

James Douglas Hall

Victoria, BC

Called to the Bar: September 2, 1994

Discipline hearing: September 14 and October 29, 2004

Panel: G. Glen Ridgway, QC, Chair, Robert W. Gourlay, QC, and Bruce LeRose

Reports issued: September 24, 2004 (facts and verdict), indexed as 2004 LSBC 34 and November 2, 2004 (penalty), indexed as 2004 LSBC 41

Counsel: Todd R. Follett, for the Law Society and James D. Hall, on his own behalf (penalty only)

Summary

While representing a client in the proposed rezoning and redevelopment of a property, Mr. Hall provided an undertaking to the district that he would register a restrictive covenant on title upon rezoning of the property. He breached that undertaking by failing to register the covenant. The hearing panel found that Mr. Hall's breach of undertaking was contrary to the *Professional Conduct Handbook* and constituted professional misconduct. The panel ordered that he be reprimanded, pay a \$5,000 fine and pay \$4,332.61 as costs.

Facts

In 1998 Mr. Hall represented B and a numbered company in their proposed rezoning and redevelopment of a property in Langford. As part of the contemplated rezoning, Mr. Hall gave an undertaking to the District of Langford that he would register a restrictive covenant on title upon rezoning of the property.

He breached this undertaking by failing to register the restrictive covenant on completion of the rezoning, contrary to Chapter 1, paragraph 4(2) and Chapter 11, Rule 7 of the *Professional Conduct Handbook*.

The chief planner for the district wrote to Mr. Hall in December, 1998 to state that rezoning was complete and to call for registration of the covenant. The district later received another application respecting the property. After searching the title, district staff wrote again to Mr. Hall to note that the covenant was not registered.

When the district received no response from Mr. Hall, it referred the matter to counsel who wrote to Mr. Hall on May 9, June 27 and August 23, 2001. Mr. Hall did not respond to these letters. Counsel subsequently commenced legal proceedings against Mr. Hall and, in December, 2002, advised the Law Society of these proceedings and of Mr. Hall's breach of undertaking.

Decision

The hearing panel found, and Mr. Hall admitted, that his breach of undertaking constituted professional misconduct.

Admission and penalty

The discipline hearing panel stressed the importance of a lawyer's undertaking, whether given to another member of the profession or any other person. In the case of Mr. Hall, he had previously been suspended

by another hearing panel for failure to respond to the Law Society respecting this complaint.

The panel further advised Mr. Hall to pay attention to communications from the Law Society and to deal with them promptly.

The panel ordered that Mr. Hall:

1. be reprimanded;
2. pay a \$5,000 fine on or before September 1, 2005; and
3. pay \$4,332.61 as costs of the discipline proceedings on or before September 1, 2005.