

Moore Case Upholds
Right to Education

European Union
Accessibility Act

Blind Runner Wins
Human Rights Case

transition

The Magazine of BC Coalition of People with Disabilities

FALL 2013



**Rick and Jeff Moore,
with their lawyer
Frances Kelly**

People with Disabilities and the Law

Raise Funds for BCCPD at No Frills Pharmacy

FALL 2013

inside



featured articles



selected content



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Derek M. Mah
Kevin Gourlay
Irina Kordic

Angela Price-Stephens
Alex Sayn-Wittgenstein
Tina Petrick

2020-650 West Georgia Street
Box 11547, Vancouver, BC V6B 4N7
murphy@murphybattista.com

EDITORIAL

BY FRANCES KELLY

tested for drivers' licenses on their full abilities, and not excluded from driving because they have a particular visual condition.

In this TRANSITION, we celebrate recent victories where the law has promoted inclusion and removed barriers. Graeme McCreath, a blind runner who is contributing to this issue, has won the right to participate in a 10k "fun run" with the necessary accommodations (see page 26). Joyce Stewart, who uses a walker, won the right to access her condo with dignity and safety when the Human Rights Tribunal ordered her landlord to install a ramp (see page 11).

And in Moore v. BC (Education), the Supreme Court of Canada confirmed that students with disabilities are entitled to an inclusive education—not just special education (see pages 12 and 20).

But the law is a blunt and unpredictable instrument. It works really well—sometimes. Cases can be lost and you can be stuck with a bad precedent.

Sometimes it's worse. You win, but you get "equality with a vengeance". For instance in the 1980s, young people who received less income on welfare than older


Human rights laws and the Charter have been in force for decades now. It is time to ask, "Have these laws really helped people with disabilities achieve equality?" The answer is yes and no.

people challenged this inequality in a court case. They "won", but in response to the case, the government lowered the welfare rates for everyone to make things equal. Be careful what you wish for!

It is also important to remember that running a case takes time, effort, resources and usually a lawyer (all of which can be in short supply). And the wheels of justice grind incredibly slowly. The Moore decision, written about in this TRANSITION, is a huge victory—but it took 15 years to achieve!

So law is one important tool we can pull out of our arsenal and use to make lives better for everyone. But we need to remember that lasting social change is fundamentally about education, changing attitudes, and engaging the political process.

The law is a useful tool to pull out when all else fails, but it should be a last resort.

FRANCES KELLY WAS CALLED TO THE BAR OF BC IN 1990. SHE PRACTICES IN THE AREAS OF ADMINISTRATIVE AND CONSTITUTIONAL LAW WITH THE COMMUNITY LEGAL ASSISTANCE SOCIETY (CLAS), A NON-PROFIT LAW FIRM WHOSE MANDATE IS TO ADVANCE THE RIGHTS OF DISADVANTAGED GROUPS THROUGH TEST CASE LITIGATION. FRANCES HAS ARGUED A NUMBER OF SIGNIFICANT CASES WHICH HAVE ADVANCED THE RIGHTS OF PEOPLE WITH DISABILITIES AND OTHER DISADVANTAGED GROUPS AT ALL COURT LEVELS, INCLUDING THE SUPREME COURT OF CANADA. 



This issue of TRANSITION is dedicated to people with disabilities and the law.

Human rights legislation, the Canadian Charter of Rights and Freedoms, and the UN Convention on the Rights of Persons with Disabilities all aim to enhance equality and ensure that people with disabilities participate in a barrier-free society.

Human rights laws and the Charter have been in force for decades now. It is time to ask, "Have these laws really helped people with disabilities achieve equality?" The answer is yes and no.

There have been some remarkable achievements, but there is still a way to go. The goal of full inclusion is on the horizon, but we are not quite there yet.

There have been a number of notable legal victories that have made society more accessible. For example, in 1997 people who are deaf won the right to be provided with hearing interpreters for medical treatment. In 1999, people with vision loss won the right to be

AGM 2013 Review

BY JANE DYSON

This year's AGM was a great success and was well-attended by members old and new who came to hear what we have been doing over the past 12 months.

We were very fortunate to have Vangelis Nikias as our guest speaker. Vangelis lives in Ottawa and currently works for the Council of Canadians with Disabilities (CCD) to raise awareness on the UN Convention on the Rights of Persons with Disabilities (CRPD). During the United Nations negotiations on CRPD, he represented the Department of Human Resources and Social Development Canada on the Canadian delegation as content expert. Vangelis gave us a very interesting presentation on the CRPD, focussing on the poverty and unemployment experienced by many British Columbians with disabilities (please see Vangelis' article on page 6).

Every year, CCD presents an award to recognize an individual's outstanding contribution to Canada's disability rights movement. Each CCD member group makes a nomination and our Board announces its choice at each AGM.

This year, the Board chose John Simpson. John is the founder of the Fraser Valley Brain Injury Association and has volunteered many, many hours of his time to help people with brain injuries within the prison system. He is a valued and respected supporter of the BCCPD and has worked with us

on various projects over the years, including our work to improve Part 7: Accident Benefits.

This year, BCCPD members elected Pam Horton to the Board of Directors. Pam has served on a number of committees, including the City of North Vancouver's Adaptable Design Working Group, SPARC BC's Parking Placard Committee, the North Shore Coordinating Committee to End Violence Against Women in Relationships and North Vancouver's Social Planning Committee. She is currently a member of the Access Transit Users Advisory Committee, as well as BCCPD's HandyDart Users Network and Taxi Committee.

Our rules stipulate that Board members cannot hold the same position on our Executive for more than three years. So at this AGM, Johanna Johnson made her final speech as our President. Thank you to Johanna for being such a wonderful President. We've been so fortunate to have you and are so glad that you will continue to be on our Board.

We hope we will see you at next year's AGM.



JANE DYSON IS BCCPD'S EXECUTIVE DIRECTOR. 

ABOUT TRANSITION

Editorial Statement

The views and opinions expressed within the pages of TRANSITION are not necessarily those held by the total membership or Board of Directors. The material presented is meant to be thought-provoking and to promote dialogue.

Planning Team

Jane Dyson, Shelley Hourston, Nicole Kiyooka, Ann Vrlak

Editor and Layout

Ann Vrlak

Cover Design

Fiona Gamiet

Cover Photo

Caelie Frampton

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Contact Us

BC Coalition of People with Disabilities
204-456 W. Broadway,
Vancouver, BC V5Y 1R3
T: 604-875-0188 F: 604-875-9227
TRANSITION: trans@bccpd.bc.ca
Ads: transitionads@gmail.com
BCCPD: feedback@bccpd.bc.ca
Web: www.bccpd.bc.ca/transition

Inclusion on the World Stage

BY VANGELIS NIKIAS

The United Nations Convention on the Rights of People with Disabilities (CRPD) is the first international human rights agreement of the 21st century. Countries that make up the United Nations (in other words, the world community), have all agreed that people with disabilities are full members of their societies.

The countries and their governments, including all jurisdictions in Canada, have recognized that international human rights law binds all countries that approve CRPD to take steps to remove the various barriers that cause disadvantages for people with disabilities.

This means that, for example, poverty, unemployment and lack of appropriate disability-related supports must be addressed through government action. Moreover, these actions must be taken by governments after they have closely consulted with representative organizations of people with disabilities, such as the BC Coalition of People with Disabilities (BCCPD).

This approach, which has now been accepted by at least 130 countries, is an important landmark in a long struggle by people

This approach, which has now been accepted by at least 130 countries, is an important landmark in a long struggle by people with disabilities to improve our living conditions.

with disabilities to improve our living conditions. Human rights is a significant form of law that prohibits discrimination and makes equality its guiding principle.

