



**SUPREME COURT OF CANADA**

**CITATION:** Catalyst Paper Corp. v. North Cowichan (District),  
2012 SCC 2

**DATE:** 20120120  
**DOCKET:** 33744

**BETWEEN:**

**Catalyst Paper Corporation**  
Appellant  
and  
**Corporation of the District of North Cowichan**  
Respondent

**CORAM:** McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein and  
Cromwell JJ.

**REASONS FOR JUDGMENT:** McLachlin C.J. (LeBel, Deschamps, Fish, Abella, Rothstein  
(paras. 1 to 37) and Cromwell JJ. concurring)

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CATALYST PAPER CORP. v. NORTH COWICHAN

**Catalyst Paper Corporation**

*Appellant*

v.

**Corporation of the District of North Cowichan**

*Respondent*

**Indexed as: Catalyst Paper Corp. v. North Cowichan (District)**

**2012 SCC 2**

File No.: 33744.

2011: October 18; 2012: January 20.

Present: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein and Cromwell JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA

*Municipal law — Bylaws — Validity — Standard of review applicable to municipal taxation bylaw — What standard of reasonableness requires in context of judicial review of taxation bylaw — Community Charter, S.B.C. 1996, c. 26, s. 197.*

One of C's four mills is located in the District of North Cowichan ("District") on Vancouver Island. C seeks to have a municipal taxation bylaw set aside on the basis that it is unreasonable having regard to objective factors such as consumption of municipal services. The District argued that reasonableness must take into account not only matters directly related to the treatment of a particular taxpayer, but a broad array of social, economic and demographic factors relating to the community as a whole. The chambers judge upheld the bylaw. The Court of Appeal dismissed the appeal.

*Held:* The appeal should be dismissed.

The standard of review applicable is reasonableness. The power of the courts to set aside municipal bylaws is a narrow one, and cannot be exercised simply because a bylaw imposes a greater share of the tax burden on some ratepayers than on others. The critical question is what factors the court should consider in determining what lies within the range of possible reasonable outcomes. Courts reviewing bylaws for reasonableness must approach the task against the backdrop of the wide variety of factors that elected municipal councillors may legitimately consider in enacting bylaws, including broad social, economic and political issues. Only if the bylaw is one no reasonable body informed by these factors could have taken will the bylaw be set aside.

The fact that wide deference is owed to municipal councils does not mean that they have *carte blanche*. Reasonableness limits municipal councils in the sense

that the substance of their bylaws must conform to the rationale of the statutory regime set up by the legislature. The range of reasonable outcomes is circumscribed by the purview of the legislative scheme that empowers a municipality to pass a bylaw. Municipal councils must also adhere to appropriate processes and cannot act for improper purposes.

The bylaw falls within a reasonable range of outcomes. The bylaw does not constitute a decision that no reasonable elected municipal council could have made. The District council considered and weighed all relevant factors. The process of passing the bylaw was properly followed. The reasons for the bylaw were clear and the District's policy had been laid out in a five-year plan. The District's approach complies with the *Community Charter*, which permits municipalities to apply different tax rates to different classes of property. The *Community Charter* does not support C's contention that property value taxes ought to be limited by the level of service consumed. Although the bylaw favours residential property owners, it is not unreasonably partial to them.

### **Cases Cited**

**Applied:** *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2009] 1 S.C.R. 190; **referred to:** *Thorne's Hardware Ltd. v. The Queen*, [1983] 1 S.C.R. 106; *Bell v. The Queen*, [1979] 2 S.C.R. 212; *O'Flanagan v. Rossland (City)*, 2009 BCCA 182, 270 B.C.A.C. 40; *Westcoast Energy Inc. v. Peace River (Regional District)* (1998), 54 B.C.L.R. (3d) 45; *Canadian National Railway Co. v. Fraser-Fort George*

