



Community Legal
Assistance Society

Annual Report

2018-2019

Advancing Dignity,
Equality and Justice
since 1971

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MESSAGE FROM THE **PRESIDENT**

Dear friends and supporters,

I am pleased to present the President's Message for the 48th Annual Report of the Community Legal Assistance Society (CLAS).

Since our inception in 1971, CLAS has provided legal assistance to marginalized people throughout BC. CLAS operates a number of programs covering the areas of housing, income security, workers' rights, mental health, and human rights. Our services include the provision of: referrals to other agencies; summary advice; assistance to self-represented litigants; full legal representation for both service and systemic cases, including *Charter* litigation; law reform initiatives; and support and training for community groups and lay advocates throughout BC. We also engage collaboratively with a large network of community groups, as we believe that it is through these cooperative relationships that legal issues can most successfully be addressed. The highlights of our work over the past year are set out in this Annual Report.

Our achievements would not be possible without the generous support of our major core funders: the Law Foundation of BC funds our Community Law Program, Community Advocate Support Line, and the David Mossop, QC, Public Interest Articling Fellowship; the Legal Services Society of BC ("LSS") funds our Mental Health Law Program; and the Ministry of the Attorney General of BC funds our BC Human Rights Clinic. We also wish to thank the City of Vancouver, who provides us with a significant reduction to our office space costs, and the many individuals and corporate donors who support CLAS. Our sincere appreciation goes to all our funders and donors.



CLAS operates a number of programs covering the areas of housing, income security, workers' rights, mental health, and human rights

I would like to personally thank our Board of Directors, who continually volunteer many hours of their time and energy to the work of CLAS.

And last, but not least, my thanks go to the CLAS staff who, through their hard work and dedication, have been responsible for the many successes of CLAS.

It has been my privilege to serve as President of CLAS over the past year. I look forward to continuing our work with the many groups and individuals who share in our commitment to represent the interests of disadvantaged people throughout our province.

Sincerely,

Edward Macaulay,
President

OVERVIEW OF CLAS

Our Vision

Dignity, Equality and Justice for All

Our Mission

CLAS respects the dignity of all in our community and works towards positive social change by providing legal assistance and advancing the law to address the critical needs of those who are disadvantaged or face discrimination.

Our Values

Compassion: We believe in fostering an environment that is respectful and understanding of our clients and co-workers.

Leadership: We strive to be leaders in housing, income security, workers' rights, mental health, and human rights.

Accessibility: We believe everyone should have access to, and benefit from, the justice system.

Service: We serve the community by working with other groups to promote and advance dignity, equality and justice for all.

Our Funders

Our work would not be possible without the generous support of our core funders:

The Law Foundation of BC funds our Community Law Program, Community Advocate Support Line, and Public Interest Articling Fellowship.

The Legal Services Society of BC funds our Mental Health Law Program.

The Forensic Psychiatric Services Commission contributes funding to the legal information component of our Mental Health Law Program.

The BC Ministry of Attorney General funds our Human Rights Clinic.

The City of Vancouver provides us with a significant subsidy for our office space under its Amenities Bonus Program.

We also receive continued support, financial and otherwise, from a large number of individuals and groups. We thank each and every one of them for their generous assistance!



Our Board of Directors

The goal-setting and planning for our activities is done by the CLAS Board of Directors. Our volunteer Board is made up of a unique mix of lawyers, community representatives and one law student. Our Board has six scheduled meetings per year and a retreat every three years.

OFFICERS

Edward Macaulay, President
 Maia Tsurumi, Vice-President
 Bill Black, Secretary/Treasurer

COMMUNITY REPRESENTATIVES

Gyda Chud
 Jane Dyson
 Jean Moore
 Sharon Mohamed
 Adrienne Montani
 Jean Moore
 Howard Tran
 Karla Verschoor
 Judy Willows

LAWYERS

Lora Anjos
 Bridget Gilbride
 Robin Elliot, QC
 Gary Wilson

LAW STUDENT

Melody Cheung

Our Staff

(as of March 31, 2019)

MANAGEMENT & ADMINISTRATION

Aleem Bharmal, QC, Executive Director
 Rita Hatina, Director of Finance and Administration
 Rose Chin, Managing Director
 Corinne Marino, Office Coordinator
 Svetlana Khakhleva

COMMUNICATIONS

Sozan Savehilaghi

EDUCATION (BC HUMAN RIGHTS CLINIC)

Laura Track, Director of Education
 Svetlana Khakhleva
 Neeti Tewari

LAWYERS

Dante Abbey
 Aleem Bharmal, QC
 Jonathan Blair
 Rose Chin
 Margaret House (LOA)
 Laura Johnston
 Kevin Love
 Diane Nielsen
 Holly Popenia
 Abisola Omotayo (Articling Student)
 Danielle Sabelli
 Laura Track
 Amita Vulimiri
 Alison Ward
 Isaac Won

LEGAL ADVOCATES & LEGAL INFORMATION COUNSELLOR

Carolyn Davies
 Barb Elliott (LOA)
 Lisa Ferguson
 Judith Grimsrud
 Brett Haughian
 Coral Lyster
 Conor McKenna
 David Mossop, QC
 Stefanie Ratjen
 Tomas Reyes

SUPPORT STAFF

Chelsea Baird
 Debbie Breidt
 Emily Chant
 Julie Craig
 Katherine Delany
 Desiree Deza
 Andie Dinnes
 Angela Emam
 Will Gladman
 Jasmine Maxwell
 Sarah Peterson
 Naomi Phillips
 Erika Szulc
 Andrea Tolentino
 Neeti Tewari

OUR WORK

CLAS was incorporated as a non-profit legal aid society in 1971. We were the first community law office in BC and our structure reflects an almost 50 years partnership between the private bar and community groups to provide legal aid to disadvantaged people.