In Canada, we can be proud that the organized disability movement, of which BCCPD is a long-standing member, championed early on the human rights approach. Specifically, the Council of Canadians with Disabilities (CCD) fought very hard to make sure that, when the Canadian Charter of Rights and Freedoms (CCRF) was made part of the Canadian Constitution, the equality rights of Canadians with disabilities were not forgotten.

Acknowledging Systematic Problems

Canadians with disabilities, in cooperation with our governments (both federal and provincial/territorial) and other allies in Canada and abroad, also contributed significantly to the successful conclusion of the CRPD negotiations.

In CRPD, countries have acknowledged that people with disabilities have in the past and continue to live in conditions of poverty and to experience interconnected forms of discrimination and barriers to our effective participation in society—that is, to be unemployed or

underemployed, to face problems in education, to name a few long-standing problems.

Countries have agreed to adopt measures to help people with disabilities overcome these barriers. CRPD contains, for example, specific sections which address accessibility and living in the community. They supplement other sections which appear in international human rights agreements, such as education, employment and standard of living.

The above-mentioned actions and policy measures are intended to put into practice the purpose of CRPD which is: “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities”...

In writing CRPD, delegates tried to make sure that all people are included. The use of the word “all” in the purpose of CRPD is intended to emphasize that factors, such as gender or severity of impairment, do not disqualify people from the enjoyment of all human rights.

Translating CRPD into Canadian Law

Even though countries have agreed to the principles of equality, non-discrimination and the need to take practical actions to

make these principles a reality in the daily experience of people with disabilities, it is important to keep in mind that people with disabilities must continuously strive to make all this happen. There are two reasons for this.

First, international human rights law is not automatically translated into policy action domestically. Second, we have learned from experience that decision-makers, especially political ones, must be constantly reminded of their commitments.

This can only be accomplished if people with disabilities have the capacity to act politically. That is, we have the capacity to learn from one another’s experience; to work together in collecting information, analyzing it in the context of human rights and other legal and policy frameworks and priorities; and, articulating persuasively our needs and priorities. To do all this, we need the continuing involvement of strong grassroots, self-representative organizations.

Educating the UN

CRPD is a strong document that reflects the views of people with disabilities. It would not have been so comprehensive without the vigilant and consistent participation by an aware and mobilized world disability movement.

The slogan, “Nothing about us without us” became a rallying point for people with disabilities from diverse backgrounds. Gradually, even previously unaware professional diplomats and negotiators became educated and persuaded that the viewpoints

of people with disabilities have validity and, without them, CRPD would be an incomplete international agreement.

A key in this accomplishment is the capacity of people with disabilities, primarily working through self-representative organizations, to convince countries about the continued existence of various barriers and about the responsibility of countries to undertake actions to address these barriers.

Persuading countries to formulate all this in the context of an international human rights document is ground-breaking. It has the potential to change the understanding of disability around the world, including the understanding by people with disabilities themselves—by shifting any remaining beliefs about being objects of charity and taking our place as full members of societies.

This has the potential to change the world. It is our awareness, actions and our capacity to act that will make that happen. Using human rights law to change and improve public policy (government action) is now gradually becoming a strategy operating at a world scale.

As a member of the official Canadian delegation to the CRPD negotiations, I have many treasured memories of deliberations about content, word-smithing, legal principles and give-and-take sessions. One of my strongest memories relates to an intervention by the Head of the Canadian delegation to defend the practice of including non-governmental and disability organizations in the process of de-



VANGELIS NIKIAS (AT FAR LEFT)

liberation. This was in response to the growing desire by some states to close negotiating sessions. The leader of our delegation, Mr. Gilbert Laurin, made a passionate intervention in favour of openness and inclusion. This gained Canada a standing ovation and ensured that disability organizations continued their participation.

For a naturalized Canadian citizen and a blind person, these memories are only possible in a broader context of an inclusive and accessible Canada. This is becoming a reality thanks, to a large extent, to the efforts and contributions of Canadians with disabilities. The CCD, as well as other disability organizations, are in the process of changing the lived experience of people with disabilities and as a result, redefining Canada and the world.

VANGELIS NIKIAS IS THE CRPD PROJECT MANAGER WITH THE COUNCIL OF CANADIANS WITH DISABILITIES.

ASKING FOR HELP FROM
UNHELPFUL PEOPLE

Whether you're asking for help or gathering information about products or services, you will run into unhelpful people. Often they don't realize they're being unhelpful. Other times, you'll meet people who are rude or disinterested in your problem or question. Here are some tips for getting past them and to the information you need.

Be well organized. Plan your questions carefully. What words could be used to describe your problem or need? What do you already know and what do you want to know? Make notes and refer to them when you need to.

Be persistent. Sometimes timing and connections are everything. You may have to phone or visit a number of stores/organizations or talk to a few people before you find one who can help.

Be polite. We are all more inclined to go the extra mile for people who treat us with respect. And you may need the extra mile!

Be creative. You may encounter people who are just having a bad day. Don't get frustrated or give up. Be patient, polite and persistent. Call again later when you may speak to someone else. Ask your friends, family and acquaintances if they know someone with the information you're seeking.



Everyday Resilience: Asking for Help

BY SHELLEY HOURSTON

One of the keys to resilience is knowing that we don't have to face adversity alone. Asking for help can be difficult for most of us, but everyone needs help from time to time. People with a disability or chronic condition sometimes need help with a task that is beyond their physical ability or energy levels; for example, you may need help with moving a dresser or researching the best computer on the Internet or you may need ongoing help with grocery shopping every two weeks.

Some of us are ashamed to let others know about things we can't do or that we're uncertain about our abilities. Asking for help can feel like a sign of weakness or failure. We may be afraid that our request will be refused or may be an imposition.

Researchers have found something interesting, however: people underestimate others' willingness to help. The following ideas may help you re-evaluate your attitudes toward asking for help and offer concrete suggestions.

- Don't assume that you should be able to do everything. We all have different experience, skills and strengths.
- Recognize when you need help. Most of us will occasionally feel awkward, silly or embarrassed about asking for help. Remember that we all need help at times.

- Don't wait until the last minute to ask for help. Often problems are easier to fix before they have a chance to become more complicated.
- Time your request well. Don't ask for assistance when the person you're asking is busy or not feeling well.
- Let's say you're researching something—for example, how to find a new place to live because your subsidized cooperative is having financial problems. Learn as much about the situation as you can. Keep a record of sources of information you've consulted and what you have learned. Then you will be able to tell your helper what you already know or have tried.
- Think about how to phrase your request. Be direct when asking for assistance and be specific about what you need help with. Instead of hinting about your need for help, state your request and explain why it's important to you or what their help will enable you to do. Maybe your first call for help is to identify and plan how to ask for help on a specific topic.
- Make the task as easy as possible for the helper. Ensure all materials or details are gathered in advance, provide clear instructions and, if it's a large

project, break the work into shifts or activities for different helpers to do.

- Make a list of people you know who may be able and willing to help and spread the requests around. Don't ask the same one or two people repeatedly for help.
- Don't wait until you need help before offering to help others. Become known as a person willing to help out when you can and you'll build a network of people happy to help you.
- If asking for information or feedback, don't reject or dismiss what is offered to you. Be gracious.
- Make it easy for a potential helper to say no to your request. Don't put people on the spot, if they're unable to help at this time.
- Say thank you.
- Follow up—let the helper know the outcome.

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what does disabled mean
bccpd.bc.ca



Taking Action on EATI

BC Personal Supports Network is encouraging people to speak out on the importance of disability supports.

Since 2009, the BC Coalition of People with Disabilities has played a leading role in the development of the Equipment and Assistive Technology Initiative (EATI). EATI is a unique partnership between the community organizations of the BC Personal Supports Network and the BC Ministry of Social Development and Social Innovation.

