

SUPREME COURT  
OF BRITISH COLUMBIA

AMENDED PURSUANT TO RULE 6-1(1)(a) of the Supreme Court Civil Rules  
JUN 16 2015

NEW WESTMINSTER  
REGISTRY



FORM 66

(Rules 16-1(2))

No. 256496

New Westminster Registry

*In the Supreme Court of British Columbia*

Between

**HONVEER SINGH RANDHAWA**

Petitioner

And

**ANTON BOEGMAN, RANA MALHI, GARRY BEGG, KABIR QURBAN, and  
MANJEET SINGH SAHOTA**

Respondents

**AMENDED PETITION TO THE COURT**

*(Rule 22-3 of the Supreme Court Civil Rules applies to all forms)*

ON NOTICE TO:

1. ANTON BOEGMAN, the Chief Electoral Officer
2. RANA MALHI, the District Electoral Officer
3. Attorney General of British Columbia
4. GARRY BEGG
5. KABIR QURBAN
6. MANJEET SINGH SAHOTA

The Address of the Registry is:

651 Carnarvon St. New Westminster, B.C. V3M 1C9

The petitioner estimates that the hearing of the petition will take 4 hours.

This matter is an application for judicial review

This matter is not an application for judicial review.

This proceeding is brought for the relief set out in Part 1 below, by

the person(s) named as petitioner(s) in the style of proceedings above

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this Court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
  - (i) 2 copies of the filed response to petition, and
  - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

#### **Time for response to petition**

A response to petition must be filed and served on the petitioner(s),

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service,
- or (d) if the time for response has been set by order of the court, within that time.

(1)	<p>The ADDRESS FOR SERVICE of the petitioner(s) is:</p> <p><u>Honveer Randhawa</u>  <u>Unit 105B – 12830 80 Avenue</u>  <u>Surrey, B.C. V3W 3A8</u></p> <p><u>Sandeep Uppal</u>  <u>McQuarrie Hunter</u>  <u>Suite 1500, 13450 102 Avenue,</u>  <u>Surrey, BC V3T 5X3</u></p> <p>Fax number address for service (if any) of the petitioner(s): None  E-mail address for service (if any) of the petitioner(s):  <u>Lawecentre.randhawa@gmail.com</u> <u>suppal@mcquarrie.com</u></p>
(2)	<p>The name and office address of the petitioner's(s') lawyer is:</p> <p><u>The Petitioner is self litigant.</u>  <u>McQuarrie Hunter</u>  <u>Suite 1500, 13450 102 Avenue,</u>  <u>Surrey, BC V3T 5X3</u></p>

### Claim of the Petitioner(s)

#### Part 1: ORDER(S) SOUGHT

1. A declaration pursuant to s. 151(1)(d) of the *Election Act*, RSBC 1996, C. 106 that the election of Garry Begg in the Surrey-Guildford electoral district is invalid and that the office is vacant;
2. Such further and other relief as this Honourable Court deems just; and
3. Costs against Anton Boegman, Chief Electoral Officer, pursuant to s. 152(1) of the *Election Act*, RSBC 1996, C. 106.
4. Special Costs.
5. Costs against Garry Begg.

## Part 2: FACTUAL BASIS

### Parties

1. The Petitioner, Honveer Singh Randhawa (“Randhawa”), was the Conservative Party of BC Candidate for the MLA Seat for the Surrey-Guildford Electoral District.
2. The Respondent, Garry Begg (the “Begg”), was the NDP Candidate for the MLA seat for the Surrey-Guildford Riding and is currently the MLA for the Surrey-Guildford Electoral District.
3. The Respondent, Manjeet Singh Sahota (“Sahota”), was the MLA candidate for the Green Party of BC for the Surrey-Guildford Electoral District.
4. The Respondent, Anton Boegman, is the Chief Electoral Officer of British Columbia.
5. The Respondent, Gurdinder (Rana) Malhi, is the District Electoral Officer for the Surrey-Guildford Electoral District.
6. Elections BC is the independent, non-partisan Office of the Legislature responsible for administering electoral process in British Columbia in accordance with the Election Act, Local Elections Campaign Financing Act, Recall and Initiative Act, and Referendum Act. Elections BC and stands in a special relationship with all election candidates.

### Factual Background

7. On October 19, 2024, the 2024 Provincial General Election (the “Election”) was held, whereby the following candidates ran in the Surrey-Guildford Electoral District:
  - a. The Respondent, Garry Begg (the “Respondent Begg”);
  - b. The Respondent, Kabir Qurban;
  - c. The Petitioner, Honveer Singh Randhawa (~~the “Petitioner”~~); and
  - d. The Respondent, Manjeet Singh Sahota.

8. On November 8, 2024, following the completion of a judicial recount in the Surrey-Guildford electoral district, Elections BC announced the final voting results as follows:

  - a. ~~Garry~~ Begg – 8,947 votes;
  - b. Kabir Qurban – 370 votes;
  - c. ~~Honveer~~ Singh Randhawa – 8,925 votes; and
  - d. Manjeet Singh Sahota – 824 votes.
9. The margin of victory following the completion of the judicial recount was 22 votes between ~~Garry~~ Begg and ~~Honveer~~ Singh Randhawa.

