



December 10, 2010

To Squamish Nation Membership

RE: Explanation of Capilano Mobile Park Litigation

Squamish Nation Chiefs and Council on behalf of Membership have filed a claim in the Supreme Court of British Columbia to regain control of the lands located between the Capilano River and the Lions Gate Bridge on Capilano IR No. 5, where the Capilano Mobile Park is located. Attached is a 10 page Notice of Civil Claim.

Squamish Nation Chiefs and Council have allowed Squamish Nation Members the Trailer Park to operate the Trailer Park on the Squamish land for 44 years. Until last spring (May 26, 2010), the Trailer Park operators paid the Nation in exchange for using the land. Chiefs and Council has clearly stated that permitting the use of the land for the Trailer Park did not give the Trailer Park operators any permanent rights to the land. The parcel of land situated in a prime location, has the potential to generate more funds that will benefit our people as a collective.

The operators of the Trailer Park had agreed to a 10 year permit that expired October, 2008. Chiefs and Council met with the Trailer Park operators at a duly convened Council meeting to discuss renewing the permit. The decision was Chiefs and Council authorized the permit for an additional 5 years, with a 2 year notice period. Under the permit, the Trailer Park operators paid a percentage of the money each month to the Nation from the operations of the RV Park.

There has been a breakdown in the business relationship with the Nation and The Trailer Park operators they paid rent until May 26, 2010. After May 26, 2010, they refused to make any further payments to the Nation and refused to sign a new permit. The Nation has tried to discuss this issue with the operators but the operators have declined.

As we know, the parcel of land where the Trailer Park is located belongs to the Nation as a whole. Chiefs and Council have a legal obligation to manage the lands for the benefit of all Nation Members. Chiefs and Council cannot allow a business to make money from the Nation's land without paying anything to the Nation in exchange.

In November, the Nation made a final offer to the Trailer Park operators, asking for payment of the rent owing and that they sign the new permit. After the Trailer Park operators rejected that offer, the Nation brought the claim in court to regain control of the land so that it could be used for the benefit of all the Nation Members.

Chiefs and Council are awaiting response from the Trailer Park Operators no later than December 24, 2010.

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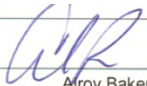

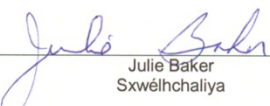


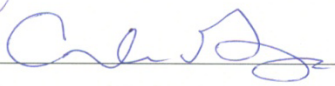
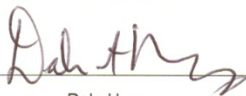
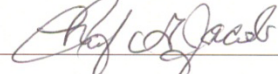

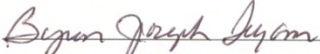
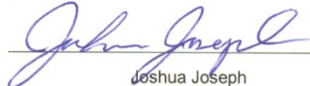

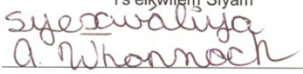
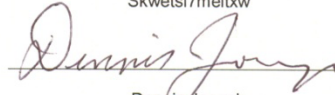


MISSION STATEMENT:
Skwxwú7mesh Úxwumixw will protect the Amalgamation and enhance the ÚXWUMIXW Cultural values and traditions through respect, equality and harmony for all.





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Sincerely,
 SQUAMISH NATION
 Chiefs & Council

 Alroy Baker K'etximtñ	 Deborah Baker	
 Julie Baker Sxwélhchaliya	 Pamela Baker Hi-mi-ka-las	 Chief Ian Campbell Xálek/Sekyú Siyam
 Carla George Kwitelut Kwelaw'ikw	 Dale Harry Xwa-xwalkn	 Chief Gilbert Jacob KáKeltñ Siyam
 Krisandra Jacobs	 Byron Joseph Ts'élkwilem Siyam	 Joshua Joseph Skwetsi7meltw
 Christopher Lewis Syetáxtñ	 Ann Whonnock Syexwáliya	 Dennis Joseph xwéchtáal
 Chief Bill Williams telásemkin Siyam	 Chief Richard Williams Xwélxwelacha Siyam	