EATI is special because:

- It uses the Participation Model which was developed by people with disabilities themselves (a ground-up process rather than a top-down process). This means it is person-directed. The individual's employment goals drive the process and determine the solution.

- There are no medical tests, income or asset tests required. EATI considers assistive technology to be an essential component of leveling the playing field between those who have disabilities and those who do not.
- There are no prescribed lists of equipment or assistive technology. People can choose from a whole range of assistive technology in order to overcome the functional barrier to meeting their goals.
- Self-assessment is an option for many participants.
- Trialing and training opportunities for equipment are provided.
- The individual makes choices and takes responsibility for the outcomes.
- EATI exceeds the standards set by the UN Convention on the Rights of Persons with Disabilities which Canada ratified in 2010.

EATI's Accomplishments

Since 2010, EATI has approved more than \$10 million in funding for assistive technology. The program has served 1174 people

with disabilities from all regions of the province: 21.5% from Vancouver Island; 28.1% from Vancouver Coastal; 32.5% from Fraser region; 14.3% from the Interior, and 3.5% from Northern BC.


EATI is funded through the federal/provincial Labour Market Agreement. The Labour Market Agreement is due to expire on March 31, 2014.

The federal government has announced its intention to transform much of the existing Labour Market Agreement into the Canada Job Grant. This will make the future of EATI very uncertain.

Add Your Voice Now

The BC Personal Supports Network is encouraging people to speak out on the importance of disability supports in British Columbia and Take Action on EATI.

You can get information on how to do this by using the *Taking Action on EATI Toolkit* which is available through the BCCPD website (http://www.bccpd.bc.ca/docs/taking_action_on_eati_toolkit.pdf). If you would like a print version of the *Toolkit*, please contact Val Stapleton at the BCCPD office at 604-875-0188.

To learn more about how EATI has changed people's lives, visit <http://www.bcpsn.org/> or watch videos about EATI clients at <http://www.youtube.com/user/bcpsn2011>. 

The Right to Access Your Home

BY DAVID MOSSOP

Accessibility to buildings is important for people with disabilities and modern building codes demand it. However, most building codes grandfather in existing older buildings that are not accessible.

What does a person with a disability do in this situation? Joyce Stewart faced such a problem and filed a complaint with the BC Human Rights Tribunal, and won (see *Joyce Stewart v. Satorotas Enterprises and Others*, 2012 BCHRT 442).

Joyce Stewart is 68 years of age and has had multiple surgeries on a congenital right club foot, with no positive result. In 2008, she developed lung cancer and was treated with chemotherapy and radiation. Despite her disabilities, Joyce has worked most of her life and has also done extensive volunteer work.

In 1999, Joyce moved into a two-storey apartment building in Campbell River, built in the 1960s. There is also a basement suite accessible by a door leveled to the gravel parking lot. The entrance to the main floor is made up of five concrete steps.

When Joyce moved into the building, she was offered a suite on the second floor. She declined because she felt she could not walk up the stairs from the main floor to the second floor. Instead, she moved into the suite next to the lobby on the main floor. At that time, she

could walk up the five concrete steps to the main entrance.

Unfortunately, her health deteriorated and, in 2010, she required a walker for mobility. She asked the landlord to build a ramp for her, but he refused.

Joyce described what it is like for her to leave the building without a ramp. The day before, she prepares herself mentally for the ordeal. She has to exercise her arms and legs. Joyce gets down the steps by holding the railing and pulling her walker with her. She has tripped a few times and has also fallen.

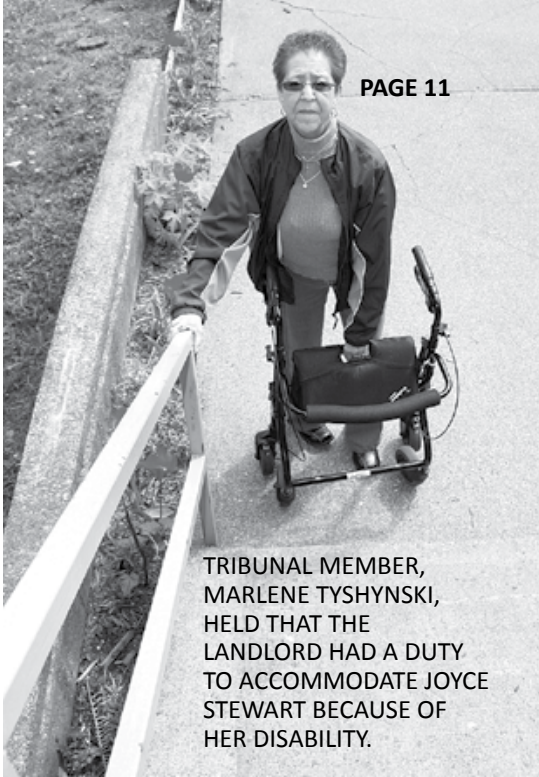
Because of her difficulties exiting and entering the building, she only leaves the building once a month for hospital visits and errands.

The owner/landlord's lawyer described the building as a family business. The two main defences to the human rights complaint were:

- He had offered the basement suite to Joyce.
- The owner had the right to make a business decision. He could not afford the ramp.

Tribunal Member, Marlene Tyshynski, held that the landlord had a duty to accommodate Joyce Stewart because of her disability. She then dealt with the primary defence arguments.

With regard to the offer of the owner/landlord that Joyce move into the basement suite, the Tribunal Member rejected this as a reasonable accommodation. First, it would have been unreasonable to expect Joyce to traverse



TRIBUNAL MEMBER, MARLENE TYSHYNSKI, HELD THAT THE LANDLORD HAD A DUTY TO ACCOMMODATE JOYCE STEWART BECAUSE OF HER DISABILITY.

the gravel lane with her walker. Second, residing in the basement suite would affect her ability to maintain social contact, obtain her mail or to feel safe.

Regarding the second defence, the Tribunal Member stated that the owner/landlord had presented two inconsistent estimates for the cost of building the ramp. One was for \$35,000 and the other for \$10,000. The owner/landlord was also unable to prove that he would face a financial hardship, if the ramp was built. Therefore, the Tribunal Member ordered the ramp to be built within three months.

The Tribunal Member also ordered the owner/landlord to pay Joyce the sum of \$15,000 for injury to dignity. This large award was imposed partly because Joyce was without a ramp for approximately two years.

DAVID MOSSOP, QC OF THE COMMUNITY LEGAL ASSISTANCE SOCIETY REPRESENTED JOYCE STEWART IN THIS LEGAL RIGHTS CASE. 



Family Wins 15-Year Case in Supreme Court

The Moore family took a North Shore school district all the way to the Supreme Court of Canada for the right to inclusive education. **BY FRANCES KELLY**

On November 9, 2012, the Supreme Court of Canada released a landmark decision that held that students with severe learning disabilities are entitled to equal opportunity to access public education as students without learning disabilities.

The Court ruled that “special education is not a dispensable luxury”, but a necessary “ramp” to ensure equal access to educational services. The case reaffirms the importance of “accommodation” to level the playing field so all people can benefit from public services.

This 15-year legal battle centered on Jeffrey Moore who attended Braemar Elementary in the 1990s. He started school as a happy confident little boy. However, that began to change in kindergarten. Jeffrey did not learn like other children. He could not recognize letters. He began to tell his parents that he was “dumb” (see more on the Moore family’s story on page 20).

School staff realized early on that Jeffrey had severe dyslexia. The school psychologist recognized that Jeffrey would need to learn “differently” from other students. She referred him to the Diagnostic Center 1 (DC1), a program that specialized in teaching students with severe learning disabilities how to read. For the first time in three years, the Moores looked

forward to Jeffrey getting the help he needed to restore his confidence and teach him to read.

The DC1 had been providing programs that helped students with severe learning disabilities for close to 20 years. However, just as Jeffrey was referred to that program, the District abruptly closed it.

