

October 27, 2020

Canadian Judicial Council
Ottawa ON K1A 0W8
info@cjc-ccm.ca

Lisa Wildman
#56 Suffern Lake Regional Park
Box 324 Marsden SK S0M 1P0
atamewildman@hotmail.com
780.720.6558

Norm Zigarlick
223 Sunset View
Cochrane AB T4C 0E9
normzig56@gmail.com

New Complaint

RE: Honourable Justice Gwendolyn V Goebel

Court of Queen's Bench for Saskatchewan

Judicial Centre of Battleford
291 23 Street West
Battleford SK S0M 0E0

Q.B. No. 231 of 2019 2019 / 09 / 19 Citation SKQB 147 2020 / 05 / 15

Description of Complaint

Background

The Plaintiff:

The Regional Park Authority is described as an **Other Legislated Entity**, a public body performing a function of Government. The Saskatchewan Provincial Auditor confirmed in January 2020 that amendments to the *Regional Parks Act 2013* make Regional Park Authorities a form of local government. Saskatchewan's Minister of Parks Culture and Sport is responsible for Regional Parks with Ministries of Government Relations and Environment also playing significant oversight roles. Legislated administration of property taxes is assigned to one of the Rural Municipalities involved in the creation of the park. In the case of Suffern Lake, the Rural Municipality of Senlac (RM411) holds taxation jurisdiction (FOI GR40-19G 14/08/2019 *Municipalities Act* Responsive Legislation).

The Respondents:

Wildman and Zigarlick self-represented as it is simply not possible to fund a stream of legal defences against an extension of the Government of Saskatchewan on minimum pension income. There has been long-term discord between a group of cottage owners who work to hold Suffern Lake Regional Park Authority (SLRPA) to account for financial and operational management including issues of environmental oversight, failure to follow lottery regulations and mismanagement of taxation, all concerns that have proven valid.

Court Action Summary

We were respondents to Writ of Possession actions launched under s. 50 *Landlord and Tenant Act* by Suffern Lake Regional Park Authority ostensibly for a breach of lease clause allowing termination for tax arrears.

QB 231 of 2019 sought vacant possession of Wildman's home on lot#56 in Suffern Lake Regional Park.

We appeared before Madame Justice Goebel in Chambers on September 19, 2019. She provided a summary decision May 15, 2020, after holding it in **reserve for EIGHT months**.

The application was **dismissed** as the plaintiff, Suffern Lake Regional Park Authority (SLRPA) had failed to meet notification requirements of *Landlord and Tenant Act* s.10 (2) and had given another cabin owner notification and opportunity to resolve tax arrears but had not provided such an opportunity to Wildman [54, 55].

Rationale for request of a JUDICIAL CONDUCT REVIEW

1. **Originating Applications for QB230 and 231 of 2019 are virtually identical. Yet, the written decisions are decidedly different.** (Attachments 1 – 4)
 - a. In her decision, Madam Justice Goebel states that the Park must reinstate the cabin owner lease [63, 65]. Justice Zuk's decision on QB230 states that the cabin owner lease remains in force and effect [31] since the April 3, 2018 termination.
 - b. Madame Justice Goebel clearly states that Wildman's tax arrears do not give the Park indicia of rent [44]. Justice Zuk does not address SLRPA's attempt to translate tax arrears into rent.
 - c. Madam Justice Goebel states our claim of manipulated taxes has been **debunked** [65] which by definition means our contesting of the tax billing was an exaggerated claim now proven to be untrue. Justice Zuk calls respondents to QB230 at best, **disingenuous** [38] in their claim of assessments being manipulated by the plaintiff. The theory of tax manipulation had not been disproven when Madam Justice Goebel heard QB231 nor were respondents to QB230 being insincere in defense of their belief that SLRPA affected assessments. **SLRPA's manipulation of taxes using assessment reporting was exposed and acknowledged by the Saskatchewan Assessment Management Agency in February 2020 with the Ministry of Justice being apprised at the time.* (SAMA CEO Irwin Blank correspondence Attachment 5)

Understandably, these distinctly different decisions have created dilemmas.