Since our inception, we have become a nationally recognized non-profit law firm, specializing in housing, income security, workers' rights, mental health and human rights law.

CLAS has a proven track record for managing and operating an "umbrella" organization consisting of a number of programs and projects. We have assisted thousands of people through our service case work and have conducted hundreds of test and systemic cases at all levels of court, including the Supreme Court of Canada. We have been counsel on hundreds of reported decisions in the areas of law in which we practice.

Our clientele comes from all over the province. Demographically, our clientele comprises a wide range of British Columbians, and we are committed to assisting all marginalized people, within our mandated areas of law, regardless of their race, religion, disability, age, gender and sexual orientation.

The activities of CLAS are carried out through information and referrals, summary advice, direct representation for service cases, test case litigation, systemic advocacy, law reform, legal supervision services to advocacy organizations, public legal education and training, and legal support to community groups.

CLAS is also a resource to advocates, service providers and lawyers throughout the province. CLAS currently has a 45 member staff and a total annual operating budget of over \$4 million.

THE WORK OF CLAS IS CARRIED OUT BY FOUR PROGRAMS:



A more detailed description of each program and highlights of the past year are set out in this report.

DONATE TO CLAS BY VISITING [CLASBC.NET/DONATE](https://clasbc.net/donate)

COMMUNITY LAW PROGRAM

The Community Law Program (“CLP”) has been a program of CLAS since 1971 and is funded by the Law Foundation of BC. CLP focuses on five areas of law: Housing Security, Human Rights, Income Security, Mental Health, and Workers’ Rights.

Our CLP staff, comprised of 5 lawyers, 1.6 legal administrative assistants and 1 intake coordinator, carry out the following work:

Direct legal services to low-income individuals, legal advocates, and community groups

These services include full representation for clients in superior court or in complex proceedings before administrative tribunals. Services also include helping self-represented litigants prepare for their court appearances, giving summary advice to clients and advocates, and providing information and/or referrals to other agencies.

Systemic Work

The lawyers address systemic injustice and inequality using a range of strategic legal approaches that change or advance the law to promote a more just and equal society.

Public Legal Education and Advocate Training

The lawyers deliver workshops and presentations to community groups, advocates, law students, and the private bar.

Legal Supervision for Advocates

The lawyers supervise advocates at four advocacy organizations funded by the Law Foundation of BC.

On-Line Self-Help Publications

The lawyers create and update self-help materials, which are available free of charge on the CLAS website or through Clicklaw.



8

Systemic Public Interest Cases were moved forward by CLP



2903

People received information, advice or legal representation from CLP

COMMUNITY LAW PROGRAM **HIGHLIGHTS**

THE CONTINUED FIGHT AGAINST “RENOVICTIONS”

Landlords are still using renovations as an excuse to evict tenants and increase the rent.

Last year, we successfully challenged a Residential Tenancy Branch decision that evicted our client from her home of 17 years without properly applying the legal protections against renovictions. Unfortunately, the landlord appealed. CLAS continues to represent our client, who is fighting to stay in her home.

This year, the Court of Appeal agreed that the Residential Tenancy Branch had not properly applied the legal protections for tenants. In particular, the Court of Appeal agreed that the Residential Tenancy Branch had made serious mistakes when analysing whether the landlord was actually acting in good faith, and whether the landlord had all the necessary permits.

These protections are critical to ensure that renovations are not used as a way to get around the rent control provisions.

EVERYONE HAS THE RIGHT TO CONTROL THEIR OWN HEALTH CARE

BC is the only place in Canada where everyone with involuntary status is “deemed” to consent to all forms of psychiatric treatment, without safeguards like an assessment of their capacity to make treatment decisions, or even the consent of their representative or family. The Council of Canadians with Disabilities (“CCD”), represented by CLAS and pro-bono private bar lawyers, is challenging these laws under the *Charter* and asking BC to recognize the health care consent rights that the rest of Canada recognized many years ago.



**CLAS is fighting
to ensure that
people can
control their
own health care**

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@clasbc

The process individual patients have to go through to stand up for their rights in court is often too long and too hard, especially for people being detained and treated against their will. That’s why CCD, a respected national organization promoting the rights of people with disabilities, is bringing forward this case on behalf of those whose rights are being violated. CCD is asking the BC Court of Appeal to recognize that cases brought by public interest organizations are critical in ensuring that unconstitutional laws do not just stay on the books because it is not realistic for an individual to challenge them.