#### **Non-Resident Voters**

10. During the Election, the following individuals voted in the Surrey-Guildford Riding (the “Non-Resident Voters”):

  - a. Voter 1;
  - b. Voter 2;
  - c. Voter 3;
  - d. Voter 4;
  - e. Voter 5;
  - f. Voter 6;
  - g. Voter 7;
  - h. Voter 8;
  - i. Voter 9;
  - j. Voter 10;
  - k. Voter 11;
  - l. Voter 12;
  - m. Voter 13; and
  - n. Voter 14.

11. At the time the Non-Resident Voters voted, the Non-Resident Voters did not live in the Surrey-Guildford Electoral District and did not intend to return to the Surrey-Guildford Electoral District.

## **The Lodge Voters**

12. Argyll Lodge (the “Lodge”) is a licensed residential care facility located at 14590 – 106A Avenue, Surrey, B.C. The Lodge serves adults diagnosed with serious and persistent mental illness. The Lodge has a 25-bed capacity. The Lodge’s residents have limited cognitive and communicative abilities. Many of the Lodge’s residents are unresponsive to even the simplest gesture. Some display erratic movements.
13. Prior to the Election, Sahota’s and Randhawa’s campaign team attended the Lodge in order to campaign. Both Sahota’s and Randhawa’s team were informed that the Lodge’s residents were mentally ill and did not vote. Having received this information, both Randhawa’s and Sahota’s campaign team did not attempt to campaign further at the Lodge and thus the Lodge Voters were prevented from potentially voting for either Randhawa or Sahota.
14. At all material times, the Lodge Employee(s) misrepresented that the Lodge residents did not vote.
15. Prior to the Election, volunteers for the NDP were permitted to campaign at the Lodge and speak to residents at the Lodge.
16. On or about October 19, 2024, the following Lodge residents voted by way of mail-in ballot in the Election (the “Lodge Voters”):
  - a. Voter A;
  - b. Voter B;
  - c. Voter C;
  - d. Voter D;
  - e. Voter E;
  - f. Voter F;
  - g. Voter G;
  - h. Voter H;
  - i. Voter I;
  - j. Voter J;

- k. Voter K;
- l. Voter L;
- m. Voter M;
- n. Voter N;
- o. Voter O;
- p. Voter P;
- q. Voter Q;
- r. Voter R;
- s. Voter S;
- t. Voter T;
- u. Voter U; and
- v. Voter V.

17. The voting packages for the Lodge Voters were requested on October 4 and 7, 2024 (the “Mail-in Packages”). The Mail-in Packages were requested through Election BC’s Online Voter Registration System and shared a “session ID” indicating they were requested from the same computer and web browser session. The Mail-in Packages requested on October 7, 2024 also shared a session ID.

18. A common email address “argyll2018”@gmail.com” and phone number “604-581-4174 was used for all package requests, while the remainder of the information provided for each voter was consistent with pre-existing information, such as name and date of birth, in Elections BC records. The phone number was the Lodge’s phone number. At that time, section 109.01 of the Election Act provided that an individual was not to assist more than one voter order a mail-in ballot package unless that person was an election official appointed under the Election Act. There was no one appointed at the Lodge, which is a mental health facility, as an election official. Notwithstanding, Elections BC filled the Lodge’s request for a mail-in ballot package thereby exposing vulnerable individuals to potential exploitation.

19. At no material time, did the Lodge Voters authorize or request the Lodge Employee(s) to order mail-in ballot packages on their behalf.

20. On or about October 19, 2024, a Lodge Employee(s), either directly or indirectly, intimidated the Lodge Voters for the following purposes:

- a. to persuade or compel the Lodge Voters to vote;
- b. to persuade or compel the Lodge Voters to vote or refrain from voting for or against a particular candidate or a candidate for a particular political party; and/or
- c. to persuade or compel the Lodge Voters to vote for or against a particular candidate for a particular political party.

21. On or about October 19, 2024, a Lodge Employee(s), either directly or indirectly, by duress or fraudulent means did the following:

- a. compelled, persuaded, or otherwise caused the Lodge Voters to vote;
- b. compelled, persuaded, or otherwise caused an individual to vote or refrain from voting; and/or
- c. compelled, persuaded, or otherwise caused the Lodge Voters to vote or refrain from voting for a particular candidate of a particular political party.

22. The “fraudulent means” used by the Lodge Employee(s) included, but were not limited to, the following:

- a. Misrepresenting to candidates that the Lodge’s residents did not vote;
- b. Obtaining mail-in ballots on behalf of the Lodge Voters using their personal information without their consent and without an election official being present;
- c. Influencing, either directly or indirectly, which candidate the Lodge Voters’ voted for;
- d. Influencing, either directly or indirectly, the Lodge Voters to vote;
- e. Intimidating the Lodge Voters to vote, or alternatively, to vote for a particular candidate;
- f. “Assisting” more than one of the Lodge Voters’ fill in a mail-in ballot;
- g. Sending in the mail-in ballots without writing on the Certification Envelope that they had assisted the Lodge Voter;
- h. Exerting undue influence on the Lodge Voters;
- i. Assisting the Lodge Voters without providing a translator; and
- j. Such further facts as may become known at trial.

23. On or about October 19, 2024, a Lodge Employee(s), either directly or indirectly, by undue influence did the following:

- a. Compelled, persuaded, or otherwise caused the Lodge Voters to vote;
- b. Compelled, persuaded, or otherwise caused an individual to vote or refrain from voting; and/or
- c. Compelled, persuaded, or otherwise caused the Lodge Voters to vote or refrain from voting for a particular candidate of a particular political party.