Direction is ambiguous and missing from Madam Justice Goebel's decision giving rise to efforts by the plaintiff, SLRPA, to use the divergent decisions as an opportunity to invoice retroactive charges and to initiate attempts to deny lease renewal.

Madam Justice Goebel does not give an effective date upon which SLRPA reinstate the respondents' lease. As respondents went without services for over two years, is it to be effective the date of her decision May 15, 2020 or retroactive to the original termination date of April 3, 2018?

The lease clause under which SLRPA made application to the court is invalid and the lease contains no severability clause. SLRPA has indicated they are redrafting lease agreements, however, are only offering the invalid lease which contains clauses that, while they would not stand the test of law, currently allow opportunity for SLRPA to deny lease renewals.

SLRPA meeting minutes received through LA FOIP Rural Municipality of Senlac September 25, 2020, indicate the intent to initiate a new court action was being discussed in November and December of 2019, **months prior to receiving the decisions on QB230 and 231.**

Any additional action taken will be **the fourth publicly funded effort** SLRPA has launched in the same vein. A preceding Saskatchewan court action, QB174 of 2019 SLRPA vs Wildman et al, was for writ of possession against five respondents involving three properties in June 2019. It was discontinued on procedure by Madam Justice Zerr August 15, 2019.

SLRPA's Annual General Meeting minutes show discrediting and defamation of the respondents continues with a current SLRPA representative, Dale Rushinko, stating that had the respondents not cost the Park \$60,000 in legal fees, the local water system could have been improved – as noted in documents received in LA FOIP Rural Municipality of Senlac September 25, 2020.

While both decisions denied SLRPA writs of possession, they did not address nor resolve stated concerns as defined in the Respondents' Response to Originating Applications. (QB231 Response to OA Attachments 6)

2. Madam Justice Goebel made **disparaging, unnecessary and wrong** statements in her decision and in Chambers.
 1. In her opening remarks she stated that in her opinion QB230 and QB231 should have been heard together. This contradicts Madam Justice Zerr's fiat to discontinue the joint application of QB174 only five weeks earlier.
 2. During the hearing, Wildman and Zigarlick both spoke with Madam Justice Goebel. Wildman confirmed the cottage was her primary residence not a recreational property, and Zigarlick spoke to the value of the property stating Wildman had purchased for around \$60,000 in 2013 and had since invested approximately \$30,000 in upgrades.

Madam Justice Goebel did not request proof of the values stated. Had she done so, one of the plaintiff's representatives SLRPA Secretary David Kiefer was in the courtroom with counsel and could have confirmed he held in Park records a copy of Wildman's witnessed bill of sale showing a purchase price of \$59,000. **Property value was never raised as an issue of importance by Madam Justice Goebel.**

In her published judgement, Madam Justice Goebel wrote that Wildman had **provided no proof of the value of her cabin** [61]. This discounts Zigarlick's in-hearing statements for no apparent reason other than to **dismiss and discredit his comments.**

3. Madam Justice Goebel, in her written and published decision refers to the respondents as "***perpetuating the debunked theory that the tax increase was retaliatory***".

It would be difficult for Madam Justice Goebel to be more wrong. **Manipulation of tax assessments did take place at Suffern Lake** Regional Park, this in turn directly affected the amount of taxes paid by property owners.

Post-hearing research has proven Wildman and Zigarlick were correct in their claims, **Suffern Lake taxes have been manipulated and punitively applied.** Saskatchewan Assessment Management Agency (SAMA), the Ministries of Justice, Government Relations and Parks were privy to the February 2020 communications which exposed SLRPA's manipulations. **SAMA is dealing with SLRPA's failure to provide required information by conducting a community-wide reassessment and working with responsible Ministries to amend legislation and regulations to ensure that property information from Regional Parks is received in a timely and standardized form with some penalties associated with non-compliance.**

The Respondents understand Madam Justice Goebel had the authority to assess and use presented materials as she saw fit.

We bring attention to assessment/taxation related materials presented by the Plaintiff that should have caused Madam Justice Goebel to at least consider that something was amiss with taxation at Suffern Lake Regional Park:

1. SLRPA Secretary Kiefer acknowledges (Reply Affidavit 13/09/2019 [11] Attachment 7) that he understands why sales and improvement **information is required by Saskatchewan Asset Management Agency and admits that he had not supplied any** because he was unsure of all sale price information and "*erred on the side of caution*" to supply none. Kiefer's Exhibit A shows 4 pages of sales and improvement information sent to SAMA.

