
June 11, 2021

BULLETIN

**BC COURT OF APPEAL RESTORES THE CITY'S DECISION
REGARDING EXPIRATION OF BUILDING PERMITS**

On June 9, 2021, the BC Court of Appeal released reasons for judgment in [Yu v. Richmond \(City\), 2021 BCCA 226](#). In this case, the Court overturned two decisions of the BC Supreme Court in *Minster Enterprises Ltd. v. City of Richmond*, [2020 BCSC 455](#) and *Yu v. City of Richmond*, [2020 BCSC 45](#).

In both cases, the respondents had obtained building permits from the City to construct large single-family homes on ALR land (15,006 and 13,482.77 square feet, respectively). The permits, issued prior to the Province's move to restrict the size of non-farm buildings on ALR land, were marked with an expiration date of six months from their issuance "if no construction activity" were to occur. In both cases, the respondents completed only preloading work on the sites during the validity period of the permits. Based on its interpretation of its Building Regulation Bylaw, the City concluded that this kind of work was not "construction pursuant to the applicable permit" and that therefore the building permits had expired.

The chambers judge, primarily because the Building Bylaw's definition of "construction" was broad enough to include preloading, found that the City's decisions were unreasonable and reinstated the permits.

The Court of Appeal overturned the chambers judge's decision, finding that the chambers judge had impermissibly substituted his own interpretation of the Building Bylaw for that of the City and its building inspectors. The Court accepted, based on a review of the City's interpretation, that it was a reasonable interpretation that accounted for the text, context, and purpose of the Building Bylaw's provisions, as well as their application to the facts of each case.

This decision is of interest to all local government officials who make statutory decisions that may be subject to judicial review, confirming that courts ought to show meaningful deference to those decisions.

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