



No. L023802
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CORPORATION OF DELTA

PLAINTIFF

AND:

FRASER HEALTH AUTHORITY

DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff, Corporation of Delta, is a municipality established pursuant to the *Local Government Act*, R.S.B.C., 1996, c.323 and has its offices located at Municipal Hall, 4500 Clarence Taylor Crescent, Delta, B.C. V4K 3E2.
2. The Defendant, Fraser Health Authority, (the "Defendant"), is a regional health authority established pursuant to the *Health Authorities Act*, R.S.B.C. 1996, c.180.
3. The Defendant operates a hospital, known variously as Delta Hospital and Delta Centennial Hospital ("Delta Hospital"), which is located within the geographic jurisdiction of the Plaintiff.
4. The powers and duties of the Defendant are governed, in part, by the *Health Authorities Act*. These powers and duties include the preparation of a regional health plan and the performance of other functions specified in section 5 of the *Health Authorities Act*.

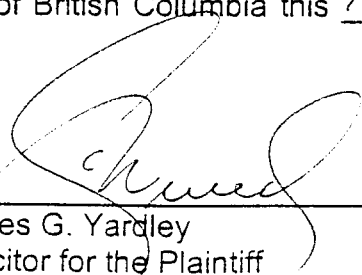
5. Since approximately August 2002, the Defendant has undertaken numerous changes (the "Changes") affecting the delivery of health care at Delta Hospital. The Changes include, but are not limited to, closure of the special care unit, elimination or reassignment of staff, and closure of acute care beds.
6. The Changes have directly and indirectly had a significant effect on the level and quality of services, including emergency services, provided within the boundaries of the Plaintiff. The Changes have reducing the effectiveness and availability of health care at Delta Hospital in general, and the emergency ward in particular.
7. The Changes have also resulted or will result in increased costs to the Plaintiff, particulars of which include increased emergency services costs incurred by the Plaintiff related to the diminished availability of services in the hospital.
8. The Changes have been made in breach of and in excess of the authority conferred by sections 5 and 8 of the *Health Authorities Act*, section 2 of the *Health and Social Services Delivery Improvement Act*, and section 48 of the *Hospital Act*, R.S.B.C. 1996, c.200, and are unlawful.
9. Further, or in the alternative, the Changes are unlawful by reason of being made in a manner contrary to procedural fairness and natural justice by reason of being made without or in excess of statutory authority, being based on irrelevant or improper considerations; being made without giving Delta a fair opportunity to make representations promised by the Defendant; being made in breach of the legitimate expectations promised to Delta by the Defendant; and being unreasonable.
10. Further, or in the alternative, the Defendant, by its employees, Board, or both, has prejudged the determination of the Changes to such an extent as to amount to bias.

WHEREFORE THE PLAINTIFF SEEKS THE FOLLOWING:

- (i) a declaration that the Changes are unlawful and in breach of the authority of the Fraser Health Authority under one or more of the *Health Authorities Act*, the *Health and Social Services Delivery Improvement Act* and the *Hospital Act*;
- (ii) an order restraining and prohibiting the Fraser Health Authority from implementing the Changes;
- (iii) an order requiring and compelling the Defendant to restore the level of service at Delta Hospital to that which existed before the Changes;
- (iv) damages;
- (v) its costs of this proceeding; and
- (vi) such further relief as this Court deems just.

PLACE OF TRIAL: Vancouver, British Columbia

DATED at the City of Vancouver, in the Province of British Columbia this 10 day of February, 2004.



James G. Yardley
Solicitor for the Plaintiff
Corporation of Delta

This Statement of Claim is filed on behalf of the Plaintiff, Corporation of Delta, by James G. Yardley, of the law firm of Murdy & McAllister whose place of business and address for delivery is:

P.O. Box 49059
11th Floor Two Bentall Centre
555 Burrard Street
Vancouver, B.C.
V7X 1C4

File No. 3439