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CASE SUMMARY: COURT OF APPEAL CONFIRMS A MUNICIPAL BODY'S INTERPRETATION OF THEIR STATUTORY POWERS IS REVIEWABLE ON A REASONABLENESS STANDARD

Court of Appeal confirms a municipal body's interpretation of their statutory powers is reviewable on a reasonableness standard.

Administrative law – Decisions reviewed – Municipal councils – Judicial review – Legislative compliance – Appeals – Standard of review – Reasonableness – Municipalities – Building permits – Bylaws – Planning and zoning

G.S.R. Capital Group Inc. v. White Rock (City), [2022] B.C.J. No. 180, 2022 BCCA 46, British Columbia Court of Appeal, February 4, 2022, H. Groberman, J. Dewitt-Van Oosten and J.C. Grauer JJ.A.

The petitioner owned property in the City of White Rock, with an area designated as a "development permit area," that it wanted to develop.

The petitioner applied for a development permit. In July 2018, the City issued a development permit; however, in late 2018, a new council was elected, resolutions were passed reducing the allowable height of buildings in the area, and in March 2019, the City refused to grant a building permit, because the proposed development no longer conformed with zoning bylaw. The petitioner brought an application for judicial review. That application was dismissed. The petitioner appealed.

On appeal, the Court of Appeal held the applicable standard of review of the City's decision is reasonableness. Older authority regarding a standard of correctness applying to a municipal body's interpretation of their statutory powers are no longer applicable following the Supreme Court of Canada's decision in *Vavilov*. The Court held a correctness review is confined to exceptional situations. The interpretation of a municipal body's statutory powers is not of central importance to the legal system or a general question of law.

The Court of Appeal held the City's decision was reasonable. It had issued the petitioner a development permit; however, the project was still a proposed development, as construction had not commenced, and it was open to the City to deny a building permit based on changes in the zoning bylaw. There was nothing in the statutory scheme that provided that bylaws enacted after the issuance of a development permit would not affect the development of the land involved.

The appeal was dismissed.

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.