24. The Lodge receives significant grants from the NDP.

25. At all material times, some of the Lodge Voters could not speak English.

26. At no material time, was a translator provided to the Lodge Voters that needed a translator.  
This was a breach of section 109.01(8) of the Election Act which required that an individual must not provide assistance as a translator unless the individual is able to make the translation and make it to the best of the individual's abilities.

27. On or about October 19, 2024, a Lodge Employee(s) mailed out the Mail-in Ballots within Certification Envelopes. The Certification Envelopes did not state that someone had assisted the Lodge Voters fill out the Mail-in Ballot notwithstanding the fact the front of the Certification Envelope had a clearly visibly box for the name of any individual who had assisted the voter fill out the Mail-in Ballot. This was a breach of section 109.01(5)(b.1) of the Election Act which required that an individual who is assisting a voter must write their name on the Certification Envelope so that election officials can determine whether an individual has assisted more than one person fill out a mail-in ballot. Elections BC accepted the mail-in-ballots for counting (which did not have someone as having assisted the Lodge Voters) notwithstanding Election BC was well aware that (1) one individual had ordered all of the mail-in ballots on behalf of all of the Lodge Voters, (2) the Lodge was a mental health facility, and (3) the Lodge residents were in a vulnerable position vis-à-vis the Lodge Employee(s).

28. The Owner of the Lodge has donated money to the NDP.

29. At no material time, did the Lodge Voters intend to vote in the Election and they would not have voted had they not been influenced, directly or indirectly, by the Lodge Employee(s), such that their decision to vote was not truly their own.

30. At no material time, did the Lodge Voters know they were voting in the Election or who they were voting for. Rather, the Lodge Voters merely voted at the direction/influence of the Lodge Employee(s).

31. At all material times, the Lodge Voters were in a vulnerable position vis-à-vis the Lodge Employee(s). The relationship between the Lodge Voters and the Lodge Employee(s) is such that it triggers the presumption of undue influence.

32. At no material time, did the Lodge Voters know that the Election was taking place.

33. At all material times, the Lodge Voters simply voted as directed by the Lodge Employee(s), which they believed they were required to do.

34. At all material times, the Lodge Voters objectively and reasonably felt intimidated and threatened.

35. At no material time, was there an election official present to supervise the voting process at the Lodge.

### Obstruction and Concealment

36. On October 29, 2024, immediately upon the conclusion of the final count on October 27, 2024, Randhawa emailed the District Electoral Officer requesting voter's list for participation for the following categories in order to investigate into wrongdoing (the "Requested Documents"):

- a. Certification contained mail-in votes;
- b. Assisted telephone votes;

- c. Special and Absentee Ballots; and
- d. A complete voter list as of October 28, 2024.

37. In that email, Randhawa informed the District Electoral Officer that his request was urgent and that “time was of the essence.” The District Electoral Officer refused to provide the Requested Documents because she was “too busy.”

38. On October 30, 2024, Justice Loo issued an order that a judicial recount be held with respect to the Surrey-Guildford electoral district on November 7 and 8, 2024 (the “Judicial Recount”).

39. On November 7 and 8, 2024, the Judicial Recount proceeded.

40. At no time during the Judicial Recount, did Elections BC, bring to either the Court’s or Randhawa’s attention that:

- a. one individual had ordered Mail-in Ballots on behalf of the Lodge Voters in breach of the Election Act;
- b. one individual had assisted more than one of the Lodge Voters fill out mail-in ballots in breach of the Election Act;
- c. one individual had mailed in the Mail-in Ballots on behalf of the Lodge Voters without stating on the Certification Envelope that they had assisted the Lodge Voters fill out the Mail-in Ballots in breach of the Election Act.

41. Further in this regard, it must be emphasized that Elections BC was at all material times during the Judicial Recount obliged to be a neutral party and was supposed to assist the Court wherever required, which included alerting the Court to facts which the Court had no way of knowing.

42. On November 10, 2024, immediately following the Judicial Recount, Randhawa emailed Elections BC requesting the Requested Documents.

43. On November 14, 2024, Election BC's counsel emailed Randhawa informing him that Elections BC was not required to provide the Requested Documents to Randhawa, notwithstanding the fact Elections BC's policies provided that the Requested Documents were to be provided after the final election results. Furthermore, Election BC's legal counsel asked Randhawa to explain why Randhawa needed the Requested Documents.
44. On November 14, 2024, Randhawa emailed Election BC's legal counsel informing Elections BC that in order for him to make any observation and/or inquiries into any wrongdoing in the Election he needed the Requested Documents. Furthermore, Randhawa expressly informed Elections BC that he only had 30 days from the return of the writ of election to appeal the results of the Election.
45. On November 18, 2024, Begg was appointed as Minister of Public Safety and Solicitor General and became part of both the legislative and executive branch.
46. On November 19, 2024, Randhawa, not having received any response from Elections BC, again emailed Elections BC following up on the Requested Documents.
47. On November 22, 2024, Elections BC's legal counsel emailed Randhawa a raw voter participation list with over 19,000 voter IDs without any associated name. Randhawa was then forced to arrange a technician to put together the names of 19,000 voters next to their IDs before he could investigate into any wrongdoing. The format in which the Requested Documents were provided prevented Randhawa's from discovering election irregularities, which were to form the basis of his Petition, within the 30-day limitation period. Furthermore, Election BC's legal counsel told Randhawa that he was not to use the Requested Documents to investigate into wrongdoing (notwithstanding that was the exact purpose he wanted the documents). At all material times, Election BC stood in a special relationship with Randhawa and had access to the information which would have formed the basis of Randhawa's Petition and would have allowed Randhawa to investigate into potential wrongdoing.

