



# BCCAT Fall 2015 Newsletter

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# Board Members



## **Alan Andison**

Environmental Appeal Board

## **Emily Drown** (Board Secretary)

Safety Standards Appeal Board

## **Steve Guthrie** (Treasurer)

Property Assessment Appeal Board

## **Diana Juricevic**

BC Human Rights Tribunal

## **Shelley Lopez**

Workers Compensation Appeal Tribunal

## **Brent Mullin**

Labour Relations Board

## **Alison Narod** (President)

Community Care & Assisted Living Appeal Board

## **Ellen Riley**

WCAT

## **Shannon Salter** (Vice President)

Civil Resolution Tribunal

## **Simmi Sandhu**

Property Assessment Appeal Board

## **Jeremy Sibley**

Employment and Assistance Appeal Tribunal

## **Debe Simpson**

Workers Compensation Appeal Tribunal

## **Daphne Stancil**

620 Stewart Mountain Road

## **Cheryl Vickers**

Property Assessment Appeal Board

## **Tiina Williams**

Mental Health Review Board



*Past & Present BCCAT Board Members at the 2014 Annual BCCAT Conference*

BCCAT serves the tribunal community through volunteers from the community. This is our strength and what ensures our education programs best suit our members. Your expertise and ideas are required, whether on the Board of Directors or Committees.

### **BCCAT Committees:**

- Education Committee
- Nominating Committee
- Communication, Outreach and Membership Committee
- Policy and Research Committee
- Annual Conference Committee

Please check out our website at [bccat.net](http://bccat.net) or contact us at [registrar@bccat.net](mailto:registrar@bccat.net) for more information about how you can get involved.

*On behalf of BCCAT, we want to thank our board members for all of their hard work and dedication to the organization.*

# Conference Retrospective



BC COUNCIL OF  
ADMINISTRATIVE  
TRIBUNALS

Do you know who this is? And why he is significant for BCCAT?



Find out when Cheryl Vickers and Iain Macdonald look back on 20 year's of BCCAT activity at this year's Conference. And just to show how cutting edge we were, here is an extract from the October 1999 newsletter!

## DID YOU KNOW THAT BCCAT HAS A WEBSITE?

[www.bccat.net](http://www.bccat.net) • [www.bccat.net](http://www.bccat.net) • [www.bccat.net](http://www.bccat.net)

**O**ur council has maintained an internet presence now for some time. The site was designed and produced by Jim Hutton, from the Public Service Appeal Board, and is maintained under the aegis of the Publication and Communication Committee, which also serves as an editorial board.

The site is available for the use of the various officers, committees and working groups within BCCAT who wish to draw public attention to their activities or reports. The Board of Directors regularly publish the minutes of their meetings on the site.

**If you have information you or your committee wish to see published on the internet, you may submit it, preferably in electronic form, to Iain Macdonald (e-mail: [IainMacDonald@gems8gov.bc.ca](mailto:IainMacDonald@gems8gov.bc.ca)) Alternatively, you may mail or fax the information to:**

*Iain Macdonald, Vice Chair  
Workers' Compensation Review Board  
#200 1700 West 75th Avenue  
Vancouver, BC V6P 6G2  
Telephone: (604) 664-7800  
Fax: (604) 664-7898*

Our website is still in many ways in its infancy. The internet is arguably the most powerful communication tool currently available to us, and as yet, we have barely tapped its potential. It is entirely possible that in a few short years from now we will have difficulty in recalling what it was like to actually hold a document such as this one in hand, instead of to view it via electronic means.

The potential benefit to our Council in hosting a website, as well as to those who visit our site is immense, and we are limited only by our imagination. As the applicable technology becomes more widely integrated into our homes and workplaces, we will more deeply realize and appreciate the significance of the immediate availability of information, and the ability to interact. This is one more resource upon which we as tribunal members can draw in our ongoing attempts to provide fair, efficient and high quality service, and is particularly appropriate to administrative law, which by its nature is dynamic and evolutionary.

# 2015 Conference

## 2015 BCCAT Education Conference – 20th Anniversary “Looking Back to the Future” October 5 & 6, 2015 – Vancouver

Since its inception in 1995, the BCCAT has recognized that administrative justice is a field in constant development and it is about to evolve further in the coming months. This year’s conference will provide a look back at some of the changes over the past 20 years and offer some insight into the future.