“subjected to a prolonged and unlawful detention, during which her most fundamental *Charter* rights were egregiously violated”

WRONGFULLY DETAINED WITHOUT ACCESS TO A LAWYER

CLAS represented an Indigenous woman who was unlawfully detained in mental health wards and facilities for nearly a year without access to a lawyer. In the decision, *A.H. v. Fraser Health Authority*, 2019 BCSC 227, the BC Supreme Court found that her detention was not authorized by the emergency provision in the *Adult Guardianship Act* or the involuntary admission provision in the *Mental Health Act* that were relied upon. The Court also issued five declarations that A.H.’s *Charter* rights were violated during her detention, including her right to access a lawyer without delay when detained.

While A.H.’s courageous pursuit of her rights through the courts brought to light her unlawful detention and the conditions she was subjected to, the case shows the urgent need for independent oversight to ensure that the human rights of all mental health detainees are respected. BC is still one of the few places in Canada that has no legal aid funded service to provide mental health detainees with the independent legal advice they need as soon as they are detained.

FAIRNESS FOR INJURED WORKERS

BC’s workers compensation system has become a maze and injured workers who desperately need support are getting lost. For years CLAS and its allies have been calling for a review to ensure the system puts workers first.

This year we got results. The WCB hired an external reviewer with a view to overhauling its policies and practices. Many of the changes CLAS promoted, including changes to how the Board assesses benefits for permanently disabled workers and how the Board approaches claims for mental disorders, were recommended in the resulting report. Building on this momentum, the government then announced a review of the workers’ compensation system, including the *Workers’ Compensation Act* itself, and CLAS will again be pushing for change to put workers at the centre of the system.

DAVID MOSSOP, Q.C. PUBLIC INTEREST ARTICLING FELLOWSHIP

In addition to the CLP Core funding, the Law Foundation of BC provides funding to CLAS for the David Mossop, Q.C. Public Interest Articling Fellowship. The funding enables CLAS to hire an articling student each year.

CLAS is able to provide the student with an extensive and well-rounded articling experience through a rotational training program in all of CLAS’ programs. The student is assigned files they handle on their own, under the supervision of a lawyer, and also assists lawyers with their files through research, client support, and document preparation.

We are committed to ensuring that this experience will equip the student with valuable skills, expertise and experience in various specialized areas of public interest law.

Help us continue to provide legal services to British Columbians. To donate, visit clasbc.net/donate or call 604-685-3425

COMMUNITY **ADVOCATE** **SUPPORT** LINE

The Community Advocate Support Line (“CASL”) started in April 2006 and has been located at CLAS since April 2010. CASL is funded by the Law Foundation of BC.

CASL is a support service for community legal advocates across BC. It operates primarily by telephone and on-line assistance.

The program is staffed by one lawyer, who provides legal advice and support for community advocates throughout BC for a broad range of poverty law legal topics, including income security, housing, debt, consumer law, workers’ rights and immigration, as well as some family law. CASL is intended to improve community advocate access to legal support where it is not practical to rely on supervising lawyers. Simply put, the CASL lawyer helps advocates with their casework on behalf of clients across BC.

CASL also participates in advocate training and outreach, helping capacitate advocates with legal knowledge and skills. CASL also improves the legal expertise of community advocates by providing direct support to advocates and by participation in on-line discussion forums, such as PovNet.

The CASL lawyer also participates in committees and advisory groups, prepares training materials, sits on the Board of Directors of PovNet, prepares and/or edits publications relating to a wide range of legal issues, and supervises poverty law advocacy services for MOSAIC in Vancouver.



411

Number of legal issues the CASL lawyer helped BC advocates with



The CASL lawyer helps advocates with their casework on behalf of clients across BC

BC HUMAN RIGHTS CLINIC

The BC Human Rights Clinic is funded by the BC Ministry of the Attorney General. The Clinic staff consists of lawyers, legal advocates, legal administrative assistants, a case manager and an inquiry officer.

LEGAL SERVICES

The Clinic provides free legal information, advice, advocacy, and representation to people who have made human rights complaints. We work with clients to resolve complaints through mediation where possible, and represent clients through other stages of the process, including at hearings.

The Clinic also operates a weekly Short Service Clinic where we provide human rights information and advice to people in free, half-hour sessions.

PUBLIC LEGAL INFORMATION AND EDUCATION

The Clinic has a telephone enquiry line that operates 3 days a week. We also provide accessible public education and information to promote an understanding of the *BC Human Rights Code*. Our website offers accessible, easy-to-understand information about human rights in text, video, and audio formats. Our blog offers information and analysis on a variety of human rights topics.

Clinic staff also offer workshops and trainings on human rights issues to a wide variety of audiences, including companies, human resources professionals, education providers, and community groups.

RENATE SHEARER AWARD

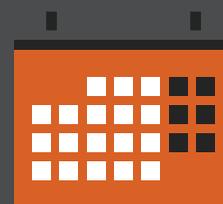
Each December, the Clinic and Vancouver Branch of the United Nations Association host an International Human Rights Day event. The occasion is marked by the presentation of the Renate Shearer Award to an individual or organization in recognition of their contribution to the advancement of human rights. This award is a memorial to the life and work of the late Renate Shearer, a well-known social activist in British Columbia.

The 2018-2019 recipient of this award was *Chief Dr. Robert Joseph* in recognition of his outstanding achievements in promoting respect for the human rights of Indigenous people in Canada and for his ongoing efforts towards reconciliation based on truth and healing.