48. On or about November 26, 2024, Randhawa discovered that 22 votes had come from the Lodge. At that time, Randhawa did not know the Lodge was a mental health facility and he was of the impression that 22 votes had come from a single-family dwelling, which he found concerning. Furthermore, at that time Randhawa was not aware that the votes from the Lodge were mail-in ballots, albeit that was his suspicion.
49. On or about November 26, 2024, Randhawa discovered that the Non-Resident Voters had voted from addresses that they did not live at, however, he could not confirm the Non-Resident Voters had moved outside of the Riding.
50. On or about November 26, 2024, Voter T informed one of Randhawa's volunteers she had not voted in the Riding even though the Requested Documents showed her as having voted in the Riding. This was around when Randhawa first discovered the Lodge was a mental health lodge. In light of this information, Randhawa began investigating further into the Lodge.
51. Between November 26, 2024 and January 13, 2025, Randhawa had several volunteers attend the Lodge to better understand what occurred at the Lodge. During this time, Randhawa's volunteers interviewed several residents at the Lodge who informed Randhawa's volunteers that they had voted under intimidation, duress, and/or fraudulent means.
52. Between November 26, 2024 and January 13, 2025, Randhawa had several volunteers attend properties where voters had voted from notwithstanding they did not live there. These interviews confirmed to Randhawa that the Non-Resident Voters had voted from addresses they did not reside at, however, he could not confirm whether or not the Non-Resident Voters had moved elsewhere in the Riding.
53. On January 2 and 21, 2025, Randhawa, wrote to Elections BC demanding that Elections BC investigate into what occurred at the Lodge and with the Non-Resident Voters. In support of their needing to be an investigation, Randhawa provided Elections BC with all of the evidence he had gathered.

54. On January 13, 2025, Randhawa commenced this Petition.
55. On January 28, 2025, Elections BC wrote to Randhawa suspending its investigation into Randhawa's complaints "in order to preserve the integrity of the petition proceeding and avoid unnecessary duplication and the potential for conflicting facts."
56. On February 10, 2025, Mr. Uppal, Randhawa's legal counsel, wrote to Election BC's pointing out that the role of Elections BC and the role of the Supreme Court of British Columbia was very different and there was no risk of "contradictory facts." Mr. Uppal informed Election BC that if Elections BC did not resume its investigation he would be judicially reviewing Election BC's decision.
57. On or about February 21, 2025, Election BC, in the face of a Judicial Review, provided Mr. Uppal with an unfiled Response to Petition in which it admitted that 22-Mail in Ballots had come from the Lodge. Furthermore, Elections BC admitted that it had made a mistake by mailing the Mail-in Ballots to the Lodge because Mail-in Ballots cannot be ordered by one person on behalf of multiple people unless an election official is present. This was when Randhawa first discovered that 22-mail in ballots had been sent to the Lodge, a mental health facility, notwithstanding the fact an election official was not present at the Lodge.
58. On or about February 25, 2025, Begg filed Affidavit material in which third-parties deposed inadmissible evidence deposing that they "believed" Randhawa, through volunteers had "groomed and exploited" mentally ill individuals to "create a political issue." Randhawa believes this material was filed by Begg to discourage Randhawa from investigating further into the irregularities in the Election. The filing of this inflammatory material, which relied entirely on inadmissible and speculative evidence, has had a significant reputational and personal impact on Randhawa.
59. To be clear, Begg filed his material accusing Randhawa of having exploited mentally ill individuals notwithstanding the fact he was already in possession of Election BC's material in which Elections BC admitted to having made a mistake.

60. Between February 25, 2025 and June 12, 2025, Randhawa repeatedly demanded that Election BC file their Response to Petition, which contained admissions of Election BC's mistakes, and Elections BC repeatedly refused to file its material stating that it would not file its material until a sealing order application was heard (the "Sealing Order Application").
61. The Sealing Order Application was initially scheduled for March 14, 2025 but then Elections BC emailed Randhawa on March 6, 2025 stating that it had "missed the service deadline and so could not file its material." The Sealing Order Application was then scheduled for April 15, 2025. Ms. Roy then emailed Mr. Uppal stating that she had missed the service deadline for the Sealing Order Application and so the Sealing Order Application would need to be adjourned again. Mr. Uppal objected and so Ms. Roy "force filed" her material. Meanwhile, the public remained of the impression, due to Begg, that Randhawa had, through volunteers, "groomed and exploited" mentally ill individuals.
62. Between January 13, 2025 and June 16, 2025, Randhawa personally investigated into the Non-Resident Voters and discovered that the Non-Resident Voters had voted in the Riding notwithstanding the fact they did not live in the Riding.
63. On May 27, 2025, the Chief Electoral Officer issued a Report regarding the Election (the "Report"). The Report did not make any reference to the fact mail-in ballots were accidentally sent to the Lodge and alluded to "Mail-in Ballots being secure." At the same time, Elections BC still had not filed its Response to Petition in which it admitted that it had accidentally sent Mail-in Ballots to a mental health facility without ensuring an election official was present at the mental health facility to supervise the voting process.
64. At all material times, Elections BC knew that it had made a mistake during the Election and that these mistakes would have given Randhawa a factual basis to invalidate the Surrey-Guildford Riding but Elections BC concealed this information from Randhawa and the public, instead accusing Randhawa of having spread misinformation.
65. Candidates place profound trust in Elections BC to administer the electoral process fairly, transparently, and in strict accordance with the Elections Act. This trust is not optional, it is

foundational. Candidates are required to relinquish control over critical elements of the electoral process like voter registration, ballot distribution and security, vote counting, and the oversight of electoral conduct, on the assumption that Elections BC will execute its duties with neutrality and competence. This unique trust creates a structural vulnerability.

