw Lake Regional Park, and another is only about 300 meters away on the opposite lakeshore.

The Regional Park Justice Zuk represented has some unusual property considerations of its own. There are 168 "permanent lease sites" in the Park. There are elaborate deck, porch and patio structures associated with supposed permanent RVs; however, these are constructed in such a way they do not constitute a taxable dwelling.

At other Saskatchewan Regional Parks with cabin communities, dwellings and their lots are subject to the highly contentious Education Property Tax even though they are situated on land leased from Saskatchewan Government. In these situations, the dwelling has a taxable value and the lot has a taxable value. At Suffern Lake Regional Park an empty, un-serviced lot in a choice location, currently has an assessed value of \$24,900. In 2018 the former Park Secretary who had the right to lease the lot, sold those rights for a reported \$24,000. At the time, the value of that lot was stated to be \$900.

At Wakaw Lake Regional Park (WLRP) there are no taxed properties (lots or RV type dwellings). Very recently Respondents visited WLRP and nearby Resort Villages simply for the sake of comparison to other similar entities. This included reviewing terms and conditions on WLRP long term lease arrangements, prices for RVs within the Park and that sort of thing.

Lease conditions there are set by the Corporate Body that owns the Park property, it is not leased from Government. Respondents learned that lease desirability apparently had an influence on rates paid (i.e., size, proximity to amenities). A smaller generic lot had an annual lease fee in the order of \$2600 per year, made in two equal payments of \$1300, and access to these sites was restricted to summer season only. According to bylaws, leases cannot be sold but they can be reassigned for a fee of \$10,000, unless the reassignment is to a family member in which case the fee is \$2,500. To qualify for a permanent lease a proposed tenant must first be a seasonal renter on the non permanent side of the Park for at least two seasons. Park information suggested there was also a waiting list for those wishing to gain permanent leases.

Interestingly, there were several properties at WLRP offered for sale that seemed to oppose the 2-year qualification. Two were used as samples to satisfy our interest. Both involved older RV type trailers. The older was a 1995 model offered at \$72,500, the other 2007 model offered at \$155,000. Respondents then used the make, model, and condition of the units for sale then researched their basic resale value. Included in this research was J.D. Power and Associates, an organization that offers services to establish market values. Costs of moving RVs to the Park from distant purchase points and monetary exchange rates were also considered.

The 1995 model year RV had an estimated market value at Saskatoon, SK (90 km from WLRP) of no more than \$5000 CAD. The 2007 model year RV had a market value at Saskatoon of no more than \$40,000 CAD. There was modest deck construction at both sites. A generous value of \$10,000 was assigned to these structures.

These combined circumstances raise some interesting questions.

If a buyer could purchase a similar RV in Saskatoon for a price of \$5000 and pay the \$10,000 lease reassignment fee and \$10,000 for a deck, why would they pay an extra \$37,500 if not for the lot value? Similarly, why would a buyer pay \$155,000 for something that had a market value elsewhere at \$40,000, pay \$10,000 for the lease reassignment fee and \$10,000 for a deck, a difference of \$95,000 between normal market value and value on a lot at WLRP?

If a long-term, leased empty lot at Suffern Lake Regional Park can have an assessed value for tax purposes of \$24,900, why does a long-term leased lot at Wakaw Lake Regional Park have no assessed value for tax purposes even when current market conditions demonstrate these lots do have substantial cash values?

All indications are that lot leases do have a shadow market value at WLRP, and it is outside the EPT tax regime. SAMA has written Respondents and confirmed no structures at WLRP have ever experienced a property assessment. There was no mention of lot values.

There are 168 “permanent lease” sites at Wakaw Lake Regional Park. Respondents did not pick specific lots to use as examples, these were on the market at the time of our visit. In terms of desirability, they would rank from low to moderate when measured against other occupied sites. This shows the overall value of these lots to have substantial overall value.

Perhaps a former lawyer with strong ties to Saskatchewan’s governing party and who had represented this Park in the past could clarify the legality of this situation. Justice Zuk represented WLRP in a court action in 1997/1999. This was at the same time Education Property Tax was legislated to be applied on seasonal residential properties was a large political issue. This was the same time all properties were being reassessed, seasonal residential properties for the first time. This was the same time where lobby groups for parks and resort communities and rural municipalities were crying out against the EPT. This was the time that SaskParty also vigorously and publicly opposed this tax.

Conclusion

The explanations provided are lengthy, so the CJC is aware that cottage communities in Saskatchewan Regional Parks are not typical communities. They are politically important entities with bylaws and agreements that vary from Park to Park.

When lack of oversight, ill prepared management and personal interests that suppress fairness and oppress the common folk are combined with political interests and judicial bias, the obvious perception is that justice has left the scene. As a person with closeup and personal experience with Regional Parks, socially, administratively, and legally, Justice Zuk has not demonstrated the kind of impartiality or integrity expected and required by Canadians. Justice Zuk should never have allowed himself to be the judge for this hearing, with his ties to government, politics and regional park processes, he should have recused himself. But it was because of these same ties that he stayed.

It is a laborious process researching an opponent, but respondents shouldn't have to research the Justice that appears before them to find out his true political ties and biases that can hurt them. Society at large is led to believe that Judges are above reproach, they are fair, and there is validity to the processes for the everyday people this system is supposed to serve. Allowing his personal interests to drive his decisions make him seem very ordinary, and by proxy, the judiciary.

Everything that we found out after Zuk's decision was rendered made us realize that we were being led down a political safety access road to where the judicial system would dump us in some dead-end ditch, so no one could see and we would be helpless. Justice Zuk's behaviors diminish the trust of all Canadians in the judiciary, and the perception of justice no longer exists. Trust in politicians has long been lost. What will we lose next? Systems of power have a way of making the whistleblower or troublemaker disappear.

Finally, Zuk said at the hearing, "I took an Oath". We are unsure whether that oath actually means anything. The terms we citizens are expected to use when addressing the court such as "Your Honor, My Lord and My Lady" demand respect. Ladies and Gentlemen of the Judicial Council, that respect must be earned before it is deserved.