*(Regional District)* (1996), 28 B.C.L.R. (3d) 81; *Hlushak v. Fort McMurray (City)* (1982), 37 A.R. 149; *Ritholz v. Manitoba Optometric Society* (1959), 21 D.L.R. (2d) 542; *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339; *Pacific National Investments Ltd. v. Victoria (City)*, 2000 SCC 64, [2000] 2 S.C.R. 919; *Kruse v. Johnson*, [1898] 2 Q.B. 91; *Associated Provincial Picture Houses, Ltd. v. Wednesbury Corp.*, [1948] 1 K.B. 223; *Lehndorff United Properties (Canada) Ltd. v. Edmonton (City)* (1993), 146 A.R. 37, aff'd (1994), 157 A.R. 169; *Immeubles Port Louis Ltée v. Lafontaine (Village)*, [1991] 1 S.C.R. 326.

### **Statutes and Regulations Cited**

Bylaw No. 3385, *Tax Rates Bylaw, 2009*, Corporation of the District of North Cowichan.

*Community Charter*, S.B.C. 2003, c. 26, ss. 197, 199(b).

*Municipal Finance Authority Act*, 1979, c. 292, s. 14.1(3)(b), ad. 1983, c. 24, s. 35.

*Municipal Finance Authority Act Regulation*, B.C. Reg. 63/84.

APPEAL from a judgment of the British Columbia Court of Appeal (Newbury, Huddart and Saunders JJ.A.), 2010 BCCA 199, 286 B.C.A.C. 149, 484 W.A.C. 149, 5 B.C.L.R. (5th) 203, 318 D.L.R. (4th) 350, 92 R.P.R. (4th) 1, 69 M.P.L.R. (4th) 163, [2010] 7 W.W.R. 259, [2010] B.C.J. No. 700 (QL), 2010 CarswellBC 958, affirming a decision of Voith J., 2009 BCSC 1420, 98 B.C.L.R. (4th) 355, 66 M.P.L.R. (4th) 35, 88 R.P.R. (4th) 203, [2010] 7 W.W.R. 220, [2009] B.C.J. No. 2033 (QL), 2009 CarswellBC 2763. Appeal dismissed.

*Roy W. Millen, Joanne Lysyk and Alexandra Luchenko, for the appellant.*

*Sukhbir Manhas and Reece Harding, for the respondent.*

The judgment of the Court was delivered by

CHIEF JUSTICE —

[1] Catalyst Paper is the largest specialty paper and newsprint producer in Western North America. One of its four mills is located in the District of North Cowichan, on the southeastern shore of Vancouver Island. Nearby forests offer a plentiful supply of wood for Catalyst's operations, while proximity to the ocean offers cheap transportation of supply and product. Labour was historically supplied by small neighbouring communities. Catalyst footed a large portion of the District's modest property tax levy, without demur.

[2] In recent decades, the picture has changed. Attracted by the beauty of the Cowichan coast and the benignity of its climate, new residents began flocking to the District. One after another, new subdivisions sprang up. As the population increased, so did the need for new roads, water lines, schools, hospitals and the usual array of municipal services that accompany urban growth.

[3] As more people came to the District, residential property values skyrocketed, while the value of Catalyst's property remained relatively stable. The District was concerned that taxing residential property at a rate that reflected its actual value relative to the value of other classes of property in the District would result in unacceptable tax increases to residents, hitting long-term fixed-income residents hard. Instead, the District responded to the demographic shift by keeping residential property taxes low and increasing the relative tax rate on Catalyst's property. The total assessed value of residential property in North Cowichan increased 271 percent between 1992 and 2007, when the mean assessed value of a home in the District reached about \$300,000. While residential properties account for almost 90 percent of the total value of property in the District, the taxes payable in respect thereof constitute only 40 percent of tax revenue. The tax rate for Class 1 (residential) property in 2009 was set at \$2.1430 per \$1,000.00, while the tax rate for Class 4 property (major industry), such as Catalyst's, was set at \$43.3499 per \$1,000.00. The ratio between residential property and major industrial property was thus 1:20.3 — dramatically higher than the 1:3.4 ratio that until 1984 was prescribed by regulation for all municipalities in British Columbia. The rate currently is among the highest in the province.