The District cited financial difficulties and blamed the Ministry of Education for years of underfunding. They said they had no choice but to cut these specialized programs. But the facts told another story. While the District was

They said they had no choice but to cut these specialized programs. But the facts told another story. While the District was cutting special needs, they maintained a number of “non-core” programs, including a popular nature school that was located between North Vancouver and Squamish.

cutting special needs, they maintained a number of “non-core” programs, including a popular nature school that was located between North Vancouver and Squamish.

The District staff told the Moores they could do nothing more for Jeffrey and the family would have to place him in a costly private school, if they wanted him to learn to read.

The Moores were devastated by this news. They felt they had no choice but to put Jeffrey in a pri-

vate school, where he could learn to read. It was not easy, as the Moores are hardworking people who earn a modest income. Still, they sacrificed, scraped and saved, and managed to educate Jeffrey in the private school.

The Moores did not think it was right they had to pay to give their son an education so they filed a human rights complaint. They argued that Jeffrey was entitled to accommodations to help him access education.

The Ministry and District argued there was no discrimination because Jeffrey was only entitled to

the same programs provided to other students with disabilities. He was not entitled to expect an accommodation geared to his disability.

They argued that, because the deaf or low vision students did not get special reading instruction, Jeffrey should not get it either! Their main point was that, as long as all the students with disabilities were treated the same—in this case equally badly—there could be no discrimination.

The BC Human Rights Tribunal rejected this argument and found the Ministry and District discriminated against Jeffrey by not giving him the accommodations he needed to help him access the general education provided to all students. The Tribunal ordered that the Respondents compensate the Moores for tuition costs and injury to dignity. The Tribunal also made systemic orders that the Ministry and District make sure programs were in place for these students.

This was great news—but the case was promptly appealed to the next two levels of court, where the Moores lost. The next two courts ruled that Jeffrey was only entitled to special education and he should not expect accommodations. However, there was a ray of hope: one judge at the BC Court of Appeal “got it.” Madame Justice Rowels stated that Jeffrey was entitled to the same opportunity for education as other students and the necessary accommodation to benefit from that service. She was not the majority, so the Moores had to keep going to the highest court in the country.

Their journey ended at the Supreme Court of Canada which ruled that students with disabilities are entitled to the same public education as other students, not just “special education services” that can be cut on a whim. The Court also ruled that, even in tough times, school districts cannot cut special needs programs, unless they can prove they have accommodated these students up to the point of “undue hardship.” Undue hardship is not easy to prove. Districts have to show there



LEFT TO RIGHT: RICK MOORE, FRANCES KELLY AND JEFF MOORE

PHOTO: CAELIE FRAMPTON

The decision confirms that students with disabilities are entitled to accommodations to access education, unless the district can show “undue hardship.” It confirms that in tough times, special needs programs cannot be the first thing on the chopping block, unless the district can prove undue hardship.

was absolutely nothing else they could have done, other than cut the program.

The decision is a great victory. It confirms that students with disabilities are entitled to accommodations to access education, unless the district can show “undue hardship.” It confirms that in tough times, special needs programs cannot be the first thing on the chopping block, unless the district can prove undue hardship.

The Court did not give the Moores everything they won at the Tribunal. The Court did not grant systemic remedies. It let the Ministry of Education “off the hook” and refused to find it liable for discrimination. It found the District was liable, but it was not required to provide a range of programming and accommodations to all

students. It was only required to compensate Jeffrey’s family.

This means that each case will have to be fought individually. However, the Court warned the decision has “systemic” implications and that if school districts want to avoid further liability, they better do the right thing.

The *Moore* case is a great start. Future cases can build on the precedent that students with disabilities are entitled to an inclusive education and that districts cannot cut special programming, unless they can prove undue hardship. Most importantly, the case reaffirms society has a duty to accommodate the different needs of people with disabilities to ensure they can benefit equally from public services. **T**

Representation Agreements Bring Peace of Mind

“My mom is making a Representation Agreement because she needs help today; I am making one in case I need help in the future.”

What is a Representation Agreement?

A Representation Agreement (RA) is a legal document available to adults in British Columbia for personal planning. It allows you to authorize one or more personal supporters to be your representative to help you manage your affairs and, if necessary, to make decisions on your behalf in case of illness, injury or disability.

A Representation Agreement is the only way you can appoint someone to assist you or to act on your behalf for health care and personal care matters. It can also cover routine financial affairs.

What “Powers” will my Agreement Have?

“Standard powers” consist of minor and major health care, personal care, legal affairs and routine management of financial affairs.



The broadest health and personal care powers are listed in Section 9 of the Act. This document is used by adults who want to plan for the future to cover all health and personal care matters possible.

Who Can Make One?

To make a Representation Agreement, you must be 19 years of age or older. The Representation Agreement Act says that an adult may make an RA with standard powers, even if they cannot manage their own affairs or make decisions independently. To make an Agreement with broader powers, you must meet a specific capability requirement.

How Do I Make One?

There is no requirement to consult a legal professional to make an RA. Nidus has produced basic forms for each type of RA and can also provide a customized form, if the basic one does not fit.

Who Should I Appoint in my Agreement?

Most people appoint a spouse or partner, family member or friend in their Agreement. You cannot appoint someone who is compensated to provide health or personal care services to you (e.g. a paid caregiver) or an employee of a facility where you live, if the facility provides health or personal care services to you. These restrictions do not apply if the person is

your spouse, parent or child. There are many factors to consider when choosing who to involve in your Representation Agreement, such as your trust in them, their abilities, and, their understanding of your wishes and values.

What are the Duties of a Representative?

Your representative must act honestly, in good faith and within the law. Your representative’s first responsibility is to assist you to make your own decisions.

If your representative has to make a decision on your behalf, he or she must check with you first to determine your current wishes. If your current wishes cannot be determined or are not reasonable to carry out, then any pre-expressed wishes must be followed. If these are unknown, decisions are made according to your values and beliefs. As a last resort, your representative may make a decision based on what he or she thinks is best for you (your best interest).

When Should I Make an Agreement?

The best time to make an Agreement is before a crisis occurs. When you turn 19 years old, parental rights end and no one, not even your spouse, has legal authority to manage your affairs, if you cannot do so. This may present a problem if you need help

due to an illness or injury. Most people will make more than one RA in their lifetime.

When does an Agreement take effect?

A Representation Agreement is in effect when the adult and witnesses have signed. However, depending on the set up of the Agreement, at least one representative and the—monitor—if one is named, must also sign.

You can include a statement in your Agreement to say it will come into effect at a later time. This requires careful consideration and specific wording to be sure it will come into effect at the times you need it.

What is not covered by these Agreements?

When people are planning for the future, it is common that they will make an Enduring Power of Attorney to cover financial and legal affairs, and a Representation Agreement to cover health and personal care matters.

Making an Enduring Power of Attorney is important, if you own real estate property, because the authority for routine financial affairs under the Representation Agreement does not include dealing with real estate.

EXCERPTED FROM THE NIDUS REGISTRY FACT SHEET, REPRESENTATION AGREEMENT OVERVIEW. FOR MORE INFORMATION AND FREE ONLINE TRAINING, VISIT WWW.NIDUS.CA.



We couldn’t do it without you.

Thank you to these organizations, companies and government departments who support our work on behalf of people with disabilities.