Our two day conference will offer plenary sessions on a variety of topics such as productivity techniques, dealing with difficult parties and those with mental health challenges, investigation/adjudication and information and privacy issues. We will touch on what the province is proposing in terms of tribunal clustering, how will Bill 18 affect tribunals, how tribunals in other province under similar models.

Keynote Speakers include The Honourable Judge of the Supreme Court of BC, Christopher Hinkson and the Attorney General, MLA Suzanne Anton. We will also hear from leaders in the fields of Administrative Law, Dispute Resolution, Evidence,

Investigations, Information & Privacy as well as an update on the new Civil Dispute Resolution Tribunal. All our sessions will have question and answer periods where you can interact with the speakers.

This year our conference will be held in beautiful downtown Vancouver at the Wosk Centre for Dialogue, a state of the art facility where each seat equipped with a microphone to ensure your voice will be heard.

**Whether you are a full or part-time quasi-judicial decision maker, new or experienced, the presentations will provide current information on the changing tribunal environment in BC and add to your skills as a tribunal member or chair.**

This Educational Conference will again offer Continuing Professional Development (CPD) credits for your annual report to your professional organization. Attendance will also enhance your CV, and in some circumstances may be a tax deductible expense.

This year all BCCAT members are eligible to receive a discount of \$100 on the registration – details will be found on the website as soon as registration opens.

Registration includes a light breakfast, continuous refreshments and a hot lunch each day. Accommodation is offered at a reduced rate (limited number) at the attached Delta Vancouver Suites. To celebrate our 20th anniversary, we will be hosting a wine and cheese networking reception following the first day of our conference in the relaxed atmosphere of the Wosk Centre glass atrium. Plan to attend!

For those of you who bring others with you or want to do a bit of exploring the Vancouver area, the Wosk Centre for Dialogue is located in the downtown core within easy walking distance to the transportation hub of Waterfront Station, the terminus for Skytrain, Canada Line and SeaBus.

# BCCAT Roundtable



## BCCAT Roundtable: Using Technology in Adjudication

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The BC Council of Administrative Tribunals is launching the first facilitated roundtable discussion as part of the new group membership package.

Participation is a member benefit, and limited based on membership level.

We encourage a representative from your organization to attend!

### **Topic:**

Members told us that technology and adjudication was their top choice for a roundtable discussion, and so we'll be talking about best practices, privacy concerns, and the future of adjudication. Join us! The format will involve 15 minutes of presentation to spur discussion, followed by 45 minutes of open dialogue.

**Date:** September 16, 2015

**Time:** 12:30 – 1:30pm

**Location:** Justice Education Society, 260–800 Hornby Street

Working lunch will be provided.

To register a representative(s) from your organization, contact: [registrar@bccat.net](mailto:registrar@bccat.net)



# Train the Trainer Workshop



## Are you an experienced administrative justice decision-maker? Do you want to pass your experience on to other decision makers?

Enroll in the 2 day Train the Trainer workshop, provided by the British Columbia Council of Administrative Tribunals (BCCAT).

The Workshop will be on September 21 and 22, 2015 at the Broadway Campus of Vancouver Community College.

The first day will involve instruction by a member of VCC's School of Instructor Education and will cover principles of adult education, instructional methods and giving feedback. Participants will have the chance to practice teaching. The second day will familiarize participants with the BCCAT Administrative Justice for Decision Makers Curriculum and provide opportunity to practice teaching various sections of the course. All participants will receive feedback on their participation.

The workshop will be limited to 12 participants – 6 experienced administrative justice decision-makers from the general BCCAT membership, and 6 legal counsel from the Ministry of Justice, Legal Services Branch (who will instruct the BCCAT courses within government).

Participants from the general BCCAT membership who successfully complete the Train the Trainer workshop will join the BCCAT instructor pool for offerings of BCCAT's Administrative Justice for Decision Makers Workshop and the Administrative Justice for Post-Secondary Institutions Workshop. Qualified instructors may also join the instructor pool for

the Hearing Skills Workshop and the Decision Writing Workshop upon completion of those workshops and after co-instructing an offering as a volunteer.

To become a qualified BCCAT instructor, you must have experience as an administrative justice decision-maker. If you wish to be able to join the instructor pool for the Hearing Skills Workshop and Decision Writing Workshop, you must have experience conducting oral hearings and writing reasoned decisions.