[4] Catalyst, not surprisingly, was unhappy with this state of affairs. Not only is it required to foot a grossly disproportionate part of the District's property tax levy, it obtains little in exchange in terms of services. It has its own sewer and water systems, and its own deep-sea port. Exacerbating the situation is the fact that in

recent years, Catalyst's operation has been losing money. Catalyst cannot pick up its operation and move elsewhere. Its choices are to stay and pay, or to close the mill.

[5] To avert this fate, Catalyst has been pressuring the District to lower its tax assessment since 2003. It has had modest success. The District has conducted studies into the problem. It accepts that existing Class 4 tax rates in North Cowichan are at undesirable levels. The work of the District's Tax Restructuring Committee, the reports of its financial officer, Mr. Frame, and the District's Financial Planning Bylaw, all recognized that existing Class 4 rates are significantly higher than they should be. As Mr. Frame put it, they "have gotten off track".

[6] Acknowledging the problem, the District has embarked on a gradual program to reduce the rates on Class 4 property, has shifted some special costs to residents (\$400,000 for a swimming pool), and in 2008 allocated a \$300,000 budget reduction to Class 4 alone. This resulted in the property taxes paid by Catalyst declining from 48 percent in 2007 to 44 percent in 2008, to the current 37 percent. However, for Catalyst, this gradual approach is too little. Having exhausted recourse to the District, its only alternative, it says, is to seek relief from the courts.

[7] This raises the issues of when courts of law can review municipal taxation bylaws and what principles guide that review. Catalyst argues that courts can set aside municipal bylaws on the ground that they are unreasonable, having regard to objective factors such as consumption of municipal services. The District of North Cowichan, on the other hand, argues that the judicial power to overturn a



municipal tax bylaw is very narrow; in its view, courts cannot overturn a bylaw simply because it places a disproportionate burden on a taxpayer.

[8] The British Columbia Supreme Court (2009 BCSC 1420, 98 B.C.L.R. (4th) 355) and the Court of Appeal (2010 BCCA 199, 286 B.C.A.C. 149) upheld the impugned bylaw. Catalyst now appeals to this Court.

[9] I conclude that the power of the courts to set aside municipal bylaws is a narrow one, and cannot be exercised simply because a bylaw imposes a greater share of the tax burden on some ratepayers than on others.

## I. Analysis

### A. *Judicial Review of Municipal Bylaws*

[10] It is a fundamental principle of the rule of law that state power must be exercised in accordance with the law. The corollary of this constitutionally protected principle is that superior courts may be called upon to review whether particular exercises of state power fall outside the law. We call this function “judicial review”.

[11] Municipalities do not have direct powers under the Constitution. They possess only those powers that provincial legislatures delegate to them. This means that they must act within the legislative constraints the province has imposed on them. If they do not, their decisions or bylaws may be set aside on judicial review.

[12] A municipality's decisions and bylaws, like all administrative acts, may be reviewed in two ways. First, the requirements of procedural fairness and legislative scheme governing a municipality may require that the municipality comply with certain procedural requirements, such as notice or voting requirements. If a municipality fails to abide by these procedures, a decision or bylaw may be invalid. But in addition to meeting these bare legal requirements, municipal acts may be set aside because they fall outside the scope of what the empowering legislative scheme contemplated. This substantive review is premised on the fundamental assumption derived from the rule of law that a legislature does not intend the power it delegates to be exercised unreasonably, or in some cases, incorrectly.

[13] A court conducting substantive review of the exercise of delegated powers must first determine the appropriate standard of review. This depends on a number of factors, including the presence of a privative clause in the enabling statute, the nature of the body to which the power is delegated, and whether the question falls within the body's area of expertise. Two standards are available: reasonableness and correctness. See, generally, *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at para. 55. If the applicable standard of review is correctness, the reviewing court requires, as the label suggests, that the administrative body be correct. If the applicable standard of review is reasonableness, the reviewing court requires that the decision be reasonable, having regard to the processes followed and whether the outcome falls within a reasonable range of alternatives in light of the

legislative scheme and contextual factors relevant to the exercise of the power:  
*Dunsmuir*, at para. 47.