- Advanced Mobility Products Ltd.
- BC Association for Individualized Technology and Supports for People with Disabilities
- BC Hydro Employees Community Services Fund
- BC Rehab Foundation
- Canadian Co-operative Association
- City of Vancouver
- Council of Canadians with Disabilities
- Government of Canada’s Social Development Partnership Program-Disability Component
- Health Sciences Association of BC
- Homelessness Partnership Strategy-Human Resources and Skills Development Canada
- The Law Foundation of British Columbia
- The Law Foundation of Ontario
- Legal Services Society of British Columbia
- No Frills Pharmacy (Loblaws)
- Notary Foundation of BC
- Planned Lifetime Advocacy Network
- Provincial Health Services Authority
- TELUS Employees Charitable Giving Program
- Trial Lawyers Association of BC
- United Way of the Lower Mainland
- Vancouver Coastal Health
- Vancouver Foundation
- Vancouver Taxi Association
- WorkSafe BC

We acknowledge the financial support of the Province of BC.

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The Notary in British Columbia

The Notary tradition goes back to the dawn of recorded history. Throughout centuries of upheaval, the Notary's reputation for trustworthiness meant the documents they created retained a stable reliability.



©iStockphoto.com/Leonardo Patrizi

Expressing and legally documenting preferences and instructions can protect us and our family members from financial abuse or exploitation.

Designating health-care decision-makers can create peace of mind, minimize dissension and anguish among friends and family, and ensure compliance on critical decisions.

Advance planning can be a very comforting and satisfying process, especially when it's managed by an experienced and trusted legal professional. BC Notaries understand the sensitivities and complexities of planning decisions and will ensure that your intentions are clearly stated and properly documented so you can rest assured about the future.

Clear, legally documented instructions can also save costly and time-consuming legal intervention in the future.

Your BC Notary can advise you on these important advance-planning tools.

A POWER OF ATTORNEY
A Power of Attorney allows a capable adult to appoint a person or persons to handle his or her **financial and legal matters**, if the adult is unable to do so or needs assistance. Because of the financial authority conveyed with this document, it is critical that the adult fully understands what powers are being granted and that the adult has complete trust in the person being appointed.

A WILL
This critical tool outlines a person's wishes for the distribution of assets, guardianship of minor children and dependents, and the designation of an Executor to take care of administering the estate.

Note: A recent survey found that only 51% of BC adults have a Will in place. Without a Will, the Court will determine who the Executor will be and the law will decide who is entitled to the estate.

A DEED OF GIFT
When an adult wishes to give a significant gift to another person during the adult's lifetime, a Deed of Gift will document the intent. When prepared and notarized by a Notary, the Deed of Gift proves the donor's intention to give the gift. That proof can be required to counter arguments of "undue influence" after the donor's death. A Deed of Gift also can be useful in circumstances where a person near death wishes to transfer his or her assets or home into joint tenancy.

AN ADVANCE DIRECTIVE
An Advance Directive documents instructions to doctors, nurses, and other health-care providers for an individual's future health care. It ensures the individual's wishes will be carried out by health-care providers, if the person is unable to express them in the future.

A REPRESENTATION AGREEMENT
A Representation Agreement appoints a designated representative or multiple

Today, the position of Notary as a legal professional is sanctioned and safeguarded by law. BC Notaries are unique in North America, providing a large number of noncontentious legal services to the public.

- The average age of a BC Notary: 43
- 55% are women.
- BC's Notaries reflect many ethnic backgrounds and languages.

PERSONAL PLANNING WITH CONFIDENCE
One of the most important and caring things we can do for ourselves and our loved ones is prepare in advance for a time when we may not be able to express our own needs and wishes.

How a BC Notary Can Help You

NOTARIZATION/DOCUMENTS

- Affidavits for All Documents required at a Public Registry within BC
- Certified True Copies of Documents
- Execution/Authentications of International Documents
- Notarizations/Attestations of Signatures
- Personal Property Security Agreements
- Statutory Declarations

PERSONAL PLANNING

- Estate Planning
- Health Care Declarations
- Powers of Attorney
- Representation Agreements
- Wills Preparation
- Wills Searches

TRAVEL

- Authorization of Minor Child Travel
- Letters of Invitation for Foreign Travel
- Passport Application Documentation
- Proof of Identity for Travel Purposes

BUSINESS

- Business Purchase/Sale
- Commercial Leases and Assignment of Leases
- Contracts and Agreements

PROPERTY MATTERS

- Easements and Rights of Way
- Insurance Loss Declarations
- Manufactured Home Transfers
- Mortgage Refinancing Documentation
- Purchaser's Side of Foreclosures
- Residential and Commercial Real Estate Transfers
- Restrictive Covenants and Builder's Liens
- Subdivisions and Statutory Building Schemes
- Zoning Applications

MARINE

- Marine Bills of Sale and Mortgages
- Marine Protestations

Some BC Notaries provide these services.

- Marriage Licences
- Mediation
- Real Estate Disclosure Statements

representatives to make decisions regarding an adult's health and personal care, in the event the adult is unable to communicate his or her wishes. Depending on how the Representation Agreement is prepared, the authority of a designated representative may include the following.

- Routine finances
- Decisions regarding health care, personal care, and limited legal affairs
- Refusal or consent to life-support treatment and care
- Consent to less common medical procedures and treatment
- Consent to treatment the adult approved while capable but, since losing capacity, has refused to consent
- Decisions about living arrangements for the adult, including choosing a care facility

A BC Notary can help determine the appropriate scope of responsibilities for your specific representative(s).

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Using your home as security, you can arrange to borrow funds to help pay for your children's education, purchase a second property for investment or recreation, take that long-delayed dream vacation, or simply ease your retirement.

Your BC Notary can help you understand and navigate the complete refinancing process.

For more information about Personal Planning, call your BC Notary today.

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Voluntary Change or Legislated Change?

BY KAREN MARTIN

Because of our experiences with local governments and the common impression that including the needs of people with disabilities in emergency response plans is optional, BCCPD considered it essential to educate authorities about their legal duty to accommodate.

Emergency planning and response involves many sectors of our communities, but local governments have the core civic and legal responsibility. For example, these responsibilities include choosing group lodgings that are more accessible or making emergency announcements in formats that people who have vision or hearing loss can access.

This is called the “duty to accommodate” people with disabilities in emergency planning. Many of the staff and volunteers involved in emergency planning and response at the local and provincial government levels have appeared not to be aware of these responsibilities or the resources available to help meet them.

Along with this lack of awareness about their legal responsibilities, many local governments in British Columbia make a common conceptual error: seeing planning for people with disabilities as separate “special needs” planning, rather than part of developing comprehensive, inclusive emergency plans.

Obstacles to Inclusive Emergency Planning

In our training workshops and work with the emergency sector, these are some common concerns we have heard:

- We don’t have the financial resources to meet the needs of people with the range of disabilities in our community.
- We don’t have enough personnel to meet these needs.
- The health authority should provide services for people with disabilities during an emergency response.
- People with disabilities should be prepared to meet their own disability-specific needs in an emergency.

Understanding the “Duty to Accommodate”

Because of our experiences with local governments and the common impression that including the needs of people with disabilities in emergency response plans is optional, BCCPD considered it

essential to educate authorities about their legal duty to accommodate.

There are two sources of law that prescribe the responsibility that governments and other parties in BC have regarding non-discriminatory practises that may affect people with disabilities, among other protected groups. These are the *BC Human Rights Code (BCHRC)* and the *Canadian Charter of Rights and Freedoms (Charter)*.

The *Charter* applies to governments, while the *BCHRC* applies to both governments as well as non-governmental entities. Together, these laws set out the duty to accommodate protected groups in order to prevent discriminatory practises. This duty, for example, can involve eliminating or changing rules, policies, practises, activities or programs that intentionally or unintentionally discriminate against certain groups.

An Inclusive Perspective

Local and provincial governments have been responsive to the Functional Needs Framework for

planning. This framework looks at people’s needs in five functional areas, including mobility, supervision and transportation, so people in various populations can be seen to have common needs—not only people who have a disability. Using this framework, planners can include people with disabilities, seniors, new immigrants, or people with temporary injuries, for example.