4549

People received information about the human rights process through our telephone inquiry line



2325

People received workshops and trainings from our education staff



967

People received legal information, advocacy, advice and representation from Clinic lawyers and advocates

BC HUMAN RIGHTS CLINIC **HIGHLIGHTS**

PUBLIC EDUCATION ON HUMAN RIGHTS

The Clinic continues to offer a variety of training, workshops and presentations to help people understand their rights and responsibilities under BC's *Human Rights Code*.

This was an exceptional year for the Clinic's education work. We delivered 51 workshops, presentations and trainings to over 2300 people – more than double the number of sessions we held last year.

Our sexual harassment workshops, which offer tips and advice to employers on preventing, investigating, and responding to sexual harassment issues in the workplace, have been especially popular.

We delivered workshops to companies in the financial, forestry, labour, library sciences, and non-profit sectors, and supported numerous community groups to assist the populations they serve in dealing with workplace harassment.

Community groups continue to look to the Clinic for expertise and guidance on human rights issues and we have engaged with hundreds of community-based advocates and service providers to offer assistance and advice in identifying potential human rights issues affecting their communities.

We have also delivered know-your-rights workshops to newcomers, Indigenous youth, people with disabilities, and other marginalized communities.

This year, Clinic lawyers presented at a number of professional legal conferences, including the Lancaster House conference on human rights and accommodations, and the Continuing Legal Education of BC's employment law and human rights conferences.

Be sure to check out our blog and follow us on Twitter for updates and links to important human rights news and developments.

R.B. v. OWNERS, STRATA PLAN NWS 2539, 2019 BCHRT 43

In February of this year, the BC Human Rights Clinic represented RB at her hearing in front of the BC Human Rights Tribunal (BCHRT).

RB is the owner of a residence in a strata complex. She purchased the unit with her husband in 2015 after they had both retired and wanted to move closer to family. RB suffers from pulmonary fibrosis, a form of lung disease, the primary symptoms of which are shortness of breath and coughing. This condition will gradually get worse, and is exacerbated by fumes and toxins in the air.

Shortly before RB and her husband moved into their apartment, the unit directly below their unit was purchased and occupied by an owner ("LR") and her husband who were both heavy smokers. When RB moved in there was a strong smell of cigarette smoke permeating their unit due to smoke ingress from LR's unit below. The second hand smoke was very difficult, if not intolerable for RB, increasing the symptoms of her lung condition.

**To learn more about
our education
work or to book
a workshop, visit
bchrc.net/education**

She tried to speak with LR, complained to the strata, bought air-purifiers and fans, and took other steps to try to minimize the effects of the second hand smoke. Unfortunately, none of these steps were effective.

RB asked the Strata, and they eventually agreed to put a non-smoking bylaw on the AGM agenda for a vote in October of 2016. Unfortunately, the proposed bylaw did not reach the required 75% of the votes it needed to pass, though it did receive a majority.

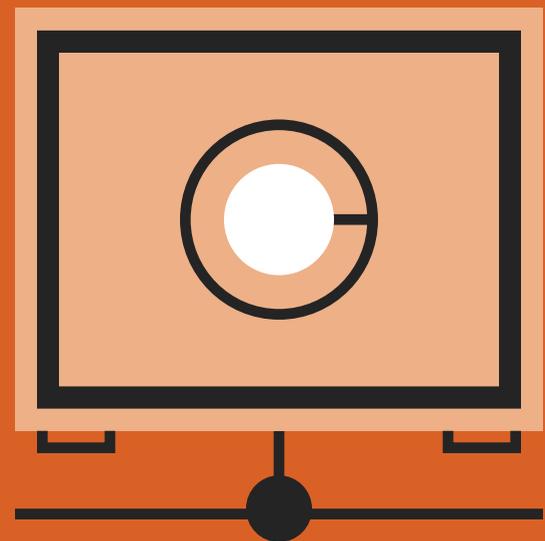
Following the failed attempt to put in place a non-smoking bylaw there was a change in the Strata council and the new council attempted to help resolve RB's second hand smoke problem, taking many of the steps recommended in a previous decision of the BCHRT, *Leary v. Strata Plan VR1001*, 2016 BCHRT 139, which also involved second hand smoke in the Strata context. These steps included sending a cease and desist letter to LR based on the existing nuisance bylaw, taking LR to the Civil Resolution Tribunal (CRT) for breaching the nuisance bylaw, and making a second attempt to bring forward a non-smoking bylaw (which again failed, though it received an even larger majority of votes than the first attempt).

At hearing, more than three years after RB first experienced the negative effects of the second-hand smoke ingress, the only issue was whether the Strata had accommodated RB to the point of undue hardship. This issue had two different aspects: first, did the delay in implementing the accommodations amount to a failure to reasonably accommodate RB; and, second, did the actions that the Strata eventually did take satisfy their duty to accommodate.

The Tribunal found in RB's favour on both issues, awarding her \$7500 for injury to her dignity, feelings and self-respect.

The decision contains some important findings for any future smoking cases, including that delay in commencing the accommodation process by itself may constitute a failure to reasonably accommodate, even if the accommodations that are finally instituted meet the required standard.

HUMAN RIGHTS MATTERS BLOG



The Clinic Blog covers legal information, news, and important human rights cases.