Kiefer's comment in [79 (b)(ii)] contradicts the statement in [11] and the evidence of Exhibit A and is deliberately misleading. Kiefer's failure to provide sale values is confusing. SLRPA has, since at least 2012, required a witnessed bill of sale form in advance of re-assignment of the existing lease to the purchaser.

2. In an email exchange with Minister Makowsky of Parks Culture and Sport Government of Saskatchewan, SLRPA Secretary David Kiefer **boasts how cabin owners would never agree to sell properties at their assessed prices**. The Minister thanks him. (QB231 Affidavit David Kiefer 05/09/2019 Exhibit U point 9 and Exhibit V Attachment 8).
3. SLRPA openly acknowledged the Chairman's extended family had gone several years without paying taxes on a Suffern Lake property with no penalty beyond the RM applying accrued interest. LA FOIP response from the RM of Senlac (April 2019) shows the actual time period involved was about five years at the time of Wildman's termination in April of 2018. Thus, the cabin owner did not "*fall into arrears in 2016*" as SLRPA Secretary David Kiefer swears to (QB231 Reply Affidavit of David Kiefer 13/09/2019 [67]). Those taxes actually went unpaid from **2012 until September 13, 2019**.

This is in significant contrast to the treatment received by Wildman, whose lease was terminated when her **contested tax bill of \$372.56 was 90 days in arrears**.

A nepotism-based, five-year tax arrears would certainly appear to qualify as manipulation of taxes.

By determining materials relating to tax concerns irrelevant, Madam Justice Goebel ignored substantive indicators of the plaintiff's intentional wrongdoing regarding taxation, acts of nepotism and perjury, and in a published document, chose instead to portray Wildman and Zigarlick as stubborn adherents of untrue claims and unsupported beliefs.

This was not a simple landlord vs tenant issue. This was an arm of government filing a court action seeking to dispossess a tenant of her \$90,000 retirement home ostensibly for a contested tax bill of less than \$500. An arm of government using public monies to fund court actions. An arm of government with influence on the assessment process but no taxation jurisdiction. An arm of government now proven to have manipulated taxation through the assessment process.

Madam Justice Goebel did not question the validity of SLRPA's actions and motives. SLRPA Secretary David Kiefer dedicates 7 pages of his QB231 Affidavit sworn September 5, 2019 to 30 paragraphs [65 – 94] "*respectfully outlining the facts*" of why the Park does not wish to continue a tenancy relationship with the respondents. In paragraph 92, Kiefer states: "*the Park respectfully declines to continue any tenancy*

relationship, for the reasons shown above.” Those reasons include many considerations in addition to the tax arrears and speak strongly to our contention that SLRPA saw the tax arrears as a convenient opportunity to remove tenants who held them to account for questionable management.

How is the plaintiff’s own statement of intent, as seen in Kiefer’s affidavit, in proceeding with QB231 after the failure of QB174 irrelevant? The affidavit of Gordon Hollman is, in its entirety, a documented admission that SLRPA was actively campaigning to remove us from the Park (Hollman Affidavit Attachment 9). The petition is defamatory and inflammatory and makes no mention of the Chairman’s brother-in-law being five years in arrears. **We see no evidence of underlying fairness in this process.**

4. In her **published** judgement, Madam Justice Goebel makes statements regarding Wildman that are unfair, incorrect and unnecessary.

Madam Justice Goebel stated that, “**sadly, until the hearing date it appeared lost on her that her primary residence was being put at risk in her attempt to prove a point**” [61]. This is insulting, unnecessary and baseless commentary. Wildman is a journalism graduate, has curated a museum, managed an urban constituency office and served as an Alberta Legislative Assistant. She was served notice of the intended Writ of Possession on her property in July 2018 and had already defended herself in the discontinued action for Writ of Possession in QB174. Wildman was fully aware of court circumstances. She believed truth, justice and fair taxation were worth fighting for even though she risked personal loss. Madam Justice Goebel appears to be mocking integrity as a motive.