Local governments that have comprehensive planning around inclusion and accessibility, see inclusive emergency planning as part of this larger planning process, such as the City of Surrey.

Response to our New Resource

Since we launched the *Creating Safe Communities* booklet in May 2013 which looks in-depth at the duty to accommodate in emergency preparedness, the response from local governments has been positive, with requests for presentations and the distribution of more booklets.

There has also been discussion within the emergency management sector regarding their liability because of the information provided in the *Creating Safe Communities* booklet.

Only time and continued work will tell if local governments use this information to help them meet their legal duty to accommodate.

When local governments provide emergency services, those services need to be accessible to all citizens. The credo “All hazards, All people” will help emergency planners to create the most inclusive plans and responses possible.

You can download the *Creating Safe Communities* booklet and other free resources from <http://www.bccpd.bc.ca/emergprep.htm> for consumers, government and organizations.

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Staying On Your Path

by Nicole Gottselig

I wasn't necessarily looking for a legal fight, but I felt this affected all BC children with learning disabilities and their right to free public education.



RICK MOORE

When Rick Moore realized how lucky he was to afford the private school tuition for his son with severe dyslexia, it fueled a 15-year fight for all children with learning disabilities whose parents could not afford this luxury.

On an unseasonably summer-like day in Ottawa, late-March 2012, Rick Moore and his family assumed they'd be shivering in the Ontario winter as they explored the historical sites. As the mercury rose to over 25C, they felt lucky to swap their winter coats for T-shirts and shorts as they explored the sites on that balmy day. Was this surprising luck with the weather a forecast of their fate over the next few days?

After almost two decades, Moore's case was going to be heard by the nine judges at the Supreme Court of Canada. Despite years of court trials and tribulations, a silver lining awaited in the day's presentation to the judges. Six months later, the Court ruled that the North Vancouver School district discriminated against his son, Jeff, when it closed its public program for students with learning disabilities.

In a conversation with TRANSITION, Rick offered a glimpse into his family's journey from Jeff's diagnosis to a new precedent for BC parents of children with learning disabilities.

How old was Jeff when you found out he had dyslexia?

Unofficially, when Jeff was five his kindergarten teacher told my wife Michelle it was very likely he had dyslexia. By Grade 1, a partial Psycho-Educational Assessment (Psych-Ed) test confirmed he was very likely dyslexic and by Grade

2 he was old enough to take the full test which confirmed he had a severe learning disability.

When did the problems start?

Jeff's learning difficulties took a turn for the worse for him in Grade 2 because of frequent and painful migraines. These debilitating headaches led us to a neurologist who said, if his school could help with his learning difficulties, his migraines would likely stop.

What did Jeff need from the public school system that wasn't provided?

Education specifically for dyslexic students wasn't available at Jeff's public school, only intermittent tutoring by a volunteer that was insufficient for his basic educational needs.

What was the reason the public system gave not to meet his needs?

Jeff's full Psych-Ed test revealed he had a severe learning disability and he was eligible for an intensive remediation program offered by the public school system for students with learning disabilities. We went to the meeting expecting to hear that he would be going right into the remediation program—and he was accepted. However, the centre was closing because of funding issues.

When did you decide to enrol Jeff in private school full-time?

Once we learned of the remediation centre's closure, Jeff's school psychologist said if there was any way we could afford it, to enrol him in Kenneth Gordon Maplewood School—a private school in North Vancouver for children with learning disabilities that offered

one-on-one tutoring and in-class time that complemented his tutoring.

What changes did you see in Jeff while he attended private school?

Almost right away we saw his self-esteem rebound and, by the end of the year, he was learning to read.

Because his classmates were just like him, he could finally see the truth in what we'd been telling him: "You're not stupid, you're smart and you just learn differently." No words can describe the pain of seeing your child's self-esteem destroyed. After a short time at Kenneth Gordon, it was so good to see the happy boy we hadn't seen in years.

How did you and Michelle find your lawyer Frances Kelly?

After one too many rejections—I called any group I thought could help take up the fight for these

Because his classmates were just like him, he could finally see the truth in what we'd been telling him: "You're not stupid, you're smart and you just learn differently."



JEFF MOORE

learning disabled kids—I was referred to Community Legal Assistance Society. When I told my story to the secretary on the phone I wept because, for the first time, I had a glimmer of hope for helping these kids. The secretary told me there was a lawyer who specialized in disability and human rights law and she set the appointment. So, we met Frances Kelly.

What happened when you met Frances?

I wasn't necessarily looking for a legal fight, but I felt this affected all BC children with learning disabilities and their right to free public education.

So there I was in Frances' office in 1996, where she told me it was going to be a difficult case to prove. She needed a set of facts that were very compelling to even have a chance. The facts I had were the closure of the diagnostic centre without any plan of action after the closure. We wrote the complaint in her office that day and she warned me our chances of winning were slim.

What was the local school board's defense?

When the school district discovered that the BC Human Rights Tribunal was going to hear our systemic complaint, they offered \$50,000 to settle with us. A settlement wasn't an option because, by that point, I'd been doing speeches, interviews and meeting parents of children with learning disabilities who were all putting their hopes and faith into this case. With so many people in the disability community behind us, we weren't just concerned about

our own little group or Jeff anymore, it was about what we could do to make public education truly inclusive.

How did you and your family stay hopeful throughout the legal journey?

The only reason I didn't give up (I would have been bankrupt at the first stage) is because of Frances and CLAS. In my eyes, there are two heroes in all of this: Frances and Jeff, who kept us all on our path when the odds were against us.

How's Jeff doing now?

He's a senior plumber at Steven's Plumbing and Heating, where he's been for over five years. Recently he came in second out of 400 competitors at an extreme and challenging Spartan Race.

What do you think will happen now to public education in BC?

We now have a precedent for parents. If they can prove their child is being harmed by the public education system because the system refuses to provide programs necessary for their child to access the regular classroom, then those parents have a case.

NICOLE GOTTSSELIG IS A TORONTO-BASED WRITER AND EDITOR. YOU CAN CONNECT WITH HER ON TWITTER @ NGOTTSSELIG.

PHOTOS BY CAELIE FRAMPTON.



Protecting Workers’ Psychological Health

“One in five Canadians experience a mental health problem or mental illness in any given year and many of the most at risk individuals are in their early working years.”

In early 2013, the Mental Health Commission of Canada (MHCC), the Bureau de normalisation du Québec (BNQ), and the Canadian Standards Association (CSA) Group officially released Canada’s first national standard designed to help organizations and their employees improve workplace psychological health and safety.

The National Standard of Canada Psychological Health and Safety in the Workplace is a voluntary standard focused on promoting employees’ psychological health and preventing psychological harm due to workplace factors.

“One in five Canadians experience a mental health problem or mental illness in any given year and many of the most at risk individuals are in their early working years. Canadians spend more waking hours at work than anywhere else,” says MHCC President and CEO Louise Bradley.

“It’s time to start thinking about mental well-being in the same way as we consider physical well-being and the Standard offers the framework needed to help make this happen in the workplace.”

The Standard provides a systematic approach to develop and sustain a psychologically healthy and safe workplace, including:

- The identification of psychological hazards in the workplace;
- The assessment and control of the risks in the workplace associated with hazards that cannot be eliminated (e.g. stressors due to organizational change or reasonable job demands);
- The implementation of practices that support and promote psychological health and safety in the workplace;
- The growth of a culture that promotes psychological health and safety in the workplace;
- The implementation of measurement and review systems to ensure sustainability.

“Workplaces with a positive approach to psychological health and safety have improved employee engagement, enhanced productiv-

ity and a better financial outlook,” says Bonnie Rose, President, Standards, CSA Group. The voluntary Standard is not intended to be adopted into federal, provincial or territorial legislation. It can be used differently by businesses and organizations of all sizes, depending upon their needs.