Read the blog at
bchrc.net/rights_matters

As well, the Strata did not provide evidence that its actions reached the level of undue hardship. It should have taken greater efforts with regards to putting in a non-smoking bylaw, such as educating its members, and cannot off-load its responsibility to accommodate onto the CRT, waiting and hoping for a favourable decision regarding the nuisance case.

TRANSGENDER WOMAN IN CUSTODY

The Clinic is representing a transgender woman who filed a human rights complaint against BC Corrections, alleging that she experienced discrimination on the basis of her gender identity and gender expression while in custody. Although she is a transgender woman, she was held for many months in an institution for men. Her requests for a transfer to a women's institution were denied. She was frequently misgendered by Corrections officers and frisked by male staff. Corrections also failed to provide her with timely accommodations related to her gender identity and expression, including women's clothing and undergarments.

Corrections made an application to dismiss her complaint. This spring, the Tribunal denied the application. The case will now proceed to a hearing.

The Clinic is representing several transgender inmates in complaints against BC Corrections regarding their placement and treatment while incarcerated. Another complainant will have her case heard by the Tribunal this October.

M.E. obo OTHERS v. SPRUCE HILL RESORT AND ANOTHER, 2018 BCHRT 238

The Clinic successfully represented eight complainants in a group complaint against their employer, a BC resort company and its owner. The successful decision, awarding them wage loss and injury to dignity damages ranging from \$3,000 to \$18,000, was issued in October of 2018.

The Respondents discriminated against the complainants on the basis of their race and colour. The Complainants were white. The owner of the resort made comments about how much better it would be to have Chinese employees because he could pay them less, and they would not claim their statutory entitlements to overtime or vacation pay.

He also hired new employees who were Chinese and simultaneously cut the hours of several of the Complainants. The owner also sexually harassed one complainant during a trip overseas.

The Complainants were not members of a group that has been historically discriminated against. Racial harassment has typically been found in the context of wider patterns of social inequality and the subordination of already disadvantaged groups. However, the Code prohibits any negative treatment of employees on the basis of their race. This was clearly the situation in this case.

We note that the facts of this case suggest that the Chinese workers were also treated badly by their employer on the basis of their race. The owner said he could pay them less and withhold their statutory entitlements because they were Chinese. As far as we are aware, the Chinese workers did not file a human rights complaint.

While we celebrate this as a victory for our clients, we also recommit to our outreach and education efforts to ensure that all workers in BC are aware of their rights to be free from discrimination in the workplace, and have access to justice to protect their human rights.

R.R. v. VANCOUVER ABORIGINAL CHILD AND FAMILY SERVICES SOCIETY (NO.2), 2019 BCHRT 85

The Clinic is representing an Indigenous mother who alleges that she was discriminated against by a government contracted family services agency that apprehended her children and continued to "deny her custody and restrict her access to her children based, in part, on stereotypical and prejudicial assumptions about her ability to care for her children in light of her Indigeneity and mental health".

As the decision describes, "RR is a First Nations woman. She was raised by her mother and step-father, both of whom are intergenerational residential school survivors."

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In her affidavit, she explains that, as a result of their experience through residential schools, her parents had serious challenges with parenting their own children. This led to RR having a very difficult childhood.

In its groundbreaking decision, the BC Human Rights Tribunal found that our client had “taken her complaint out of the realm of speculation,” and allowed the case to proceed to hearing. The Tribunal further historically observed, at paragraph 79 of its decision:

Finally, I take notice of the notorious overrepresentation of Indigenous children in foster care. The causes of this broader trend are complex but undoubtedly arise as a result of Canada’s historic oppression of Indigenous people based on their race and ancestry. The Truth and Reconciliation Commission concluded that “Canada’s child welfare system has simply continued the assimilation that the residential school system started”: *Final Report of the Truth and Reconciliation Commission of Canada, Volume One: Summary* at p. 138. The unique, race-based, context of Indigenous people in child welfare is expressly recognized in the *CFCSA*, and in the Ministry’s delegation of authority to the Society, whose mission is focused on eliminating the oppression of Indigenous people. This history and context would not be enough on its own to prove that RR’s race, ancestry, colour and mental disability were factors in the Society’s actions towards her: *Bombardier at para. 88; Campbell v. Vancouver Police Board*, 2019 BCHRT 12 (CanLII) at para. 19. But it is a piece of the story which a human rights body like this one must be alive to and which, with appropriate evidence at a hearing, could support an inference of discrimination.

Trying to prove discrimination in a government service is a challenge, so the fact our Clinic was able to provide enough evidence to warrant a hearing in this case is a breakthrough. If our client is ultimately successful, this would be an important legal precedent that would help develop the law in this area and guide how the government needs to deal with Indigenous children in foster care. It could open the door to similar legal challenges and, potentially, a group action given that, as the Tribunal noted, there is a gross overrepresentation of Indigenous families in child apprehension system.

V.M. v. PATT QUINN’S RESTAURANT AND BAR, 2019 BCHRT 13

The Clinic is representing VM, who uses a wheelchair and has been a longtime advocate for people with disabilities, in his human rights accessibility complaint against Pat Quinn’s Restaurant & Bar in Tsawwassen, BC.

