COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation,* 2026 BCCA 21

Date: 20260109
Docket: CA51262

Between:

Stanley Park Preservation Society, Michael Robert Caditz, Katherine Rose Caditz, Anita Ahlmann Hansen, and Jillian Margaret Maguire

Appellants
(Petitioners)

And

Vancouver Board of Parks and Recreation and the City of Vancouver

Respondents
(Respondents)

Before: The Honourable Madam Justice Horsman
(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated December 17, 2025 (*Stanley Park Preservation Society v. Vancouver Board of Parks and Recreation*, 2025 BCSC 2500, Vancouver Docket S250996).

Oral Reasons for Judgment

The Appellants, appearing in person, and on behalf of the Stanley Park Preservation Society:	M.R. Caditz K.R. Caditz A.A. Hansen J.M. Maguire
Counsel for the Respondents:	I.K. Dixon W.R. LeBlanc
Place and Date of Hearing:	Vancouver, British Columbia January 9, 2026
Place and Date of Judgment:	Vancouver, British Columbia January 9, 2026

Summary:

The appellants apply for an order prohibiting the respondents from continuing a tree removal project in Stanley Park pending the determination of their appeal. The appeal is from the decision of a chambers judge dismissing the appellants' petition for judicial review of decisions of the Park Board that authorized the tree removal. Held: Application dismissed. The balance of convenience weighs against the granting of the relief given the harm that would result from such an order.

[1] **HORSMAN J.A.**: The appellants apply for an order prohibiting the respondents from continuing Phase 3 of a tree removal project in Stanley Park until the determination of their appeal. The appeal is from a decision of a chambers judge dismissing their petition for judicial review of the respondents' decision to authorize the tree removal project.

[2] There is one preliminary point of terminology I will address. The appellants have characterized this as an application for a "stay", while the respondents maintain it is more accurately characterized as an application for injunction. For the purpose of resolving this application, the terminology is unimportant. Both sides agree regardless of the language used, the application must be resolved in accordance with the test in *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, 1994 CanLII 117 [*RJR*]. For the sake of convenience, I will use the term "stay" because that is how the application is characterized by the appellants.

Background

[3] The background is thoroughly reviewed in the reasons for judgment of the chambers judge, which are indexed at 2025 BCSC 2500 (the "RFJ"). A summary of the background is sufficient to frame the issues on the present application. I take this summary from the RFJ.

The tree removal project

[4] The respondent City of Vancouver ("City") is incorporated pursuant to the *Vancouver Charter*, S.B.C. 1953, c. 55, as amended.

[5] The respondent Vancouver Board of Parks and Recreation ("Park Board") is established in accordance with s. 485 of the *Vancouver Charter*. A publicly elected Board of Commissioners governs the Park Board and its staff.

[6] The Park Board has exclusive jurisdiction over custody, care, and management of Stanley Park, which is a designated public park. The City is responsible for funding the Park Board budget.

[7] In 2023, the City authorized a tree removal project in response to a Hemlock Looper Moth infestation that significantly impacted the forest in Stanley Park from 2019 to 2022. The project was authorized by the Park Board in October 2024. The Hemlock Looper Moth devours the leaves of conifer trees that are common in Stanley Park. The tree removal project was authorized based on concerns that dead or dying trees in Stanley Park threaten public safety due to falling trees or branches and increases the risk of wildfire. As is evident, there is significant controversy over the legitimacy of these concerns in relation to Phase 3 of the project.

[8] In September 2023, Park Board staff negotiated a supply agreement, on behalf of the City, with a third-party contractor, B.A. Blackwell & Associates Ltd. ("Blackwell") to commence tree removal. Tree removal began in October 2023. Approximately 7,000 trees were removed from Stanley Park under this first supply agreement. This is referred to as "Phase 1" of the project.

[9] In January 2024, Blackwell submitted a report that contemplated the removal of up to 160,000 trees from Stanley Park over the following three to five years in two further phases (the "Blackwell Report").

[10] In June 2024, following a request for proposals, the City entered into a second supply agreement with Blackwell to do further tree removal work contemplated in the Blackwell Report.