[14] Against this general background, I come to the issue before us — the substantive judicial review of municipal taxation bylaws. In *Thorne's Hardware Ltd. v. The Queen*, [1983] 1 S.C.R. 106, at p. 115, the Court, referring to delegated legislation, drew a distinction between policy and legality, with the former being unreviewable by the courts:

The Governor in Council quite obviously believed that he had reasonable grounds for passing Order in Council P.C. 1977-2115 extending the boundaries of Saint John Harbour and we cannot enquire into the validity of those beliefs in order to determine the validity of the Order in Council.

(See also pp. 111-13) However, this attempt to maintain a clear distinction between policy and legality has not prevailed. In passing delegated legislation, a municipality must make policy choices that fall reasonably within the scope of the authority the legislature has granted it. Indeed, the parties now agree that the tax bylaw at issue is not exempt from substantive review in this sense.

[15] Unlike Parliament and provincial legislatures which possess inherent legislative power, regulatory bodies can exercise only those legislative powers that were delegated to them by the legislature. Their discretion is not unfettered. The rule of law insists on judicial review to ensure that delegated legislation complies with the rationale and purview of the statutory scheme under which it is adopted. The

delegating legislator is presumed to intend that the authority be exercised in a reasonable manner. Numerous cases have accepted that courts can review the substance of bylaws to ensure the lawful exercise of the power conferred on municipal councils and other regulatory bodies: *Bell v. The Queen*, [1979] 2 S.C.R. 212; *O’Flanagan v. Rossland (City)*, 2009 BCCA 182, 270 B.C.A.C. 40; *Westcoast Energy Inc. v. Peace River (Regional District)* (1998), 54 B.C.L.R. (3d) 45 (C.A.); *Canadian National Railway Co. v. Fraser-Fort George (Regional District)* (1996), 26 B.C.L.R. (3d) 81 (C.A.); *Hlushak v. Fort McMurray (City)* (1982), 37 A.R. 149, *Ritholz v. Manitoba Optometric Society* (1959), 21 D.L.R. (2d) 542 (Man. C.A.).

[16] This brings us to the standard of review to be applied. The parties agree that the reasonableness standard applies in this case. The question is whether the bylaw at issue is reasonable having regard to process and whether it falls within a range of possible reasonable outcomes: *Dunsmuir*, at para. 47.

[17] Where the parties differ is on *what the standard of reasonableness requires in the context of this case*. This is the nub of the dispute before us. Catalyst argues that the issue is whether the tax bylaw falls within a range of reasonable outcomes, having regard to objective factors relating to consumption of municipal services, factors Catalyst has outlined in a study called the “Consumption of Services Model”. The District of North Cowichan, on the other hand, argues that reasonableness, in the context of municipal taxation bylaws, must take into account not only matters directly related to the treatment of a particular taxpayer in terms of

consumption, but a broad array of social, economic and demographic factors relating to the community as a whole. The critical question is what factors the court should consider in determining what lies within the range of possible reasonable outcomes. Is it the narrow group of objective consumption-related factors urged by Catalyst? Or is it a broader spectrum of social, economic and political factors, as urged by North Cowichan?

[18] The answer lies in *Dunsmuir*'s recognition that reasonableness must be assessed in the context of the particular type of decision making involved and all relevant factors. It is an essentially contextual inquiry: *Dunsmuir*, at para. 64. As stated in *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339, at para. 59, *per* Binnie J., "[r]easonableness is a single standard that takes its colour from the context." The fundamental question is the scope of decision-making power conferred on the decision-maker by the governing legislation. The scope of a body's decision-making power is determined by the type of case at hand. For this reason, it is useful to look at how courts have approached this type of decision in the past: *Dunsmuir*, at paras. 54 and 57. To put it in terms of this case, we should ask how courts reviewing municipal bylaws pre-*Dunsmuir* have proceeded. This approach does not contradict the fact that the ultimate question is whether the decision falls within a range of reasonable outcomes. It simply recognizes that reasonableness depends on the context.