66. At all material times, Begg/the Lodge knew that Randhawa had facts which would have given Randhawa a factual basis to invalidate the Surrey-Guildford Riding but Begg/the Lodge concealed these facts from Randhawa.
67. In the alternative, it would be unconscionable to allow Begg to capitalize on Election BC's concealment of material facts. Allowing the legislature to exploit limitation periods to capitalize on election irregularities would be against public policy. A member of the legislature should not be permitted to capitalize on limitation periods that it has enacted itself when it comes to his own wrongdoing.
68. To permit Elections BC and Begg to rely on the applicable limitation period would be unconscionable in the circumstances.

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A page with 20 horizontal black redaction bars of varying lengths. The bars are positioned at regular intervals down the page, obscuring sensitive information. The first bar is relatively short, while the second is the longest. Subsequent bars are of varying lengths, with some being very short and others being longer. The bars are solid black and do not contain any text or other markings.



The image shows a document page with 24 horizontal black redaction bars. These bars are of varying lengths and are distributed across the page. The first bar is at the top, followed by a short one, then a long one, then another short one, and so on, creating a pattern of alternating lengths. The bars are solid black and completely obscure the text they are intended to cover.



A document page with several large black rectangular redactions covering the majority of the text area. The redactions are positioned in the upper half of the page, with one prominent one in the center and others above and below it. The rest of the page is white with some minor scanning artifacts.

### Part 3: LEGAL BASIS

## Applying for a Declaration of Invalidity under the Election Act

1. An application for an invalid provincial election is governed by Part 8 of the Election Act.
  2. Section 150(5) of the Election Act provides that an application for an invalid election may only be made on the bases set out in section 150(5) of the Election Act:
    - (a) That a candidate declared elected was not qualified to hold office at the time the candidate was elected;
    - (b) That an election was not conducted in accordance with this Act or a regulation under it; or
    - (c) That an election should be declared invalid because section 255, 256, 257, or 258 of the Act was contravened.

Election Act at s. 150(5).

3. In the present matter, Randhawa is bringing a Petition to invalidate the election of Begg in the Surrey-Guildford Electoral District because (1) the Election was not conducted in accordance with the Election Act and (2) because Section 256 and 257 of the Election Act have been contravened.
4. The time limit for applying for an invalid election depends on the basis for the application. Section 150(3) of the Election Act provides the applicable deadlines:
  - (a) if the application is on the basis that section 255, 256, 257, or 258 was contravened, 3 months after the date of the contravention or 30 days after the return of the writ for the election, whichever is later;
  - (b) in other cases, 30 days after the return of the writ for the election.

Election Act at s. 150(3).

5. The writ for the Surrey-Guildford election was returned on November 12, 2024. Thirty-days thereafter was December 12, 2024, and this petition proceeding was commenced on January 13, 2025. The contraventions alleged in the petition occurred on or before the final voting day, October 19, 2024.
6. Accordingly, typically Randhawa's application could only be made on the basis of alleged contraventions of sections 255-258 of the Election Act. However, in the unique circumstances (which will be discussed later in the Petition) it would be unconscionable to allow either Elections BC or Begg to rely on the applicable limitation period.
7. The powers of the Court on an application for an invalid election are set out in ss. 151(1)(c) and (d) of the Election Act which provides that on the hearing of an application, the court may do the following:
  - a. Declare that an election is confirmed as valid;
  - b. Declare that an election is invalid and that the office is vacant.

Election Act at s. 151(1)(c).

8. Section 151(3) stipulates that even if a contravention of section 255-258 of the Election Act is established, the court may confirm the election of the candidate if it is satisfied that:
  - (a) the candidate did not contravene the applicable section; and
  - (b) the contravention did not materially affect the result of the election.

Election Act at s. 151(3).

9. The court hearing an application for an invalid election is a statutory court operating without set statutory procedure. Justice Humphries described this in Friesen as follows:

[8] The matter of who may sit in the legislature is historically handled by the legislature itself. Here, the legislature has delegated specific powers to the Supreme Court. There is no procedure set out in the Election Act governing a hearing with respect to a controverted election. The Act simply provides that an application may be made to the Supreme Court for certain declarations, and that the evidence must be given orally by witnesses rather than by affidavit. My function as to sit as an election court with specified powers rather than as a court with inherent jurisdiction.

[9] The early days of this hearing were consumed by motions regarding procedure. I decided a power to compel witnesses was necessary to properly determine the matter and issued various subpoenas upon application by counsel. I made a number of other rulings and the hearing proceeded, thanks to the efforts of all counsel, in a fairly orderly fashion.

*Friesen v. Hammell*, 2000 BCSC 1185 at paras. 8 and 9.

10. Pursuant to section 150(10) of the Election Act, Randhawa's claims of contraventions of section 256 of the Election Act (i.e. his allegations of voter intimidation) must be proven by oral evidence of witnesses "rather than by affidavit."

Election Act at s. 150(10).

