BLOG

Riparian Rights and Waterfront Access on the Pitt River

Litigation & Dispute Resolution | Transportation and Logistics

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A recent British Columbia Supreme Court decision (*Mackenzie v. Harken Towing Co. Ltd.*, 2025 BCSC 2493) addresses a long-standing and increasingly common issue in waterfront property law: whether man-made changes to shoreline land can extinguish riparian rights. In a dispute involving members of the same family and a decades-old marine business, the Court confirmed that riparian rights endure despite significant human alteration of the foreshore.

At the centre of the case was a residential property at in Coquitlam, owned by Shane and Jennifer Mackenzie, the plaintiffs. Their relatives, through Harken Towing Co. Ltd., had operated a marine business on adjacent foreshore and water lots since the 1950s. The conflict escalated in 2022 when Harken Towing erected a barricade and posted no-trespassing signs, effectively blocking the plaintiffs' access to the Pitt River.

The Court ultimately ruled in favour of the plaintiffs, affirming their riparian rights and finding that those rights had been unlawfully interfered with.

The dispute was rooted in a unique family and property history spanning more than 70 years. The property was originally purchased in 1949 by Dorothy Mackenzie. Around the same time, her husband Ken founded Harken Towing, which began operating a barging and towing business from the waterfront area in front of the property.

For decades, the relationship between the residential property owners and the marine business was cooperative. Harken Towing leased the foreshore and water lots (the bed of the Pitt River) from the federal Crown (administered by the Vancouver Fraser Port Authority "VFPA"), and family members freely accessed the waterfront. The owners of the property (first Dorothy Mackenzie, then her daughter Linda Friskie) never objected to Harken's activities. In fact, they themselves used the docks and waterfront access.

This long-standing harmony ended in 2016 when Shane Mackenzie (Ken and Dorothy's grandson) and his wife acquired the property. Shortly after taking ownership, they raised concerns about Harken Towing's use of the foreshore and sought compensation and formal agreements for continued access and operations. Harken Towing declined these proposals, and the relationship deteriorated.

Although earlier disputes regarding trespass and corporate matters were eventually resolved, the issue of riparian rights, and specifically access to the water, remained unresolved.

The matter proceeded to trial where the central legal issue was whether the property remained "riparian," that is, whether it retained the legal status of land adjoining water, giving rise to certain rights including access to the water.

Harken Towing argued that the property had ceased to be riparian decades earlier. They pointed to the construction of retaining walls and the infilling of land between the property and the Pitt River. According to Harken Towing, this artificial land effectively separated the property from the water, making it non-riparian.

The plaintiffs, on the other hand, argued that the property had always bordered the river and that human-made alterations could not extinguish riparian rights. They maintained that their ability to access the water remained intact until it was blocked by the barricade in 2022.

The Court had little difficulty concluding that the property was originally riparian. Historical title documents and evidence confirmed that the property's boundary was defined by the Pitt River.

The key question was whether that status had changed due to human intervention.

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The Court held that artificial alterations such as building retaining walls or depositing fill do not eliminate riparian rights. Unlike natural processes (such as erosion or accretion), which can change property boundaries and legal status, human-made changes do not alter the underlying legal relationship between upland property and adjacent water.

Importantly, the Court found that the land created through infilling remained part of the foreshore owned by the Crown. It did not become part of the upland property, nor did it sever the connection between the property and the river.

The Court also noted that the lease between Harken Towing and the VFPA explicitly recognized the existence of third-party riparian rights and prohibited interference with them. This further supported the conclusion that the property remained riparian.

Having confirmed the existence of riparian rights, the Court then clarified their scope.

Riparian rights include several entitlements, most notably the right of access to the water. This right allows property owners to:

- access the foreshore;
- use ramps and similar structures to reach the water; and
- use docks as a means of entering and exiting the water.

However, these rights are not unlimited. The Court emphasized that riparian owners do not have the right to:

- build structures on the foreshore; or
- permanently moor vessels at docks (except temporarily for loading and unloading).

Accordingly, the plaintiffs were entitled to access and use the docks for entry and exit, but not for long-term moorage.

While the Court granted declarations confirming the plaintiffs' riparian rights and their entitlement to access, it declined to order the removal of the barricade.

This was due to a procedural limitation: the foreshore and water lots are owned by the federal Crown and administered by the VFPA, neither of which were parties to the case. The VFPA lease also gave the Port Authority certain rights over structures on the land.

As a result, the Court held that it could not order removal of the barricade without affecting the rights of non-parties. However, it noted that the plaintiffs could pursue further proceedings involving the VFPA if necessary.

This decision reinforces a key principle of Canadian property law: riparian rights are resilient and cannot be extinguished by unilateral, human-made alterations to the shoreline.

For waterfront property owners and commercial operators alike, the case highlights the importance of understanding the legal distinction between upland property and foreshore lands, as well as the enduring nature of access rights. A PDF version is available for download **here**.

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