[19] The case law suggests that review of municipal bylaws must reflect the broad discretion provincial legislators have traditionally accorded to municipalities engaged in delegated legislation. Municipal councillors passing bylaws fulfill a task that affects their community as a whole and is legislative rather than adjudicative in nature. Bylaws are not quasi-judicial decisions. Rather, they involve an array of social, economic, political and other non-legal considerations. “Municipal governments are democratic institutions”, *per* LeBel J. for the majority in *Pacific National Investments Ltd. v. Victoria (City)*, 2000 SCC 64, [2000] 2 S.C.R. 919, at para. 33. In this context, reasonableness means courts must respect the responsibility of elected representatives to serve the people who elected them and to whom they are ultimately accountable.

[20] The decided cases support the view of the trial judge that, historically, courts have refused to overturn municipal bylaws unless they were found to be “aberrant”, “overwhelming”, or if “no reasonable body could have adopted them”, para. 80, *per* Voith J. See *Kruse v. Johnson*, [1898] 2 Q.B. 91 (Div. Ct.); *Associated Provincial Picture Houses, Ltd. v. Wednesbury Corp.*, [1948] 1 K.B. 223 (C.A.); *Lehndorff United Properties (Canada) Ltd. v. Edmonton (City)* (1993), 146 A.R. 37, (Q.B.), *aff’d* (1994), 157 A.R. 169 (C.A.).

[21] This deferential approach to judicial review of municipal bylaws has been in place for over a century. As Lord Russell C.J. stated in *Kruse v. Johnson*:

[C]ourts of justice ought to be slow to condemn as invalid any by-law, so made under such conditions, on the ground of supposed unreasonableness. Notwithstanding what Cockburn C.J. said in *Bailey v. Williamson*, an analogous case, I do not mean to say that there may not be cases in which it would be the duty of the Court to condemn by-laws, made under such authority as these were made, as invalid because unreasonable. But unreasonable in what sense? If, for instance, they were found to be partial and unequal in their operation as between different classes; if they were manifestly unjust; if they disclosed bad faith; if they involved such oppressive or gratuitous interference with the rights of those subject to them as could find no justification in the minds of reasonable men, the Court might well say, "Parliament never intended to give authority to make such rules; they are unreasonable and ultra vires." But it is in this sense, and in this sense only, as I conceive, that the question of unreasonableness can properly be regarded. A by-law is not unreasonable merely because particular judges may think that it goes further than is prudent or necessary or convenient, or because it is not accompanied by a qualification or an exception which some judges may think ought to be there. [Emphasis added; pp. 99-100.]

These are the general indicators of unreasonableness in the context of municipal bylaws. It must be remembered, though, that what is unreasonable will depend on the applicable legislative framework. For instance, Lord Russell C.J.'s reference to inequality in operation as between different classes is inapt in the context of many modern municipal statutes, which contain provisions that expressly allow for such inequality. Subsection 197(3) of the *Community Charter*, which allows municipalities to set different tax rates for different property classes, is such a provision.

[22] Catalyst argues that *Dunsmuir* has changed the law and that the traditional deferential approach to the review of municipal bylaws no longer holds. The bylaw, it argues, must be demonstrably reasonable, having regard to objective

criteria relating to taxation. The reasonableness standard in *Dunsmuir*, it says, means that all municipal decisions, including bylaws, must meet the test of demonstrable rationality in terms of process and outcome. It follows, Catalyst argues, that a municipality cannot tax major industrial property owners at a substantially higher rate than residential property owners, in order to avoid hardship to long-term or fixed-income residents in a rising housing market. Rather, the municipality should confine itself to objective factors, such as those set forth in Catalyst's "Municipal Sustainability Model", in fixing the property tax rates of different classes of property owners.

