

# Abusive Members of the Public: Local Government Obligations and Rights?

MIABC Risk Management Conference

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# Outline

- Workplace Safety Obligations
- Controlling Inappropriate Decorum at Meetings
  - Expulsion from Council Meetings
  - Suspensions and Bans from Municipal Proceedings
- Trespass
- Defamation
  - Basic Principles
  - *Protection of Public Participation Act*

# Workplace Safety Obligations

- *Workers Compensation Act:*
  
- **21 (1)** Every employer must
  - (a) ensure the health and safety of
    - (i) all workers working for that employer, and
    - (ii) any other workers present at a workplace at which that employer's work is being carried out, and
  
- *Bracken v. Fort Erie (Town)*

# Expulsion from Council Meetings

- *Community Charter:*

## **Expulsion from meetings**

133 (1) If the person presiding at a council meeting considers that another person at the meeting is acting improperly, the person presiding may order that the person is expelled from the meeting.

(2) If a person who is expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a court order.

# Suspensions and Bans from Municipal Proceedings

## **Council as governing body**

114(4) A council has all necessary power to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a council or municipality by this or any other enactment.

- *Port Coquitlam (City) v. Osberg*
- *Kaps v. Surrey (City)*

# Trespass

## Trespass prohibited

2 (3) ... a person who has been directed, either orally or in writing, by an occupier of premises or an authorized person to (a) leave the premises, or (b) stop engaging in an activity on or in the premises, commits an offence if the person (c) does not leave the premises or stop the activity, as applicable, as soon as practicable after receiving the direction, or (d) re-enters the premises or resumes the activity on or in the premises, as applicable.

- *R. v. Breeden*

# Defamation

- What is Defamation?
  - “tends to lower a person’s reputation in the eyes of a reasonable person”
- Defences
  - Justification (Truth)
  - Fair Comment
  - Qualified Privilege

# *Protection of Public Participation Act*

## **Application to court**

4 (1) In a proceeding, a person against whom the proceeding has been brought may apply for a dismissal order under subsection (2) on the basis that (a) the proceeding arises from an expression made by the applicant, and (b) the expression relates to a matter of public interest.

(2) If the applicant satisfies the court that the proceeding arises from an expression referred to in subsection (1), the court must make a dismissal order unless the respondent satisfies the court that (a) there are grounds to believe that (i) the proceeding has substantial merit, and (ii) the applicant has no valid defence in the proceeding, and (b) the harm likely to have been or to be suffered by the respondent as a result of the applicant's expression is serious enough that the public interest in continuing the proceeding outweighs the public interest in protecting that expression.

- *Miceli v. Swinton*

Questions?