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S=107876

NO. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE CHIEFS AND COUNCIL OF THE SQUAMISH INDIAN
BAND, and BYRON JOSEPH, on his own behalf and on behalf of
the SQUAMISH INDIAN BAND and all members of the
SQUAMISH INDIAN BAND

PLAINTIFFS

AND:

CAPILANO MOBILE PARK, a partnership, and DENNIS
LLOYD BAKER, FRANKLIN JAMES BAKER, DARLENE
VIOLET BAKER, PAMELA CONSTANCE BAKER PACK,
WAYNE CHARLES BAKER and WADE STEPHEN BAKER,
carrying on business as Capilano Mobile Park

DEFENDANTS

NOTICE OF CIVIL CLAIM

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFFS

Part 1: STATEMENT OF FACTS

1. The plaintiff Squamish Indian Band, also known as the Squamish Nation (and hereinafter referred to as the “Squamish Nation”) is a Band as defined by the *Indian Act*, R.S.C. 1985, c. I-5 with an office at 320 Seymour Boulevard, North Vancouver, BC V7J 2J3.
2. The plaintiff Byron Joseph is an Indian as defined by the *Indian Act*, a member of the Squamish Nation, and an elected member of the Council of the Squamish Nation. He sues on his own behalf and on behalf of the Squamish Nation and the members of the Squamish Nation.
3. The Council of the Squamish Nation (hereinafter the “Council”) is the “council of the band” as it is defined by the *Indian Act*, elected pursuant to the custom of the Squamish Nation.
4. The defendant Capilano Mobile Park is a partnership of the defendants Dennis Lloyd Baker, Franklin James Baker, Darlene Violet Baker, Pamela Constance Baker Pack, Wayne Charles Baker and Wade Stephen Baker, carrying on the business of operating a mobile home and recreational vehicle park (the “Trailer Park”), and for that purpose maintains a business address at 295 Tomahawk Avenue, North Vancouver, BC V7P 1C5.

5. The Trailer Park is located on Capilano Indian Reserve No. 5, which is a reserve as defined by the *Indian Act* set apart for the use and benefit of the Squamish Nation. More particularly, the Trailer Park is located on the land indentified on Schedule A (hereinafter the “Land”).
6. The Land has never been:
 - (a) allotted to any member of the Squamish Nation under s. 20 of the *Indian Act*;
 - (b) surrendered or designated under s. 38 of the *Indian Act*; or
 - (c) the subject of any permit under s. 28(2) of the *Indian Act*.
7. Prior to October 14, 2008, the defendants operated the Trailer Park under an agreement between the Council and the Defendant Capilano Mobile Park (hereinafter the “Agreement”). Under the Agreement, the defendants paid the Council, on a monthly basis, a percentage of the net revenue of the Trailer Park. The Agreement expired on October 14, 2008.
8. The defendants failed to deliver up possession of the Lands and premises on October 14, 2008.
9. Following the expiration of the Agreement, the Council offered to the defendants a new agreement (the “New Agreement”), under which the defendants would be allowed to remain in possession of the Lands and to continue to operate the Trailer Park.
10. Pending consideration of the New Agreement, the defendants remained in possession of the Lands, continued to operate the Trailer Park and, initially, continued to make monthly payments to the Squamish Nation.
11. Since May 26, 2010, the defendants have not made any payments to the Squamish Nation and have refused to engage in any discussions with the Council or its representatives with respect to the New Agreement or the operation of the Trailer Park.

12. The plaintiffs have demanded that the defendants deliver up possession of the Lands and premises.
13. The defendants have failed or refused to deliver up possession of the Lands and premises and continue to operate the Trailer Park thereon.
14. The defendants threaten and intend to remain in unlawful possession of the Lands and premises.
15. As a result of the defendants' wrongful interference with the plaintiffs' right to possession, the plaintiffs have been deprived of the use and enjoyment of their lands and premises and suffer and continue to suffer loss and damages.