Some businesses may use the Standard as a starting point and focus on creating policies and processes to promote mental health, while others may determine that several aspects of the Standard are already in place and use the Standard to build upon their existing efforts.

“This Standard will help enable organizations to introduce measures that will assist them in meeting important internal objectives such as the promotion and protection of workers’ well-being, job satisfaction, self-esteem and job fulfillment—objectives which have been clearly shown to also lead to improvement in the ‘bottom line,’” says Jean Rousseau, Director, Bureau de normalisation du Québec.

The Standard has been approved by the Standards Council of Canada as a National Standard of Canada.

AN EXCERPT FROM THE CANADIAN STANDARDS ASSOCIATION WEBSITE. DOWNLOAD THE STANDARD AT NO COST FROM: [HTTP://TINYURL.COM/B8N5NFU](http://tinyurl.com/B8N5NFU). ACCESSED JULY 13/13.

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Numbers matter. The more members we have, the stronger our voice in the community.

Please become a BCCPD member today. You can be a voting member or a non-voting member, and we welcome both individuals and groups.

I accept your invitation to join the BC Coalition of People with Disabilities and enclose my membership fee of \$15 (groups and individuals).

I am also including a tax-deductible donation of \$_____. (Donations over \$10 are tax deductible).

Please check the correct boxes:

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Voting members are people with disabilities and self-help groups where at least 50% of members have a disability.

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Human Rights Tribunal Upholds Rights of Blind Runner

BY GRAEME MCCREATH

As a retired, blind, self-employed health professional and life-time athlete, I never thought I would be confronted with blatant injustice in a public sporting event in Canada. But I was and unfortunately the situation developed into a shocking demonstration of ignorance and prejudice.

Over the years, I've participated in many sports—both events for blind athletes and alongside the general public. It's always a thrill to win, but mostly I enjoy the challenge of asking the most of my body. Now in my sixties, I concentrate on middle and long distance running.

Using different guides, we have enjoyed taking part in 10K and half marathon events. Some other blind runners use a short rope to connect to their guide, but I have found this technique impractical and dangerous in the mass of thousands of closely packed

However, I was surprised to find that my request was denied. And it was handled in a way that I found so disrespectful that I decided to file a complaint with the BC Human Rights Tribunal.

runners. I prefer to gently hold my guide's elbow which allows us to make immediate adjustments.

However, in larger races with many participants, my guides began to complain of the stress involved in navigating around other runners. After a couple of minor accidents, I began to have second thoughts about taking part in runs. This activity that I loved was turning into a harrowing ordeal.

So, I was surprised and pleased to be given the opportunity of an early start in the 2010 Good Life marathon 8k event held each October in Victoria. My guide and

I enjoyed running in tandem. We didn't need to struggle to maintain contact, taking evasive action or adjusting our speed to avoid collisions.

After this great experience, I thought I would request an early start alongside the wheelchair athletes in the 2011 Times Colonist 10k run.

However, I was surprised to find that my request was denied. And it was handled in a way that I found so disrespectful that I decided to file a complaint with the BC Human Rights Tribunal (BCHRT).

I was fortunate that Frances Kelly of the Community Legal Assistance Society agreed to act on my behalf. The reasons and rationales for fighting my request given by the race organizers to refuse my request showed a level of ignorance that surprised me. I felt that I, and other people with vision loss, were misunderstood and disrespected (see Comments from Race Orga-

nizers below). We tried to reach a settlement for two years, but we were unsuccessful. A four-day hearing was held in October, 2012.

After a stressful four months, I was relieved to learn that the BCHRT had ruled in my favour. I felt that justice and common sense had prevailed—and a precedent established for other people who are blind.

The Tribunal ruling instructed the Race Director and the TC10k Board members to undergo anti-discrimination training. The Board was also told to pay \$3,900 in compensation for damage to dignity and wage loss.

I think it would be a step forward for the TC10k Board to comprise a cross-section of athletes, rather than a homogeneous group of local runners. The wisdom and experience of a broader group could well have prevented a misguided, very costly and ultimately unsuccessful challenge to a simple request.

Comments from Race Organizers

These are a few excerpts from a letter provided by the lawyers for the Victoria International Running Society.


"You run with a guide who coaches you as to the obstacles ahead. Our client appreciates that this is difficult at the beginning of

GRAEME (LEFT) AND RUNNING GUIDE CARLO

the race, just as it is for sighted runners to avoid all obstacles at the beginning of the race."

"If our client were to consider accommodating you with a separate start time, our client would be faced with the suggestion that other persons who suffered disabilities but who found the risks of participating in the race of concern should be accommodated by having other early start times."

"There are risks associated with the mass start, but on the other hand, a huge part of the excitement is the feeling of being together with so many people in such an exciting activity for a good cause. The board is not convinced that people lacking sight cannot be accommodated in the race itself, nor is the board convinced that the risks those people face, if they have the liberty of a guide are much greater than those borne by other participants."

"An unsighted runner differs very little from the other participants. With the assistance of a guide one can perform and you have performed equally as well as, or better than, many sighted runners. Also, the risks you face and the complaints you make about the mass start are risks and complaints that are made by sighted runners on a constant basis." 



BC Election Results

The BCCPD would like to congratulate all returning and new MLAs who were successful in the May 14th provincial election. We look forward to working with all MLAs on issues of interest to the disability community and in particular the Honourable Don McRae, Minister of Social Development and Social Innovation.

Correction

In the FALL 2013 edition of TRANSITION, we published an incorrect email address for the Get Me Out of Here!® Emergency Evacuation Program. If you would like information on the program, please contact Barb Purdy at barbpurdy@freetobe.ca or 604-739-7315. You can also visit www.freetobe.ca.

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European Union Prepares Legislation

BY GUILLAUME DUFRESNE

The European Union is currently trying to create a European Accessibility Act. The proposed act would cover the 28 Member States of the European Union and could help to improve daily life for millions of Europeans with disabilities who continue to face numerous barriers to their well-being and integration.

Among the member states, there is a range of accessibility requirements for goods and services that create a market distortion within the European single market. For

example, national legislations governing transport accessibility vary a lot across Europe, making it more difficult for passengers with disabilities to cross borders as easily as other European citizens. There are also safety implications when, for example, tactile markings are used differently in different countries. Establishing framework rules at the European level would address these issues, and would give the industry sector clear and consistent rules to adhere to and allow them to operate across Europe.

Disability organizations like the European Disability Forum are closely monitoring the preparation of the European Accessibility Act and actively promoting the concept of “Universal Design.” This term means that products and services are designed in a way to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

The disability movement also advocates for a holistic approach that sees accessibility as a chain that requires the proper functioning of each link, as well as all the links together. For instance, in order to be able to benefit from telecommunications, people with disabilities require (a) accessibility of the landline, mobile or smart phone, (b) availability of accessibility services (e.g. text and video relay services to write or sign when calling someone), and (c) the possibility for the IT network to transmit these services. To be in line with this approach, the scope of the European Accessibility Act would have to cover as many goods and

Disability organizations like the European Disability Forum are closely monitoring the preparation of the European Accessibility Act and actively promoting the concept of “Universal Design.”

services as possible, while respecting the legal competence of the European Union to interfere.

An important component to consider is the cost of designing accessible products and services, but it is a common misconception that accessibility is expensive. In fact, building accessible infrastructure costs no more money than building inaccessible ones and actually creates added value for the industry, since a building that meets accessibility requirements will be able to adapt more easily to changing needs, including the aging or emerging disabilities of its users.

Accessibility features have proven to be used also by people without a disability (for instance easier use of transport modes where there are available services such as subtitling for foreign language learners, escalators and lifts).