This complaint stems from an incident where our client made a reservation for four, informing the restaurant that one person in the party uses a wheelchair. However, when our client arrived, he found his friends had been seated at a table in the lower main area of the restaurant, but that he was unable to independently join them due to three stairs. A server offered to assist him, but that was not feasible.

Our client alleges the incident attracted undue attention and was an “incredibly embarrassing experience”. He alleges that the restaurant’s subsequent response and remedial actions were not satisfactory.

The restaurant made an application to dismiss the complaint, which was denied by the Tribunal earlier this year. In its decision, the Tribunal, at paragraph 39, noted:

For many people with mobility-related disabilities, the physical environment is what excludes them from full and equitable participation in public life: *Council of Canadians with Disabilities v. VIA Rail Canada Inc.*, 2007 SCC 15 (CanLII), [2007] 1 SCR 650 at para. 181. They are the one of the very few groups of people protected by human rights legislation who could be excluded, by design, from a public space because of their protected characteristic. This is important context for understanding whether [VM] has any prospect of proving the barrier itself creates an adverse impact on him, and in particular why a barrier that may seem benign to a person without disabilities is not experienced as such by a group which has long faced exclusion from public spaces.

The matter is set to be heard in November 2019.

MENTAL HEALTH LAW PROGRAM

The Mental Health Law Program (“MHLP”) is funded by the Legal Services Society of BC (“LSS”). In addition, CLAS has a contract with the Forensic Psychiatric Services to provide independent legal information services to involuntarily detained patients at the Forensic Psychiatric Hospital (“FPH”).

The MHLP staff is comprised of lawyers, advocates, a legal information counsellor, and legal administrative assistants.

The services of MHLP include three main components:

1. Representation for persons at BC Review Board (BCRB) hearings in the BC Lower Mainland under the *Mental Disorder Provisions* of the *Criminal Code*;
2. Representation for persons at BC Mental Health Review Board (“MHRB”) hearings in British Columbia detained under the *Mental Health Act*; and
3. Independent legal information services under the *Mental Health Act* at FPH.

The demand for our services under the *Mental Disorder Provisions* of the *Criminal Code* has remained much the same this year as the previous fiscal year.

The demand for our *Mental Health Act* services has increased over this fiscal year. The number of requests for representation at Mental Health Review Board (“MHRB”) hearings increased by 22% when compared to the previous fiscal year. We received additional funding from the LSS, via the Ministry of Attorney General, to address this increase in demand for representation.

Diana Juricevic, the new MHRB Chair embarked on a major initiative in 2018 to ensure that the MHRB hearing process is fair, accessible and understandable. With the assistance of MHLP and the Community Law Program, we participated in a consultative process with the MHRB to achieve these goals. This process produced new MHRB Rules of Practice and Procedure and accompanying MHRB Practice Directions, which became effective in the Fall of 2018.

The new MHRB Rules and Practice Directions have clarified the psychiatric facilities’ obligations to disclose documents on an ongoing basis to MHLP advocates and lawyers prior to MHRB hearings. The MHLP has been focused on working with the MHRB, provincial health authorities and individual facilities to put these Rules and Practice Directions into consistent practice.

297

Cases had representation from MHLP for hearings under the *Mental Disorder Provisions* of the *Criminal Code*

1166

Cases had representation from MHLP for hearings under the *Mental Health Act*

436

People detained under the *Mental Health Act* at the Forensic Psychiatric Hospital received independent rights advice from MHLP staff upon their initial or renewed certifications, or through direct enquiries to our staff

MENTAL HEALTH LAW PROGRAM HIGHLIGHTS

GIVING A VOICE TO CLIENTS WHO HAVE OVERCOME ADDICTION

Our client had multiple involuntary admissions under the *Mental Health Act* (“MHA”); the majority of these admissions were only for a few days and one was for several weeks.

The client was diagnosed with various psychiatric disorders and also struggled with drug addiction.

At the time of the Mental Health Review Board hearing the client was on extended leave, followed by a community mental health team and had not been recalled to hospital for 15 months.

After the MHLP legal advocate met with the client and reviewed the medical records, it became clear that the previous admissions were after frequent and heavy drug use. The client worked hard to become sober and had not used drugs since the discharge from hospital and being on extended leave.

The legal advocate cross-examined the treating psychiatrist and asked the client direct questions at the Review Panel hearing to elicit this information. The legal advocate strenuously argued that the evidence did not satisfy the *MHA* criteria that the client required care, supervision and control in order to “prevent substantial mental or physical deterioration”. The treating psychiatrist also testified that the client had been stable for months. The Review Panel decertified the client.

The client was very grateful for the legal advocate’s services and support, and the opportunity to be heard.

ADVOCATING FOR CLIENTS TO GAIN BACK THEIR INDEPENDENCE

The Mental Health Law Program (“MHLP”) provides legal representation to disadvantaged clients when they most need assistance. Often their lives are filled with adversity and they cannot afford to pay for legal representation to assist them at Mental Health Review Board (Review Panel) hearings to challenge their detention under the *MHA*. Many of our MHLP clients have been under the care of various government agencies and institutions. For some, these interventions are unnecessarily intrusive and they experience the loss of independence when their life decisions are directed and controlled by others. As a result they may be wary and hesitant to accept an offer of assistance.