[11] The judicial review focussed on three resolutions of the Park Board relating to the tree removal project:

a) A resolution passed on October 8, 2024, approving Phase 2 as set out in the Blackwell Report and initiating a competitive procurement process for Phase 3;

b) A resolution passed on December 9, 2024, accelerating the Phase 3 work following a November 2024 windstorm; and

c) A resolution passed on July 21, 2025, authorizing the Phase 3 work and authorizing the City to contract with Blackwell to do this work.

[12] Each of these resolutions was passed at a public committee meeting. The record on each occasion included multiple reports and presentations on the appropriate response and mitigation plan, as well representations by members of the public including the appellants.

[13] I should add because it has been mentioned by the appellants that on November 3, 2025, the Park Board approved the monetary amount of the contract that the July 21, 2025 resolution directed staff to negotiate.

[14] Phase 2 of the tree removal project and the accelerated Phase 3 work approved by the Park Board on December 9, 2024, was completed between January and April 2025.

[15] The remaining Phase 3 work authorized by the Park Board has not been completed. It was scheduled to begin in October 2025 but was delayed pursuant to an agreement between the parties to temporarily halt the work during the currency of the petition.

The chambers judgment

[16] Of relevance to the present application, the chambers judge concluded that the July 21, 2025 Park Board resolution was fair and reasonable. While the chambers judge addressed other issues on the petition, this appeal only challenges his refusal to set aside the July 21, 2025 resolution. As such, I will limit my review of the RFJ to the conclusions of the chambers judge on these issues.

[17] The chambers judge first addressed the argument that the Park Board's process was procedurally unfair. He noted that the impugned resolutions were passed by the Park Board after public meetings. For each of these meetings, the reports and presentations were publicly available. Members of the public, including the appellants, had an opportunity to make representations. The chambers judge found there was no evidence "beyond mere speculation" that the Park Board prejudged the issues: RFJ at para. 73. There was also no evidence that the Park Board commissioners had a closed mind or were "irretrievably determined" to proceed with the work proposed by Blackwell: RFJ at para. 75.

[18] The chambers judge then turned to the question of whether the July 21, 2025 resolution was reasonable. He cited paras. 137–138 of *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, for specific guidance on the application of the standard of reasonableness to the decisions of municipal bodies. The chambers judge reiterated that there was an extensive record before the Park Board at the July 21, 2025 meeting. He noted that various views were expressed to the Park Board about the appropriate mitigation measures and concern over the fact that Blackwell was the only proponent for the Phase 3 work. The chambers judge found that the Park Board "weighed all of this information and chose a course of action": RFJ at para. 86. The chambers judge acknowledged that the petitioners (now appellants) vehemently disagreed with the Park Board's July 21, 2025 resolution. However, the chambers judge concluded that the Park Board's decision was "clearly intelligible, justified based on the extensive record, and was made transparently during a public meeting": RFJ at para. 89.

[19] The chambers judge therefore concluded that the Park Board did not breach its duty of procedural fairness owed to the appellants, and the July 21, 2025 resolution authorizing the Phase 3 tree removal work was reasonable.

The appeal and application for a stay

[20] On December 29, 2025, the appellants filed a notice of appeal from the decision of the chambers judge. On December 31, 2025, they filed an application for

a stay of proceedings pending appeal, relying on ss. 30 and 33 of the *Court of Appeal Act*, S.B.C. 2021, c. 6. They seek to prohibit the respondents from continuing with the Phase 3 work during the currency of the appeal.

Legal principles

[21] In accordance with *RJR*, the appellants have the onus to establish three criteria: (1) there is merit to the appeal in the sense that there is a serious question to be tried; (2) they will suffer irreparable harm if the stay was refused; and (3) the balance of convenience favours granting the stay.

[22] The merit threshold is low. An applicant only needs to show that the "claim is not frivolous or vexatious": *RJR* at 335, 337–338. The question is not whether the applicant can establish a strong *prima facie* case, but whether there is a serious question to be tried: *RJR* at 335.

[23] The irreparable harm requirement is concerned with the nature of the harm suffered rather than its magnitude. The issue is "whether a refusal to grant relief could so adversely affect the applicants' own interests that the harm could not be remedied if the eventual decision on the merits does not accord with the result of the interlocutory application": *RJR* at 340–341.

