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## CASE SUMMARY: MUNICIPAL BYLAWS DO NOT APPLY TO ACTIVITIES AUTHORIZED UNDER PERMIT ISSUED UNDER MINES ACT BECAUSE OF EXCLUSIVE PROVINCIAL JURISDICTION OVER "MINES" AND "MINING ACTIVITIES"

Municipal bylaws do not apply to activities authorized under permit issued under Mines Act because of exclusive provincial jurisdiction over “mines” and “mining activities.”

**Administrative law – Municipalities – Orders – By-laws – Permits – Judicial review – Legislative compliance – Standard of review – Reasonableness – Natural resources – Mining – Jurisdiction – Remedies – Certiorari**

*O.K. Industries Ltd. v. Highlands (District)*, [2021] B.C.J. No. 85, 2021 BCSC 81, British Columbia Supreme Court, January 20, 2021, C.E. Hinkson C.J.S.C.

The petitioner O.K. Industries Ltd. was engaged in the quarrying of mining aggregates. It purchased vacant and unimproved property from the Province located within the respondent District of Highlands, a municipal corporation created pursuant to the Community Charter, S.B.C. 2003, c. 26.

The petitioner sought a permit to operate a quarry on the property. The respondent opposed that application. The Province, through the Senior Inspector of Mines, issued the petitioner a quarry permit pursuant to the *Mines Act*, R.S.B.C. 1996, c. 293. The quarry permit was subject to detailed authorizations and conditions. The quarry permit specifically restricted vegetation clearing and other ecological activities. The quarry permit also indicated other laws and regulations may apply to the petitioner’s activities, including local government bylaws.

The petitioner undertook tree cutting on the property. The respondent took the position the petitioner’s activities under the quarry permit were subject to municipal bylaws, including bylaws which require valid permits to be issued by the respondent in respect of certain activities, for example, tree cutting. In response, the petitioner applied for interim and permanent orders declaring its quarry operation is not subject to the respondent’s bylaws. The petitioner took the position the respondent’s bylaws were inapplicable to the activities under the quarry permit, based on the Province’s exclusive jurisdiction over mines and mining activity pursuant to the *Mines Act*.

The Supreme Court granted the relief sought by the petitioner. The Court found the Province has exclusive jurisdiction to regulate the operation of a quarry generally. It found the issue of exclusive provincial jurisdiction is based on whether the activity is integral to activities authorized under the quarry permit that fall within the scope of the definitions of “mine” and “mining activity” under the *Mines Act*. The petitioner’s activities came within the definitions of “mine” and “mining activity” under the *Mines Act*. As a result, various municipal bylaws, in relation to zoning, soil deposit and removal, blasting, and tree management, were inapplicable to the petitioner’s activities authorized under the quarry permit.

This case was digested by [Joel A. Morris](#), and first published in the LexisNexis® Harper Grey Administrative Law Netletter and the Harper Grey Administrative Law Newsletter. If you would like to discuss this case further, please contact Joel A. Morris at [jmorris@harpergrey.com](mailto:jmorris@harpergrey.com).