

Pender Harbour and Area Residents Association

BOX 15
MADEIRA PARK, BC
V0N 2H0
CANADA

... *our communities association*

Pender Harbour and Area Residents Association to Challenge Constitutional Validity of B.C.'s Declaration on the Rights of Indigenous Peoples Act (DRIPA)

After extensive deliberations and exclusion from government negotiations with the shíshálh Nation, the Pender Harbour and Area Residents Association (PHARA) board has instructed its legal counsel, McMillan LLP, to file proceedings in B.C. Supreme Court.

PHARA will ask the court to rule that the DRIPA is beyond the province's constitutional power and that Order in Council 2022-0444 is invalid. That Order in Council directed two ministers to negotiate an agreement with the shíshálh Nation to give it joint decision-making powers under the B.C. Land Act, concerning dock tenures in the Sechelt area.

"We take this action only after serious reflection and with a deep sense of responsibility," said PHARA director and spokesperson Sean McAllister. "But after nearly two years of being shut out of the shíshálh s. 7 agreement negotiations, after watching the botched consultations on the proposed Land Act amendments and after seeing government repeatedly go far beyond what Canada's constitution requires in terms of Aboriginal rights, we have been left with no choice."

PHARA respects constitutionally protected Aboriginal rights and it supports the principle of reconciliation. But it also believes the DRIPA goes far beyond those principles and is causing unnecessary divisions.

"Now that this decision has been made PHARA looks forward to the court process playing out," added McAllister. "In the meantime, we intend to continue our efforts to build a strong and united community and we hope the province, the shíshálh Nation and others will appreciate that seeking judicial guidance here is a legitimate and respectful step in the reconciliation process."

Any parties wishing to contribute financial support to this litigation are invited to contact PHARA at board@phara.ca.

About PHARA: PHARA is a volunteer organization which exists to support the vitality of the communities of Pender Harbour and Egmont areas as excellent places to live, work and play for residents and visitors. The Association provides a structure that allows residents to identify issues of broad community concern and have them effectively addressed. PHARA remains firmly committed to the principles of reconciliation and respects the rights and traditions of all peoples. We believe in constructive engagement and are dedicated to working collaboratively with all stakeholders to find solutions that uphold these values and promote long-term harmony and understanding.

About DRIPA: BC passed the DRIPA in 2019. It provides that "government must take all measures necessary to ensure the laws of British Columbia are consistent with the [UN Declaration on the Rights of Indigenous Peoples]". It requires that to be done "In consultation and cooperation with the Indigenous Peoples in British Columbia" but includes no such consultation and cooperation requirement for other British Columbians. The DRIPA also empowers the government to enter into agreements with "Indigenous governing bodies" to give them joint decision-making power, or to require their consent before an approval can be issued under provincial laws (such as dock tenures under the Land Act).

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DRIPA Challenge: Please Support Us

Thank you for your willingness to help support the Pender Harbour and Area Residents Association's (PHARA) legal challenge to the BC Declaration on the Rights of Indigenous Peoples Act (DRIPA) and Order in Council 2022-0444.

We gratefully accept support in any amount, and please feel free to share this information with others. Please include your email address so we can contact you with updates. No receipts will be mailed as donations are not tax deductible.

Cheques: Official cheques, bank drafts or money orders should be made out to Pender Harbour and Area Residents Association and mailed to Box 15, Madeira Park, BC, V0N 2H0

Direct deposits: Direct deposits can be made to PHARA's DRIPA Litigation Fund bank account at Sunshine Coast Credit Union, account # 71413

E-transfers: Donations of up to your bank's pre-set limit can be made by e-transfer.

1. Add PHARA as a new contact (name: PHARA, email: board@phara.ca).
2. Go to "Send Transfers By" and select "email."
3. For the initial e-transfer, set a security question and answer. (This is a formality; we have auto deposit.)
4. Once PHARA is added, proceed to the "Send via Interac e-Transfer" page.
5. Select your account, specify the amount, and in the Message box, note DRIPA Litigation Fund and include your email.
6. Check the box confirming PHARA's auto deposit registration.
7. Click Continue to complete the process.

***** PLEASE ENSURE YOU READ THE TERMS BELOW *****

Litigation Fund donations are not tax deductible.

Litigation Fund Donations may be used for one or more of several potential streams of legal work related to dock management regulation and potential sishalh Nation decision making under agreements the provincial government may negotiate under s. 7 of the Declaration on the Rights of Indigenous Peoples Act. This would include legal advice and opinions, advice regarding government consultations and engagement, preparation of correspondence to government and other parties, participation in meetings with government and other parties, public outreach, governance advice regarding internal PHARA decision-making and advice related to these matters, and litigation if and as required (including funding one or more individuals to undertake judicial review actions in respect of specific decisions related to the above).

Decisions about the use of the Litigation Fund donations will be made by the PHARA Board and those providing Litigation Fund donations to PHARA will not be able to direct the specific use of such funds or be involved in the PHARA instructions to its legal counsel.

While PHARA intends to provide periodic public updates on its activities, the provision of Litigation Fund donations does not entitle any donor to any specific information, and in no case will PHARA share information that is subject to lawyer-client privilege or which PHARA's legal counsel advises should not be disclosed.

At the conclusion of the litigation or if at any time the PHARA Board decides it no longer is required to or no longer wishes to be actively involved in litigation, in PHARA's sole discretion the remaining Litigation Fund donations may (a) be donated to another entity engaged in similar activities to protect the interest of citizens affected by the Province's Dock Management Plan, DRIPA s. 7 negotiations or related issues, or (b) donated to a charitable organization of PHARA's choosing. Litigation Fund donations will not be returned to donors.

PHARA cannot pursue this important litigation on behalf of the citizens of the Province of BC without the support of people like you. We thank you for believing in our mission and contributing to our efforts.

Thank you,

PHARA Board
board@phara.ca