Last but not least, the European Accessibility Act represents an opportunity for the European Union to implement the Convention of the United Nations on the Rights of Persons with Disabilities (CRPD) which has been ratified and is legally binding by a majority of European countries and by the European Union itself (see page

6 for more on the CRPD). Under this UN Convention (also ratified by Canada in 2010), accessibility is recognized as a universal human right and the European Union is now obliged to respect its obligations which includes taking appropriate legislative measures for its implementation.

The *European Accessibility Act* is a legislative instrument that could be very helpful to impose accessibility improvements, but it will not be sufficient to fight discrimination in a number of areas, such as access to education and employment.

Moreover, setting up such European legislation will be useless, if not correctly implemented by Member States of the European Union. To avoid this situation, it is crucial to involve the disability movement in

the implementation phase and to install enforcement mechanisms like collective redress, enabling NGOs and consumer groups to effectively challenge non-compliance by European countries. It is also essential to convince the industry sector that it would benefit from market expansion by bringing more accessible products and services to market.

Accessibility is an ongoing process: people’s expectations change and enabling technologies evolve. For this reason, it is important that the *European Accessibility Act* does not impose rigid standards and requirements, but instead boosts innovation by encouraging private stakeholders to invest in research and development.

The European Union is expected to start the legislative procedure

leading to the adoption of the *European Accessibility Act* by the end of the year. Meanwhile, organizations representing people with disabilities in Europe are closely following the preparatory work and are getting ready for intense discussions with both political institutions and the industry sector. It would be interesting for the disability movement in Canada to keep an eye on the publication of this European legislation as it could be a source of inspiration, should federal legislation on accessibility appear in Canada in the future.

GUILLAUME DUFRESNE WORKED AT THE EUROPEAN DISABILITY FORUM WHERE HE WAS RESPONSIBLE FOR POLICY MONITORING, AND RELATIONS WITH INDUSTRY AND POLITICAL INSTITUTIONS OF THE EU IN THE AREAS OF TRANSPORT, BUILT ENVIRONMENT AND TOURISM. 



Make Your Home Safe for Independent Living

Are you a low-income senior or a person with a disability who wants to live safely and independently in the comfort of your home?

Do you have difficulty performing day-to-day activities?

Does your home need to be adapted to meet your changing needs?

If so, you may be eligible for financial assistance under the **Home Adaptations for Independence (HAFI)** program.

Find out today if you are eligible and if you meet all of the requirements as a low-income homeowner or as a landlord applying on behalf of an eligible tenant.

HOME ADAPTATIONS for INDEPENDENCE

To apply or learn more, visit www.bchousing.org/HAFI
You can also contact BC Housing:
Phone: 604-646-7055
Toll-free: 1-800-407-7757 (ext. 7055)

**HOUSING MATTERS**

Edition Review | We'd Love to Hear From You

At BCCPD, we think understanding how people with disabilities can use the law to protect individual and systemic rights is important. This special legal resource issue of TRANSITION was put together with this in mind. We would greatly appreciate your feedback in this brief survey.

Please tear this completed page along the perforation and fax it back to Valerie at 604-875-9227.

Or, you can take this survey online at <http://www.surveymonkey.com/s/J3QDD26>.

Did this edition improve your understanding of the following?	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
• The different legal jurisdictions that can affect people with disabilities, e.g. provincial human rights legislation, federal law, international law.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Some ways people with disabilities have used the law to expand disability rights—and could use the law in the future.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• The successful Moore case on access to education and its implications for other people with disabilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• The possible implications in Canada of the new UN Convention on the Rights of People with Disabilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• How Representation Agreements can help with future planning for families and friends.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Some of the strengths and limitations of legal solutions to personal and systemic inequalities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What was the most interesting thing you learned in this TRANSITION?

This special legal resource issue of TRANSITION is funded through the generosity of the BC Notaries and the Notary Foundation.



We're Here To Help With CPP Disability

Were you previously working and now have a disability?
Do you need help to apply for CPP Disability or appeal a denial of benefits?

How Can BCCPD Help?

BC Coalition of People with Disabilities is an expert in Canada Pension Plan Disability (CPP-D) advocacy. We provide:

- in person, one-to-one assistance
- assistance by phone
- free self-help publications on what CPP is, how to apply and how to appeal a denial (available in English, Traditional Chinese and Punjabi)



What do I need to know about CPP-D?

CPP-D has several advantages over provincial disability benefits. And, recipients may receive provincial (PWD/PPMB) disability benefits in addition to CPP-D in the form of a top-up, if their CPP-D benefits fall below the provincial minimum.

Please contact us to learn more.

CPP-D Advocacy Program
Telephone: 604-872-1278 | Toll-Free: 1-800-663-1278
Website: www.bccpd.bc.ca
Online Program information: OurWork/Advocacy Access
Online Self-help CPP resources: Library/Money & Income Supports

■ Funded through the generosity of the Law Foundation of BC



BC Coalition of People with Disabilities

Suite 204, 456 West Broadway, Vancouver BC V5Y 1R3
(604) 875-0188 • fax (604) 875-9227 • tty (604) 875-8835
trans@bccpd.bc.ca • www.bccpd.bc.ca



Plan for the Future

with a REPRESENTATION AGREEMENT

A Representation Agreement appoints a designated representative (or multiple representatives) to make decisions regarding an adult's health and personal care in the event the adult is unable to communicate his or her wishes.

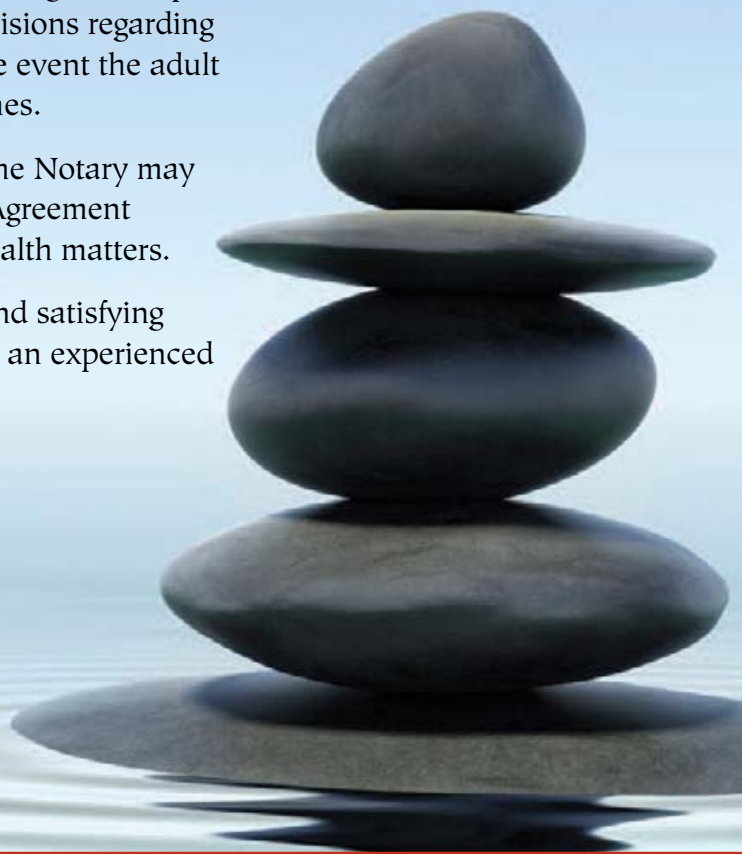
If the adult does not have full capacity, the Notary may recommend a Section 7 Representation Agreement that will address routine financial and health matters.

Advance planning can be a comforting and satisfying process, especially when it's managed by an experienced and trusted legal professional.

Call your local Notary
or **1-800-663-0343** for help
finding a Notary near you.

www.notaries.bc.ca

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Thank you to the Province of BC for their continuing support.