We do not have access to records of the proceedings. Those records would show that in Chambers, Madam Justice Goebel made the mocking and inappropriate comment, “**you’re here for JUSTICE**” accompanying her voicing of the word justice with the finger gestures commonly called air quotes.

5. In her written decision [7], Madam Justice Goebel indicates Wildman and Zigarlick filed a number of documents asking the court to dismiss the application or “**adjourn to a further hearing so that further inquiries respecting the legalities of the Park’s decision could be made**”. Obviously, the goal of Wildman and Zigarlick was to have the application dismissed, preferably with all the considerations having been addressed. However, Wildman and Zigarlick **did not request adjournment in either QB174 or QB231 of 2019.**

Respondents to QB230 of 2019 did ask for an adjournment. That application was not heard by Madam Justice Goebel, but by Justice Zuk on September 26, 2019.

Other Considerations

We understand that Saskatchewan has a relatively small population in general and accordingly a small representation of Queen's Bench Judges. The perception that unbiased Justice can be found in a courtroom is important to everyone.

Prior to being appointed to Queen's Bench in Spring 2014, Madam Justice Goebel was a Partner in the law firm Robertson Stromberg of Saskatoon Saskatchewan. The firm is one of the oldest and best-known firms in the Province. By winter of 2013/14, as an outstanding law student, James D Steele had been chosen by Robertson Stromberg to article beginning in summer 2014. The strong possibility exists that then Partner, Ms Goebel, would have some influence in choosing Mr. Steele to article with the firm. If so, it would then be fair to say she played a significant role in launching Mr. Steele's legal career with a high-profile law firm.

Mr. Steele represented Suffern Lake Regional Park Authority in QB231 in front of Madam Justice Goebel. The perception of unbiased judgement is vital to the system of justice and to public trust. It is our belief the courts should make all reasonable efforts to avoid the perception of bias.

CONCLUSION

We have responded to court applications orchestrated by a public body using public funds. Our lives have been put on hold as have all home improvements. We do not have the financial luxury of hiring legal representation. Limited retirement funds and, one might say, limited retirement time, has been spent defending against an ill-intentioned government authority.

It remains our belief that SLRPA initiated the 2018 writ of possession process to, as stated in numerous places in the plaintiff's affidavits and counsel's briefs, end a tenancy they no longer wished to continue and to hide wrongdoing in lottery operations. Unfortunately, the vehicle they chose was tax related and has led to additional wrongdoing regarding tax manipulation through the assessment process being exposed.

It is beyond disappointing that in addition to dealing with misdirection and redirection by numerous government agencies, the judiciary, supposedly the most trusted entity in our society, would mock our efforts to defend ourselves, financially penalize us for providing too much information in doing so, and then publicly insult our character, intelligence and integrity while dismissing the action taken against us.

The lasting impression is **"you won, shut up, go away"**.

Disregarding evidence of questionable assessment/taxation practices and behaviours like nepotism, perjury and defamation demonstrated by the plaintiff in documents submitted to the court seems unreasonable. Madam Justice Goebel's judicial discretion in deeming this information irrelevant does not serve the public interest well.

QB231 of 2019 has been published and to date, cited twice. Not knowing what actions are available to address our concerns, we would ask, at the very least, that Madam Justice Goebel amend her decision to strike the disparaging, unnecessary personal comments and her wrongful statements regarding debunked theories.

We would willingly provide the Judicial Conduct Committee with any additional reference materials that would be helpful in conducting this review.

Respectfully,

Lisa Wildman and Norm Zigarlick

List of Attachments

1. Originating Application QB231 (Amended)
2. Originating Application QB230 (Amended)
3. Goebel Decision QB231 SLRPA v Wildman May 15, 2020
4. Zuk Decision QB230 SLRPA v Danilak May 26, 2020
5. Saskatchewan Assessment Management Agency (SAMA) CEO Irwin Blank correspondence dated February 21, 2020
6. Response to Originating Application QB231
7. Reply Affidavit of David Kiefer sworn September 13, 2019
8. Affidavit of David Kiefer sworn September 5, 2019
9. Affidavit of Gordon Hollman sworn September 4, 2019