[23] This argument misreads *Dunsmuir*. As discussed above, *Dunsmuir* described reasonableness as a flexible deferential standard that varies with the context and the nature of the impugned administrative act. In doing so, *Dunsmuir* expressly stated that the approaches to review developed in particular contexts in previous cases continue to be relevant: *Dunsmuir*, at paras. 54 and 57. Here the context is the adoption of municipal bylaws. The cases dealing with review of such bylaws relied on by the trial judge and discussed above continue to be relevant and applicable. To put it succinctly, they point the way to what is reasonable in the particular context of bylaws passed by democratically elected municipal councils.

[24] It is thus clear that courts reviewing bylaws for reasonableness must approach the task against the backdrop of the wide variety of factors that elected municipal councillors may legitimately consider in enacting bylaws. The applicable



test is this: only if the bylaw is one no reasonable body informed by these factors could have taken will the bylaw be set aside. The fact that wide deference is owed to municipal councils does not mean that they have *carte blanche*.

[25] Reasonableness limits municipal councils in the sense that the substance of their bylaws must conform to the rationale of the statutory regime set up by the legislature. The range of reasonable outcomes is thus circumscribed by the purview of the legislative scheme that empowers a municipality to pass a bylaw.

[26] Here the relevant legislation is the *Community Charter*, S.B.C. 2003, c. 26. Section 197 gives municipalities a broad and virtually unfettered legislative discretion to establish property tax rates in respect of each of the property classes in the municipality, unless limited by regulation. The intended breadth of the legislative discretion under the current legislative scheme is highlighted by the fact that the government of British Columbia ceased to impose regulatory limits on the ratios between tax rates in 1985. Section 199(b) of the *Community Charter* allows the Lieutenant Governor in Council to make regulations on the relationships between Class 1 and Class 4 tax rates, and no regulation of this sort has been reintroduced since the repeal of the 1984 regulation, which prescribed a 1 to 3.4 ratio between residential and major industry tax rates: B.C. Reg. 63/84, adopted pursuant to s. 14.1(3)(b) of the *Municipal Finance Authority Act*, 1979, c. 292, the predecessor of s. 199(b) of the *Community Charter*. Special provisions of the *Community Charter* relating to parcel taxation, local area services, business improvement areas, or

property value tax exemptions address particular concerns and do not detract from the broad power of British Columbia municipalities to vary rates between different classes of property.

[27] Nor does the *Community Charter* support the contention that property value taxes ought to be limited by the level of service consumed. Section 197 authorizes the imposition of a tax, not a fee. The distinguishing feature between the two is that a tax need bear no relationship to the costs of the service being provided, while the opposite is true for a fee. The ratio of service consumption to the different property classes will differ depending on the service. In light of this, a requirement that municipalities impose property value taxes having in mind the level of services consumed would prevent municipalities from ever exercising their authority under s. 197(3)(b).

[28] Another set of limitations on municipalities passing bylaws flows from the need for reasonable processes. In determining whether a particular bylaw falls within the scope of the legislative scheme, factors such as failure to adhere to required processes and improper motives are relevant. Municipal councils must adhere to appropriate processes and cannot act for improper purposes. As Gonthier J. stated for the Court in *Immeubles Port Louis Ltée v. Lafontaine (Village)*, [1991] 1 S.C.R. 326, “[a] municipal act committed for unreasonable or reprehensible purposes, or purposes not covered by legislation, is void” (p. 349).

[29] It is important to remember that requirements of process, like the range of reasonable outcomes, vary with the context and nature of the decision-making process at issue. Formal reasons may be required for decisions that involve quasi-judicial adjudication by a municipality. But that does not apply to the process of passing municipal bylaws. To demand that councillors who have just emerged from a heated debate on the merits of a bylaw get together to produce a coherent set of reasons is to misconceive the nature of the democratic process that prevails in the Council Chamber. The reasons for a municipal bylaw are traditionally deduced from the debate, deliberations and the statements of policy that give rise to the bylaw.