Part 2: RELIEF SOUGHT

1. The plaintiffs claim a declaration that the Lands are unallotted reserve lands set apart for the use and benefit of the Squamish Nation and that the plaintiffs are entitled to possession thereof as against the defendants.
2. The plaintiffs claim against the defendants an Order for possession of the Lands and premises.
3. The plaintiffs claim an interlocutory injunction to restrain the defendants from remaining in possession of the Lands and from continuing to operate the Trailer Park thereon.
4. The plaintiffs claim against the defendants mesne profits of the Lands from May 15, 2010 until possession is delivered up or, in the alternative, an account of the mesne profits and payment to the plaintiff of the monies found to be due and owing from the defendants.
5. The plaintiffs claim against the defendants general and special damages.
6. The plaintiffs claim against the defendants costs.
7. The plaintiffs claim against the defendants interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79.

8. The plaintiffs claim such further and other relief as to this Honourable Court may seem just.

Part 3: LEGAL BASIS

1. The Lands are part of a reserve set apart for the use and benefit of the Squamish Nation. It is a fundamental characteristic of a band's interest in reserve land that the interest is held in common with all members of the band; it is not an interest conferred upon any individual member of the band: *Indian Act*, R.S.C. 1985, c. I-5, s. 2; *Joe v. Findlay* (1981), 122 D.L.R. (3d) 377 at 379 (B.C.C.A); *Lower Nicola Indian Band v. Trans-Canada Displays Ltd.* 2000 BCSC 1209 at para. 127.
2. Under s. 20(1) of the *Indian Act*, no Indian may lawfully possess land in a reserve unless the land has been allotted by the band council and the Minister of Indian Affairs has approved the allotment: *Joe v. Findlay, supra*, at 379-80; *Lower Nicola v. Trans-Canada, supra*, at para. 131. Neither has happened here.
3. Given that the overall scheme of the *Indian Act* is to protect a band's collective interest in a reserve: *The Queen v. Devereaux* (1965), 51 D.L.R. (2d) 546 (S.C.C.) at 550, the requirements of s. 20(1) of the *Indian Act* have been strictly enforced by the courts: *Lower Nicola v. Trans-Canada, supra*, at para. 133.
4. Where a band member purports to possess land in a reserve in contravention of a decision of the band council, that person is in trespass: *Joe v. Findlay, supra*, at 381; *Lower Nicola v. Trans-Canada, supra*, at para. 132.
5. The Squamish Nation has not allotted the Lands to the defendants or any of them, or otherwise, nor has the Minister of Indian Affairs or the Governor General consented to the acquisition of any interest in the Lands by the defendants, or any of them or otherwise. As such, there is no means by which the defendants, or any of them, could be in lawful possession of the Lands: *Indian Act, supra*, s. 20(1). The defendants are, thus, wrongfully in possession of lands which have been set apart by Her Majesty for the use and benefit of the Squamish Nation, and of which the plaintiffs are entitled to possession.

Plaintiffs' address for service:

RATCLIFF & COMPANY LLP
500- 221 West Esplanade
North Vancouver, BC, V7M 3J3

Attn: John R. Rich

Fax number address for service (if any):

(604) 988 1452

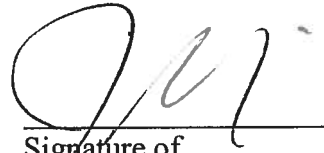
Place of trial:

Vancouver, BC

The address of the registry is:

800 Smithe Street, Vancouver, B.C. V6Z 2E1

Date: 01/Dec/2010



Signature of
[x] lawyer for plaintiffs

John R. Rich

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

An action for the recovery of land.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

Indian Act; Supreme Court Civil Rules; Court Order Interest Act

IN THE SUPREME COURT OF BRITISH COLUMBIA

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THE CHIEFS AND COUNCIL OF THE SQUAMISH INDIAN
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carrying on business as Capilano Mobile Park

DEFENDANTS

NOTICE OF CLAIM

John R. Rich

RATCLIFF & COMPANY LLP
BARRISTERS & SOLICITORS
Suite 500, 221 West Esplanade
North Vancouver, B.C.
V7M 3J3

Attention: John R. Rich
File No.: 96-0084-001