[24] The balance of convenience stage of the test is a fact-driven exercise, which includes consideration of the potential harm to the respondent. The question is which of the parties will suffer the greater harm from the granting or refusal of the application: *RJR* at 335, 342–344. Harm to the public interest must also be considered. Prejudice to the public will be presumed where the stay would interfere with the due administration of a statute: *RJR* at 346.

Analysis

Merits

[25] The respondents concede that the appeal meets the low not frivolous standard. This concession is consistent with the non-deferential standard of review that will apply on appeal. On an appeal from a judicial review decision, an appellate

court is required to "step into the shoes of the lower court and focus on the administrative decision": *Coote v. British Columbia Civil Liberties Association,* 2025 BCCA 409 at para. 26, citing *Northern Regional Health Authority v. Horrocks*, 2021 SCC 42.

[26] It does appear to me that this appeal will be a difficult one for the appellants, for the reasons given by the chambers judge. The impugned resolution was passed by an elected body tasked with making decisions in the public interest. As the chambers judge observed, there was an extensive record before the Park Board that contained various views on the best option for mitigating the effects of the Hemlock Looper Moth outbreak in Stanley Park. While this Court does not owe deference to the chambers judge, it does owe deference to the Park Board.

[27] Thus, while I accept, and the respondents concede, that the appellants pass the low merits threshold under the *RJR* test, I would not assess their appeal as a strong one.

Irreparable harm

[28] The appellants say that "it is self-evident" that felling and removing trees is irreparable. What is not self-evident is how this form of alleged irreparable harm factors into the *RJR* test. The harm related to the removal of trees in a public park is not specific to the appellants, but rather harm to the public at large. Since the respondents argue there is a countervailing and overwhelming harm to the public if the Phase 3 work is halted, in my view this form of harm is best assessed at the balance of convenience stage of the *RJR* test.

Balance of convenience

[29] The appellants and the respondents have both tendered evidence on this application going to the issue of harm and prejudice.

[30] The appellants' main evidence is the affidavits of Norman Oberson, a professional arborist, and Rhonda Lorraine Millikin, who has a Ph.D. in physics and environmental sciences and holds a certification for soil biology assessments.

Mr. Oberson was asked to opine on the question of the effect on public safety in the foreseeable future if the Phase 3 work was immediately suspended. Ms. Millikin was asked a similar question in relation to wildfire risk. In order to answer these questions, each of these individuals conducted a single site visit to Stanley Park in late December 2025. In his affidavit, Mr. Oberson opines that the risk to public safety would not increase if the Phase 3 work was stopped, provided that Park Board staff conduct tree risk assessments and mitigation in the normal course. Ms. Millikin opines that wildfire risk will decrease if the Phase 3 work is suspended.

[31] I note that Mr. Oberson and Ms. Millikin have both in the past provided affidavits opposing the tree removal project during the course of the Park Board's consideration of the issue. The affidavits that are before me on this application were not, of course, before the Park Board at the July 21, 2025 meeting that is the subject of this appeal.

[32] In response to the stay application, the respondents have provided an affidavit of Amit Gandha, the Director of Parks for the Park Board. Mr. Gandha's affidavit includes the following evidence:

a) The Phase 3 work was originally scheduled to begin in October 2025 but was delayed by agreement between the parties in the petition proceeding. The Phase 3 work is now scheduled to begin four days from now on January 13, 2026.

b) Targeted removal of looper impacted trees at high risk of falling were scheduled to be completed before the second quarter of 2026. This was to prioritize work before the beginning of bird nesting season that runs from April to September, as well as before the increase in park visits as the weather improves in the spring. Due to the delay caused by the petition proceeding, some lower priority removals have already been reallocated to the fourth quarter of 2026.

c) Any further delay of Phase 3 risk mitigation treatments will necessitate closure of areas of Stanley Park to limit public safety risks at a time when demand for park access is at its peak. Phase 3 mitigation work cannot be undertaken from April to October 2026 because it will interfere with the bird-nesting season.