11. Randhawa may rely on affidavit evidence to substantiate his claims of voting in contravention of section 257 of the Election Act.

### **Burden and Standard of Proof**

12. Once an irregularity has been established, the onus is on the party supporting the election's validity to demonstrate that the irregularity did not materially affect the result of the election.

*Alberni-Clayoquot (Regional District)(Re), 2019 BCSC 20 at para. 34.*

13. In *Michetti v. Veach*, 2023 BCSC 43, on an application to invalidate a municipal election, the Court held that the burden of proof under s. 153 of the *Local Government Act*, - which mirrors s. 150 of the *Election Act* – is the civil standard.

*Michetti v. Veach, 2023 BCSC 43 at para. 38.*

*Michetti v. Veach, 2023 BCCA 317 at para. 25.*

See also *Bonneville v. Frazier*, 2000 BCSC 416 at para. 69.

14. In *Wrzesnewskyj v. Canada (Attorney General)*, 2012 SCC 55, the Supreme Court of Canada held that the civil standard – proof on a balance of probabilities – applied where the federal election was challenged on the basis of administrative errors or irregularities.

*Wrzesnewskyj v. Canada (Attorney General), 2012 SCC 55 at paras. 2 and 53.*

### **The “Magic Number” Test**

15. Even if the Court finds a contravention of section 255-258 of the *Election Act*, it may confirm the election of a candidate if it is satisfied that the candidate did not contravene the applicable section, and the contravention did not materially affect the results of the election.

16. In *Wrzesnewskyj v. Canada (Attorney General)*, 2012 SCC 55, the Court considered what is meant by “affected the result of an election”:

[25] “Affected the result” asks whether someone not entitled to vote, voted. Manifestly, if a vote is found to be invalid, it must be discounted, thereby altering the vote count, and in that sense, affecting the election’s result.

*Wrzesnewskyj v. Canada (Attorney General), 2012 SCC 55 at para. 25.*

17. The Supreme Court of Canada went on to hold that “the election should be annulled when the number of rejected votes is equal to or greater than the successful candidate’s margin of victory.” This was described as the “magic number test.”

*Wrzesnewskyj v. Canada (Attorney General)*, 2012 SCC 55 at paras. 72-73.

18. The magic number test assumes that all of the rejected votes were cast for the successful candidate.

*Wrzesnewskyj v. Canada (Attorney General)*, 2012 SCC 55 at para. 72.

19. The Supreme Court of Canada in *Wrzesnewskyj v. Canada (Attorney General)*, 2012 SCC 55 did not rule out the possibility of another test being applied to invalidate an election, and thus it is open to this Court to apply another test to invalidate an election if this Court deems fit. Randhawa reserves his right to rely on other tests to invalidate the Riding as further particulars and facts become known to Randhawa. In fact, Randhawa submits that it is not the number of “irregularities” that must guide this Court in determining whether to invalidate the Riding, rather, whether electoral integrity has been materially affected (which he submits in this case has), such that the electoral results cannot be permitted to stand.

20. If the magic number test is applied in this case, Randhawa must prove that at least 22 votes cast in the Surrey-Guildford Electoral District were invalid as a result of contraventions of ss. 256 and 257 of the Election Act in order for his petition to succeed.

### Non-Resident Voters

21. Section 257 of the Election Act provides as follows:

#### Corrupt Voting

257(1) An individual who does any of the following commits an offence:

(a) votes in an election when not entitled to do so;

(b) contravenes section 89 regarding voting more than once in an election;

(c) contravenes section 105(2) by applying for more than one mail-in voting packager;

- (d) contravenes section 109(6) by failing to mark a ballot in accordance with the directions of the voter being assisted;
  - (e) obtains a ballot in the name of another individual whether the name is of a living or dead individual or of a fictitious individual
- (2) An individual who commits an offence under subsection (1) is liable to one or more of the penalties referred to in section 255(7).

Election Act at s. 257(1).

22. Section 29 of the Election Act stipulates who is eligible to vote in a provincial election

Who may vote

29 In order to vote in an election for an electoral district, an individual must

- (a) be a Canadian citizen,
- (b) be 18 years of age or older on final voting day for the election,
- (c) be a resident of the electoral district
- (d) have been a resident of British Columbia for at least 6 months immediately before final voting day for the election
- (e) be registered as a voter for the electoral district or register as such in conjunction with voting, and
- (f) not be disqualified by this Act or any other enactment from voting in the election or be otherwise disqualified by law.

Election Act at s. 29.

23. Section 32 of the Election Act sets out the rules for determining where an individual is resident:

Rules for determining where an individual is resident

32(1) The following rules apply to determine for the purposes of this Act the place where an individual is resident

- (a) an individual is a resident of the place where the individual lives and to which, whenever absent, the individual intends to return;
- (b) an individual may be the resident of only one place at a time for the purposes of this Act

- (c) an individual does not change the place where the individual is a resident until the individual has a new place where the individual is a resident;
- (d) an individual does not cease being a resident of a place by leaving the place for temporary purposes only

...

Election Act at s. 32.

24. Regulatory offences are offences whose purpose is to enforce the performance of various duties, thereby safeguarding the general welfare of society.

*Levis (Ville) c. Tetreault, 2006 SCC 12 at para. 13.*

25. Classifying the offence as a regulatory offence is a question of statutory interpretation. An offence requiring mens rea would normally require words such as “willfully,” “with intent,” “knowingly,” or “intentionally” in the provision creating the offence.