The cost to participate in the Train the Trainer Workshop is \$300.

If you would like to participate in the Train the Trainer Workshop to become a qualified instructor for BCCAT's courses, send your expression of interest together with your resume to the attention of the BCCAT Education Committee at [registrar@bccat.net](mailto:registrar@bccat.net)

**When:** September 21st & 22nd

**Where:** VCC Broadway Campus

**Cost:** \$300

**Questions? Contact Cheryl Vickers:**

604-328-5053

[cherylvickers@shaw.ca](mailto:cherylvickers@shaw.ca)

# New Membership Structure



**If your organization is a member of BCCAT then you are too, and you are eligible to attend member only events like BCCAT's new Roundtable Series.**

BCCAT has a new membership structure. The new package includes the following great services that are sure to be appreciated by appointees to administrative tribunals and those in other organizations that have a quasi-judicial role:

- Preferred training course pricing:
  - 1 free course per organization;
  - \$200 off each additional course registration;
  - Group purchase options at additional savings.
- Adjudicator's Manual - 2015 updated electronic version (coming soon!)
- Preferred conference pricing: \$100 off each registration for the two day event.
- Annual Roundtable on administrative justice topics
- Educational newsletter (with new admin law update)
- Membership to BCCAT for all appointees of organization (part of package price)
- Optional training planning meeting with BCCAT Educational representative
- Continuing Professional Development (CPD) credits for attendees to BCCAT offerings (when applicable)

**The package is offered at a variable price depending on the size of the tribunal:**

Individual subscription price: \$75

Group Subscription price (*depending on size of tribunal – all members must be enrolled*):

Level	Number of Appointees	Package Price
A	2 - 4	\$500
B	5 - 8	\$750
C	9 - 14	\$1,000
D	15 - 24	\$1,250
E	25 - 49	\$1,500
F	50+	\$1,750

# Volunteer



Did you know that BCCAT serves the tribunal community through volunteers from the community? Your expertise and ideas are welcome, whether on the Board of Directors or on any of BCCAT's numerous committees.

## **BCCAT Committees:**

- Education Committee
- Nominating Committee
- Communication, Outreach and Membership Committee
- Policy and Research Committee
- Annual Conference Committee

Please check out our website at [bccat.net](http://bccat.net) or contact us at [registrar@bccat.net](mailto:registrar@bccat.net) for more information.



# Fall Course Offerings



## Fall 2015 Courses

Administrative Justice - Practice & Procedure for Decision Makers	October 22 & 23, 2015
Administrative Justice - Practice & Procedure for Staff Members	October 14, 2015
Decision-Writing Workshop	November 5 & 6, 2015
Hearing Skills Workshop	November 19 & 20, 2015
Administrative Justice - Practice & Procedure for Post Secondary Education Institutions	<b>Institutions should Contact BCCAT</b>

BCCAT will tailor courses to specific needs or provide in-house training. All courses are approved as continuing education for members of the bar in completing the Annual Report to the Law Society of BC. [Register now for courses.](#)

### Registration:

Administrative support and location for BCCAT's Courses are now provided by the Justice Education Society. Registration for courses is processed by AdminLawBC.ca, follow the link below to register for BCCAT courses.

### [Register At Adminlawbc.ca](#)

The Justice Education Society will acknowledge your registration and provide you with detailed information regarding your course.

### Note:

The Administrative Justice - Practice and Procedures for Educational Institutions is arranged separately between the organizations and BCCAT. Contact us for further information.

### Cancellation Policy:

Please note that all courses are fully non-refundable if cancelled within 10 days of course start date. Course enrollment is transferable to another member of your organization. Courses may be cancelled and you will be notified 7 days in advance if insufficient enrolment occurs. Please contact BCCAT directly with any questions.

### Location:

Unless otherwise advised, courses will be held in the Justice Education Society's classroom at 800 Hornby Street

# BCCAT Awards



## BCCAT Recognition Award

The BCCAT Recognition Awards will be presented at the annual education conference taking place on October 5th & 6th, 2015.

### What is the British Columbia Council of Administrative Tribunals Recognition Award?

The BCCAT award is intended to recognize a person or persons for their outstanding contribution to the Administrative Justice System in B.C. The award may recognize a particular achievement or an individual's service over a period of time.