d) The Phase 3 contract with Blackwell has been executed and is valued at approximately $4.5 million. Delays in the contract may result in retained contractors and subcontractors pursuing other projects, and those contractors and subcontractors may potentially lose money to the extent that they declined other contracts to complete the Phase 3 work.

e) Stanley Park generates revenue for the Park Board, and the tourist revenue represents 3.2% of the Vancouver Coastal and Mountains regional visitor economy. If the Phase 3 work is delayed, necessitating the closure of portions of Stanley Park as a preventative measure, this will negatively impact staff, visitors, owners and employees associated with businesses in the Park, and planned community events in the Park such as walks and marathons.

[33] In short, the respondents have provided evidence that the granting of a stay has the potential to significantly impact public access to Stanley Park during the high tourist season resulting in disruption and financial losses for the Park Board, contractors and subcontractors, and owners and employees associated with businesses in the Park, as well community organizations who have planned events in the Park.

[34] The appellants object to Mr. Gandha’s affidavit to the extent that he purports to opine on the necessity of the Phase 3 work from the perspective of public safety and wildfire risks. At the outset of the hearing, the appellants sought an order that I direct cross-examination of all three affiants so that the Court can make findings on the extent of the risk if Phase 3 work is halted.

[35] I was not prepared to order cross-examination. The request that I do so highlights what I consider to be the essential difficulty with the appellants' case.

[36] This appeal concerns the dismissal of the appellants' application for judicial review of the July 21, 2025 decision of the Park Board. The only questions for this Court on the appeal will be whether the Park Board decision was reasonable based on the record that was before it, and whether the decision was reached in a procedurally fair manner. The Park Board has made a determination that the Phase 3 work is needed to address public safety and wildfire risks as a consequence of the Hemlock Looper Moth outbreak. The Park Board has authorized contracts to be executed and work to proceed. That is the status quo.

[37] Mr. Gandha's evidence that the portions of Stanley Park would have to be closed if the Phase 3 work was halted is not impermissible opinion evidence, as the appellants have argued. The Park Board has accepted there is a public safety risk and wildfire risk if the mitigation steps anticipated by the Phase 3 project are not carried out.

[38] On this application, the appellants ask that I effectively override the Park Board's assessment and conclude that there is no justification for the Phase 3 work due to public safety or wildfire risk. They invite me to reach this conclusion based on opinion evidence that does not form part of the record of judicial review, sworn by individuals who have already had an opportunity to make their views known to the Park Board. In my view, this takes the Court beyond its limited role in the context of a judicial review proceeding, particularly on an interlocutory application that is based on a limited record.

[39] I do accept that there may be harm to the appellants in the sense that, absent a stay, trees may have unnecessarily been removed if they are ultimately successful on this appeal. That is the form of irreparable harm that is relevant on this application.

[40] However, this harm is outweighed by the harm to the respondents and the public interest if the respondents are prohibited from proceeding with the Phase 3 work. I will not repeat the evidence of harm in Mr. Gandha's affidavit evidence, other than to note that I consider it compelling. The balance of convenience weighs against issuing a stay that would have the effect of necessitating the closure of areas of Stanley Park during a period when demand for access to the Park is at its peak, and which may cause significant attendant financial and operational disruption to the respondents, third party businesses and employees, and community groups.

[41] Aside from Mr. Gandha's evidence, there is also the presumption of harm to the public interest if the Park Board is prevented from carrying out its statutorily mandated public duty to manage Stanley Park, including undertaking measures to address perceived safety concerns to park visitors and wildfire risks.

[42] In these circumstances, I am of the view that the balance of convenience weighs against the issuance of a stay.

[43] Before concluding, I wish to say that the appellants clearly hold genuine and strongly felt views that the tree removal process in Stanley Park should be halted. On this application, they have advanced their position in a manner that was both articulate and respectful of the court process. The appellants have said all that could be said in support of the application. However, I am simply not persuaded that they have established the conditions for a stay in the circumstances of this case.

Disposition

[44] For the foregoing reasons, I do not consider it in the interests of justice to grant a stay. The appellants' application is dismissed.

"The Honourable Madam Justice Horsman"