A MHLP legal advocate recently assisted a client who had a difficult childhood in the foster care system. The client’s life was managed by others and, as a result, was frustrated and wary of offers of assistance. The client would not speak with the legal advocate at the first interview. The client had recently been detained under the *MHA*, due to increased drug use, which led to medication non-compliance. The legal advocate withdrew from the case, as she was unable to get instructions from the client.

Fast-forward several weeks later, when the legal advocate met with the client again. This time the client felt comfortable speaking about the feeling of frustration when managed by others and the desire to have control over health care decisions again.



For the client, having their capacity to make good choices recognized and validated by others was deeply meaningful



The ability and dedication of MHLP legal advocates and lawyers to take the time to meet with and understand our clients' needs is essential in the process of building a rapport and a trust with them.

The client had worked on becoming sober from drug use, was compliant with medications and had a plan to live with relatives. At the hearing, the legal advocate was able to highlight evidence which demonstrated that not all the criteria for detention under the *MHA* applied to this client. The client was decertified and was excited to move forward and to make their own decisions about their life. Continued representation by MHLP legal advocates allowed this marginalized client the opportunity to be represented at a Review Panel hearing, when they were ready.

The ability and dedication of MHLP legal advocates and lawyers to take the time to meet with and understand our clients' needs is essential in the process of building a rapport and a trust with them.

SUPPORTING THE AGENCY OF PEOPLE LIVING WITH DISABILITIES

When the *MHA* is invoked by psychiatric health care professionals, it deems the consent of the patient to psychiatric treatment and care. This is an extraordinary grant of state power and in our view, power that should be used as a last resort. The use of the *MHA* is concerning to mental health consumers who are prepared to engage in treatment and do not need to be coerced.

A MHLP legal advocate may well be one of the first people not affiliated with a treatment team to visit a patient, actively listen to them, and share information regarding their admission. A recent case highlights the difference that can be made when a client is given an opportunity to be heard.

The client was living with a developmental disability, as well as a chronic psychiatric diagnosis. They were reliant on personal supports for day-to-day activities and housing, provided by Community Living British Columbia. They were described as vulnerable to the exploitation by others, even when the psychiatric condition was well-controlled by injectable medication.

Without medication, their mental health deteriorated, and they were required admission to a hospital. However, the client had recovered with treatment and had been living in the community for two years on extended leave from the hospital.

The treatment team worried that without continued *MHA* involuntary detention (certification), the client would likely make poor decisions, such as not taking medication, disconnecting from the personal support services and housing, and rapidly becoming vulnerable or unwell. The treatment team took the position that *MHA* certification was necessary to prevent the client from exercising poor judgment about their choices.

At a three hour hearing before the Mental Health Review Board (Review Panel), the client testified that they were satisfied with their medication, and the doctor acknowledged that client had not refused medication after switching to an injectable formulation. The client testified that the medication kept them 'calm', and that without medication they would 'not know how to think or act'. The client had been taking classes on how to set boundaries and gave an example of how the skills they had learned had protected them in the community. They said they learned a lot and would keep taking the classes. They told the panel about how they wished to live more independently, but that it would require saving up money. Even if they were living more independently, they knew they would still need help for their developmental disability.

The Review Panel found the client to be credible and found the client was suitable as a voluntary patient. They were decertified.

The client was grateful for the MHLP lawyer's help, and was very happy that the Review Panel had listened to their wish to be a voluntary patient. For the client, having their ability to make good choices recognized and validated by others was deeply meaningful.

Kustner & Associates

Chartered Professional Accountants

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david@kustnercpa.com

AUDITORS' REPORT

To the members,
Community Legal Assistance Society,
Vancouver, BC

We have audited the combined statement of financial position of Community Legal Assistance Society as at March 31, 2019 and the combined statements of changes in net assets, operations and cash flows for the year then ended. These combined financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these combined financial statements based on our audit.

Management's Responsibility for the Combined Financial Statements

Management is responsible for the preparation and fair presentation of these combined financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of combined financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these combined financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards for not-for-profit organizations. Those standards require that we comply with ethical requirements and plan and perform an audit to obtain reasonable assurance whether the combined financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the combined financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the combined financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation of the combined financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the presentation of the combined financial statements.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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Chartered Professional Accountants

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AUDITORS' REPORT (*Continued*)

Basis for Qualified Opinion

In common with many not-for profit organizations, Community Legal Assistance Society derives revenue from donations activities the completeness of which is not susceptible to satisfactory audit verification. Accordingly, verification of these revenues was limited to the amounts recorded in the records of Community Legal Assistance Society. Therefore, we were not able to determine whether any adjustments might be necessary to donations revenue, excess of revenues over expenditures, and cash flows from operations for the year ended March 31, 2019, current assets and net assets as at March 31, 2019.

During the year, the Community Legal Assistance Society purchased equipment totaling \$ 7,268 (2018 - \$ 11,243). This equipment was expensed during the year, as explained in Note 1 (iii). Canadian accounting standards for not-for-profit organizations require that equipment be capitalized at cost and amortization be taken over the estimated life of the equipment.

