

### *The Redeemed Christian Church of God v. New Westminster (City) 2021 BCSC 1401*

In *The Redeemed Christian Church of God v. New Westminster (City) 2021 BCSC 1401*, the court declared that the City of New Westminster infringed a religious group's *Charter*-protected right to freedom of expression, when it cancelled the group's event on grounds that the event would be discriminatory and would promote hatred against the LGBTQ community. Although the court acknowledged that protecting LGBTQ rights was laudable, the court found that the City failed to hear from the group prior to canceling the event, and failed to adequately balance the group's freedom of expression on one hand, and the City's goals of promoting inclusivity and protecting minority rights on the other.

The takeaway for local governments is this: Before making a decision that may infringe an individual's or group's right to freedom of expression, seek out and consider information from both sides, attempt to balance the competing interests at stake, and ensure that any infringement of the freedom of expression resulting from the decision is kept to a minimum.

This decision also serves as a reminder that nearly all actions of a local government must comply with the *Charter* – even a decision made in the context of a local government's contractual relationship with a society.

### Background

A Christian-based religious society obtained a licence to host a youth conference in a ballroom within a City-owned event centre.

The City's booking policy for the event centre states, among other things, that the City may prohibit groups if they promote hate or other unethical pursuits, or intend to conduct activities that are incongruent with the mission and vision of the centre and of the City. The City's council evidently endorses a vision of inclusivity and social equity, generally.

The theme of the event was "Let God Be True", and the posters advertising the event used the acronym "LGBT" surrounded by rainbow colouring.

One month prior to the event, the City received a complaint from a member of the public that the event was anti-LGBTQ and would spread misinformation. The complainant flagged one of the facilitators of the event as a prominent anti-LGBTQ speaker. The City conducted its own research and determined that the facilitator had expressed anti-LGBTQ views on social media. The director of the event centre, in consultation with others including the City's CAO, canceled the society's licence for the event, on the basis that the event would be contrary to the booking policy. The director explained to the society that the facilitator "vocally represents views and a perspective that run counter to... the booking policy."

A representative of the society requested to meet with the City to explain the event and the society's intentions in holding the event. The representative explained that the event would not promote hate, or violence. Although the director of the event centre indicated a willingness to meet, they explained that the decision to cancel the event was final. Counsel for the society later explained to the City that the focus of the event was to "consider Biblical views regarding sexuality and identity issues".

### Court's Decision

The City did not dispute that the event was a form of expression protected under s.2(b) of the *Charter*, or that canceling the event infringed the society's freedom of expression. The court's decision centered on whether the infringement was reasonably justified pursuant to s.1 of the *Charter*. In determining this issue, the court considered whether the City's decision was proportionately balanced having regard to the society's rights and the City's objectives, and was minimally impairing of the society's rights – in the result, the court found in favour of the society.

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In reaching this conclusion, the court criticized the City for making the decision to cancel the event based on information from one side only. The court remarked that, while the City had researched the concerns raised about the facilitator, it did not take similar steps to inform itself of the content of the event, and declined to consider submissions from the society itself before making the decision. Further, the court noted that the City did not consider how any infringement of the society's rights of expression might be minimized. The court described the City's decision as "quick and precipitous", and uninformed.

## Takeaways

There are a number of other legal issues that were addressed in this case, including (with the court's ruling in brackets): whether the society can use the judicial review procedure for a decision that is not a statutory decision (it cannot); whether the society has standing to assert the right to freedom of religion under the *Charter* (it does); whether the society's freedom of association was infringed (it was not).

The primary importance of this decision to local governments stems from the court's comments and review of the City's decision, and decision-making process, to cancel an event and thereby infringe the organizer's right to freedom of expression.

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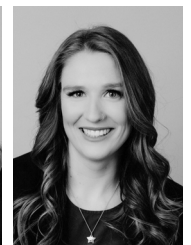
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