### Who is eligible for the recognition award?

The Award is open to anyone who has made a contribution to the Administrative Justice system in B.C. Current Directors of BCCAT are not eligible.

### Who can nominate persons for the Award?

Nominations for the Award will be accepted from any source. The recipient does not have to be a member of BCCAT.

### Who selects the Award Recipients?

The Selection Committee consists of BCCAT's Board of Directors. The Committee may add to the list of nominees and will select the recipient(s) from the nominations field. The Committee reserves the right not to make an award in a given year.

### Presentation of the Recognition Award:

The award is to be presented at a ceremony to be held each year in conjunction with BCCAT's Annual



### The 2014 Award recipients were:

Iain Macdonald, in recognition for his outstanding contribution to administrative justice in BC.

Helen del Val, in recognition for her role as President of BCCAT 2012-2013

# Admin Law Case Comment

## Admin Law Case Comment

by Emily C. Drown

### ***Parklane Auto & RV Sales Ltd. v. British Columbia (Assessor of Area No. 19 – Kelowna)*, 2015 BCSC 1482**

#### **Why do you need to know about this case?**

This recent case provides a current summary of the law regarding procedural fairness and natural justice for administrative tribunals in British Columbia.

**What are the issues?** This decision stems from a stated case under the Assessment Act, R.S.B.C. 1996, c. 20, s.65 and deals with certain questions regarding the Property Assessment Appeal Board's (the "Board") decision to increase the 2013 assessed value of the Property. Among other matters, the court was asked to determine

whether the Board erred in law by breaching the rules of natural justice. The Court was asked in the stated case to determine whether, in the circumstances of the case, the Board erred by failing to notify the property owner that the actual value of the property was higher than its assessed value given that the property owner had brought the appeal from the Board's decision to confirm the 2013 assessed value and had not notified the property owner that it was going to increase the value as a result of the appeal.

**What does the decision say about procedural fairness and natural justice?** While the decision deals with certain findings that apply primarily to the Board, a useful summary of procedural fairness and natural justice is found at paragraphs 32 to 61. In particular, the court affirms the approach set out in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817 ("Baker") and *Canada (Attorney General) v. Mavi*, 2011 SCC 30 ("Mavi") for determining whether there has been a breach of the duty of procedural fairness. Justice Fleming writes at paragraphs 39 to 41:



*Continued on the next page ->*

# Admin Law Case Comment Continued



In *Baker*, Justice L'Hereux-Dube found the duty of procedural fairness is “flexible and variable and depends on an appreciation of the particular statute and the rights affected” (para. 22). She identified five factors, none of which is determinative, to be assessed in determining the content of the duty:

- The nature of the decision being made and the process followed in making it;
- The nature of the statutory scheme;
- The importance of the decision to the individual affected;
- Legitimate expectations; and
- The choices of the procedure made by the administrative agency.

Her decision noted the following overarching principle which informs and underlies the five factors which are non-exhaustive at para. 22:

I emphasize that underlying all these factors is the notion that the purpose of the participatory rights contained within the duty of procedural fairness is to ensure that administrative decisions are made using a fair and open procedure, appropriate to the decision being made and its statutory, institutional, and social context, with an opportunity for those affected by the decision to put forward their views and evidence fully and have them considered by the decision-maker.

More recently, *Mavi* clarified the *Baker* approach to determining the content of an administrative tribunal's duty of procedural fairness:

**[41]** Once the duty of procedural fairness has been found to exist, the particular legislative and administrative context is crucial in determining its content.[...]

**[42]** A number of factors help to determine the content of the procedural fairness in a particular legislative and administrative context. Some of these were discussed in *Cardinal*, a case involving an inmate's challenge to prison discipline which stressed the need to respect the requirements of effective and sound public administration while giving effect to the overarching requirement of fairness. The duty of fairness is not a “one-size-fits-all” doctrine. Some of the elements to be considered were set out in a non-exhaustive list in *Baker* .... Other cases helpfully provide additional elements for courts to consider but the obvious point is that the requirements of the duty in particular cases are driven by their particular circumstances. The simple overarching requirement is fairness, and this “central” notation of the “just exercise of power” should not be diluted or obscured by jurisprudential lists developed to be helpful but not exhaustive.