*Levis (Ville) c. Tetreault, 2006 SCC 12 at para. 16.*

26. Regulatory offences are presumptively strict liability offences, subject to contrary legislative intention. Strict liability offences do not incorporate, as an element of the offence, any intentional or mental element. The offence is proven solely by reference to the commission of the actus reus. This presumption may be overcome where the legislature intends to incorporate subjective intention as an element of the offence.

*Michetti v. Veach, 2023 BCCA 317 at paras. 22 and 28.*

27. Potentially serious penalties standing alone, are not sufficient to displace the presumption that an offence is a strict liability offence.

*Michetti v. Veach, 2023 BCCA 317 at para. 26.*

28. The omission of the words “for the purpose of” is significant in concluding that the presumption of strict liability is not overcome. This is consistent with the modern interpretation approach to statutory interpretation, which requires that “the words of an Act are to be read in

their entire context and in their grammatical and ordinary sense harmoniously with the Scheme of the Act, the object of the Act, and the intention of Parliament.”

*Michetti v. Veach*, 2023 BCCA 317 at para. 29.

*Re Rizzo & Rizzo Shoes Ltd.*, [1998] 1 S.C.R. 27 at para. 21.

29. In *Alberni-Clayoquot*, 2019 BCSC 20, a municipal law case, the Supreme Court of British Columbia was asked to invalidate an election because voters voted in the wrong electoral district in breach of section 163 of the Local Government Act, which is nearly identical to section 257(1) of the Election Act. In invalidating the election, the Supreme Court of British Columbia held that there was a breach of section 163 of the Local Government Act by the mere act of voting in the wrong electoral district:

18. Thirteen persons voted in electoral area F in which they were not entitled to vote. Conversely, they did not vote in electoral area B where they were entitled to vote. Section 163(2)(a) was clearly contravened for electoral area F because those 13 votes should not have been cast there.

*Alberni-Clayoquot*, 2019 BCSC 20 at para. 18.

30. In the present matter, 14 voters voted in the District notwithstanding they did not reside in the District. Accordingly, these votes were not cast in accordance with the Election Act and were in contravention of section 257 of the Election Act.

### **Intimidation and Fraud**

31. Section 256 of the Election Act provides as follows:

#### **Intimidation**

256(1) An individual or organization must not intimidate an individual for any of the following purposes:

- (a) to persuade or compel an individual to vote or refrain from voting;
- (b) to persuade or compel an individual to vote or refrain from voting for or against a particular candidate or a candidate for a particular political party;

(c) to punish an individual for having voted or refrained from voting as described in paragraph (a) or (b)

(2) An individual or organization must not, by adduction, duress or fraudulent means, do any of the following:

(a) Impede, prevent or otherwise interfere with an individual's right to vote;

(b) Compel, persuade or otherwise cause an individual to vote or refrain from voting;

(c) compel, persuade or otherwise cause an individual to vote or refrain from voting for a particular candidate or for a candidate of a particular political party.

(3) An individual or organization prohibited from doing something by this section must not do the prohibited act directly, indirectly, or by another individual or organization on behalf of the individual or organization who is subject to the prohibition.

(4) An individual or organization who contravenes this section commits an offence and is liable to one or more of the penalties referred to in section 255(7).

Election Act at s. 256.

32. The primary object of the Election Act, which prohibits interference with an individual's right to vote by the use of fraudulent means is to maintain and enhance the integrity of the electoral process by safeguarding the public from fraudulent conduct of such degree that it would influence voters to vote in a way other than which they would have voted without the fraudulent conduct.

*Friesen v. Hammell*, 1999 BCCA 23 at para. 74.

33. The term "other fraudulent means" encompasses "all other means which can properly be stigmatized as dishonest."

*R. v. Riesberry*, 2015 SCC 65 at para. 23.

34. The actus reus of "other fraudulent means" is determined by what reasonable people consider to be dishonest dealing.

*R. v. Theroux*, [1993] 2 S.C.R. 5 at para. 15.

35. The mens rea of “fraud” consists of the subjective awareness that one was undertaking a prohibited act which could cause deprivation in the sense of depriving another of property or putting that property at risk.

R. v. Theroux, [1993] 2 S.C.R. 5 at para. 21.

36. “Other fraudulent means” has been broadly defined as means which are “dishonest,” it is not necessary that an accused personally consider these means to be dishonest in order that he or she be convicted of fraud for having undertaken them. The “dishonesty” of the means is relevant to the determination of whether the conduct falls within the type of conduct caught by the offence of fraud; what reasonable people consider dishonest assists in the determination of whether the actus reus of the offence can be made out of particular facts.

R. v. Theroux, [1993] 2 S.C.R. 5 at para. 22.

37. In *Longmuir v. Holland*, 2000 BCCA 538, Southin J.A. defined undue influence as “influence which overbears the will of the person influenced so that in truth what she is not... her own act.”

*Longmuir v. Holland*, 2000 BCCA 538 at para. 71.

38. In *Allcard v. Skinner* (1887), 36 Ch. D. 145, Cotton L.J. discussed the two classes of transactions which may be set aside on grounds of undue influence: “First, where the Court has been satisfied that the gift was the result of influence expressly used by the donee for the purpose; second, where the relations between the donor and donee have at or shortly before the execution of the gift been such as to raise a presumption that the donee had influence over the donor.”