Qualified Opinion

In our opinion, except for the effects and possible effects of the matters described in the Basis for Qualified Opinion paragraph, these combined financial statements present fairly, in all material respects, the financial position of the Society as at March 31, 2019 and the results of its operations and cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Other Matter

As required by the Societies Act of British Columbia, we report that, in our opinion, the accounting principles have been applied on a basis consistent with that of the preceding year.

Burnaby, BC
June 24, 2019



Chartered Professional Accountants

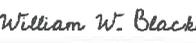
COMMUNITY LEGAL ASSISTANCE SOCIETY
COMBINED STATEMENT OF FINANCIAL POSITION
MARCH 31, 2019

\$

	Operating Fund	Reserve Fund	2019	2018
ASSETS				
CURRENT ASSETS				
Cash	48,675	47,997	96,672	85,841
Accounts and funding receivable	38,371	-	38,371	45,941
Prepaid expenses	40,113	-	40,113	30,815
Funds due from operating fund	-	76,773	76,773	68,087
	<u>127,159</u>	<u>124,770</u>	<u>251,929</u>	<u>230,684</u>
LIABILITIES AND NET ASSETS				
CURRENT LIABILITIES				
Accounts, payable and accrued	34,210	-	34,210	26,370
Unexpensed Funds - Fundraising	5,371	-	5,371	-
Unexpensed funds - Articling Student	6,854	-	6,854	6,845
CLAS unallocated donations	-	47,997	47,997	53,997
ILAH unexpensed funds	200	-	200	-
Government remittances payable	3,001	-	3,001	1,662
Funds due to reserve fund	76,773	-	76,773	68,087
SJ unexpensed funds	750	-	750	5,636
	<u>127,159</u>	<u>47,997</u>	<u>175,156</u>	<u>162,597</u>
NET ASSETS	<u>-</u>	<u>76,773</u>	<u>76,773</u>	<u>68,087</u>
	<u>127,159</u>	<u>124,770</u>	<u>251,929</u>	<u>230,684</u>

ON BEHALF OF THE BOARD


 _____ **Director**


 _____ **Director**

Kustner & Associates, Chartered Professional Accountants

COMMUNITY LEGAL ASSISTANCE SOCIETY
COMBINED STATEMENT OF OPERATIONS
YEAR ENDED MARCH 31, 2019

	\$	<u>2019</u>	<u>2018</u>
REVENUE			
Grants			
Forensic Psychiatric Services Commission		32,633	32,633
Law Foundation – major project		-	11,250
Law Foundation – CASL		143,000	130,000
Law Foundation – core services		817,000	740,000
Law Foundation – articling fellowship		60,000	60,000
Legal Services Society		1,002,250	984,000
JAG – HRC (government transfer)		<u>1,348,000</u>	<u>1,348,000</u>
		<u>3,402,883</u>	<u>3,305,883</u>
Ad hoc civil costs recovered		235,300	169,742
Community Group Funding – Legal Supervision		19,125	18,696
Donations and cost awards		26,696	15,976
Education costs recovered		4,575	3,046
Interest income		509	504
Memberships		20	20
Miscellaneous		950	10,018
		<u>3,690,058</u>	<u>3,523,885</u>
EXPENDITURES			
Ad hoc civil costs recoverable		235,300	169,742
Audit and accounting		39,698	37,306
Bank charges		249	330
Board expenses		8,025	5,390
Client disbursements		41,633	41,891
Education costs		1,315	5,275
Equipment purchase		7,268	11,243
Equipment rental and maintenance		78,183	66,652
GST paid (net)		13,691	10,624
Insurance		4,077	4,077
Library		8,657	8,787
Office		81,506	91,839
Professional development		15,481	10,232
Professional dues and insurance		61,064	52,725
Rent		113,192	110,804
Salaries, employee benefits and contractors		2,928,642	2,866,091
Telephone		10,191	11,134
Travel		<u>33,200</u>	<u>36,553</u>
		<u>3,681,372</u>	<u>3,540,695</u>
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENDITURES		<u>8,686</u>	<u>(16,810)</u>

Kustner & Associates, Chartered Professional Accountants



Advancing Dignity,
Equality and Justice
Since 1971

COMMUNITY LEGAL
ASSISTANCE SOCIETY

Suite 300-1140 West Pender Street
Vancouver, BC V6E 4G1

Community Law Program
Mental Health Law Program
Community Advocate Support Line

Phone: 604-685-3425
Toll Free: 1-888-685-6222
Fax: 604-685-7611
Website: www.clasbc.net



@clasbc



@clasbc

BC Human Rights Clinic

Phone: 604-622-1100
Toll Free: 1-855-685-6222
Fax: 604-685-7611
Website: www.bchrc.net

Email General Enquiries
infobchrc@clasbc.net

Email Requests for Representation
Intakebchrc@clasbc.net



@bchrc

CLAS is located on unceded Coast Salish territory, including the lands belonging to the x^wməθk^wəy^əm (Musqueam), Skwxwú7mesh (Squamish) and sə́ilwətaʔ / Selilwitulh (Tsleil-Waututh) Nations.

The work of the community legal assistance society in 2018/2019 fiscal year was made possible through generous contributions from the following funders.



Legal
Services
Society



BC MENTAL HEALTH
& SUBSTANCE USE SERVICES

An agency of the Provincial Health Services Authority