[30] Nor, contrary to Catalyst's contention, is the municipality required to formally explain the basis of a bylaw. As discussed above, municipal councils have extensive latitude in what factors they may consider in passing a bylaw. They may consider objective factors directly relating to consumption of services. But they may also consider broader social, economic and political factors that are relevant to the electorate.

[31] This is not to say that it is wrong for municipal councils to explain the rationale behind their bylaws. Typically, as in this case, modern municipal councils provide information in the form of long-term plans. Nor is it to say that municipalities performing decisional or adjudicative functions are exempt from giving reasons as discussed above.

B. *Application: Is the Bylaw Unreasonable?*

[32] To summarize, the ultimate question is whether the taxation bylaw falls within a reasonable range of outcomes. This must be judged on the approach the courts have traditionally adopted in reviewing bylaws passed by municipal councils. Municipal councils passing bylaws are entitled to consider not merely the objective considerations bearing directly on the matter, but broader social, economic and political issues. In judging the reasonableness of a bylaw, it is appropriate to consider both process and the content of the bylaw.

[33] I turn first to process. Catalyst does not allege that the voting procedures of the District were incorrect; nor does it allege bad faith. Its contention is rather that the District's process is flawed because it provided neither formal reasons for the bylaw, nor a rational basis (viewed in terms of Catalyst's "Consumption of Services Model") for its decision. This contention cannot succeed. As discussed above, municipal councils are not required to give formal reasons or lay out a rational basis for bylaws. In any event, as the trial judge found, the reasons for the bylaw at issue here were clear to everyone. The District's policy had been laid out in a five-year plan. Discussions and correspondence between the District and Catalyst left little doubt as to the reasons for the bylaw. The trial judge found that the District Council considered and weighed all relevant factors in making its decision. If Catalyst has a complaint, it is not with the procedures followed, but with the substance of the bylaw.

[34] This brings us to the content of the bylaw at issue. There can be no doubt that the impact of the bylaw on Catalyst is harsh. The ratio between major industrial

rates and residential rates imposed is among the highest in British Columbia (only two municipalities exceed it) and far outside the pre-1983 norm. In Catalyst's present economic situation, the consequences are serious — indeed, Catalyst suggests that the industrial rate threatens the continued operation of its mill in the District.

[35] However, countervailing considerations exist — considerations that the District Council was entitled to take into account. The Council was entitled to consider the impact on long-term fixed-income residents that a precipitous hike in residential property taxes might produce. The Council has decided to reject a dramatic increase and gradually work toward greater equalization of tax rates between Class 4 major industrial property owners and Class 1 residential property owners. Acknowledging that the rates from Class 4 are higher than they should be, the Council is working over a period of years toward the goal of more equitable sharing of the tax burden. Its approach complies with the *Community Charter*, which permits municipalities to apply different tax rates to different classes of property. Specifically, nothing in the *Community Charter* requires the District to apply anything like Catalyst's "Consumption of Services Model". Indeed, the compelling submission made by Mr. Manhas, Counsel for the Respondent, was that it would be "statutorily *ultra vires* for the [municipality] to impose property value taxes on the basis of consumption alone under section 197(3)(b)" (transcript, at p. 54). The bylaw favours residential property owners, to be sure. But it is not unreasonably partial to them.

[36] Taking all these factors into account, the trial court, affirmed by the Court of Appeal, concluded that the bylaw fell within a reasonable range of outcomes. I agree. The adoption of the Tax Rates Bylaw 2009, Bylaw No. 3385 does not constitute a decision that no reasonable elected municipal council could have made.

[37] I would dismiss the appeal with costs.

*Appeal dismissed with costs.*

*Solicitors for the appellant: Blake, Cassels & Graydon, Vancouver.*

*Solicitors for the respondent: Young, Anderson, Vancouver.*