39. In *Geffen v. Goodman Estate*, [1991] 2 S.C.R. 353, Wilson J. discussed the presumption of undue influence in the following passages:

42. What then must a plaintiff establish in order to trigger a presumption of undue influence? In my view, the inquiry should begin with an examination of the relationship between the parties. The first question to be addressed in all cases is whether the potential for domination inheres in the nature of the relationship itself. This test

embraces those relationships which equity has already recognized as giving rise to the presumption, such as solicitor and client, parent and child, and guardian and ward, as well as other relationships of dependency which defy easy categorization.

43. Having established the requisite type of relationship to support the presumption, the next phrase of the inquiry involves an examination of the nature of the transaction...

44. ... in situations where consideration is not an issue, e.g., gifts and bequests, it seems to be quite inappropriate to put a plaintiff to the proof of undue disadvantage or benefit in the result. In these situations the concern of the court is that such acts of beneficence not be tainted. It is enough, therefore, to establish the presence of a dominant relationship.

45. Once the plaintiff has established that the circumstances are such as to trigger the application of the presumption, that apart from the details of the particular impugned transaction the nature of the relationship between the plaintiff and defendant was such that the potential for influence existed, the onus moves to the defendant to rebut it. As Lord Evershed Mr. stated in *Zamet v. Hyman, supra*, at p. 938, the plaintiff must be shown to have entered into the transaction as a result of his own "full, free and informed thought". Substantively, this may entail a showing that no actual influence was deployed in the particular transaction, that the plaintiff had independent advice, and so on. Additionally, I agree with those authors who suggest that the magnitude of the disadvantage or benefit is cogent evidence going to the issue of whether influence was exercised.

*Geffen v. Goodman Estate, [1991] 2 S.C.R. 353 at paras. 42-45.*

40. The term "suspicious circumstances" has been described as meaning "evidence which, if accepted, would tend to negative knowledge and approval or testamentary capacity."

*Vout v. Hay, [1995] 2 S.C.R. 876 at para. 27.*

41. In *Vout v. Hay*, [1995] 2. S.C.R. 876, the Supreme Court of Canada set out three general types of suspicious circumstances (1) suspicious circumstances raised by events surrounding the preparation of the will; (2) events tending to call into question the capacity of the testator, and (3) coercion or fraud.

*Vout v. Hay*, [1995] 2. S.C.R. 876 at para. 25.

42. The effect of establishing that there are suspicious circumstances is that the legal burden of proof reverts to the propounder and the propounder of the will must affirmatively prove on a balance of probabilities that the testator had testamentary capacity to make a will and knew and approved of the contents of the will. In practice, the propounder and the party opposing the will each will seek to affirmatively establish, lack of knowledge of the content, or undue influence.

*Vout v. Hay*, [1995] 2 S.C.R. 876 at para. 22.

43. While suspicious circumstances must be rebutted on a balance of probabilities, as a practical matter the extent of the proof required will be proportionate to the gravity of the suspicion, which will vary with the circumstances peculiar to each case.

*Vout v. Hay*, [1995] 2 S.C.R. 876 at para. 24.

44. The purpose of electoral law is “to promote, by means of the ballot and with the absence of all undue influence, the free and sincere expression of public opinion in the choice “of democratic representation.”

*Heather v. Nenshi*, 2019 ABCA 116 at para. 21.

*Brassard v. Langevin*, 1877 CanLii 23 (SCC) at page 195.

*Koss v. Konn*, 1961 CarswellBC 101 at para. 55.

45. Undue influence is a question of degree. What may be undue influence to one class of people may not be to another. Undue influence begins the moment the party ceases to be a free agent.

*Brassard v. Langevin*, 1877 CanLii 23 (SCC) at page 168.

46. If a candidate and another “person making common cause, working together, there is agency, and the reason is that inasmuch as the candidate takes the benefit of this “person’s acts he must take the responsibility.”

*Brassard v. Langevin*, 1877 CanLii 23 (SCC) at page 175.

47. In the present matter, approximately 22 votes were acquired from the Lodge through intimidation, duress, undue influence, or fraudulent means.

#### **Obtained Ballots Under Other Name**

48. Section 257(1)(e) of the Election Act provides that an individual who obtains a ballot in the name of another individuals, whether name is of a living or dead individual or a fictitious individual, commits an offence.

Election Act at s. 257(1)(e).

49. In the present matter, section 257(1)(e) of the Election Act was contravened because Lodge Employee(s) obtained ballots using the name, date of birth, and/or SIN of the Lodge Voters without their consent or knowledge and without being legally authorized to do so.

#### **Irregularities**

50. Section 109.01(1) of the Election Act provides that it applies to voters:

(a) who vote by using a mail-in voting package, and

(b) who

(i) are unable to mark a ballot or request a mail-in voting package because of physical disability or difficulties with reading or writing, or  
(ii) require the assistance of a translator to read the ballot and the instructions for voting.

Election Act at s. 109.01.

51. Section 109.01(2) of the Election Act provides that a voter referred to in subsection (1) may be assisted by an individual in voting or in requesting a mail-in voting package.

Election Act at s. 109.01(2).

52. Section 109.01(3) of the Election Act provides that an individual must not act under this section to assist more than one voter in an election.

Election Act at s. 109.01(3).

53. Section 109.01(5)(b.1) of the Election Act provides that an individual who is assisting a voter under this section must:

- (a) preserve the secrecy of the ballot in accordance with section 90;
- (b) if needed, mark the ballot in accordance with the directions of the voter;
- (b.1) write the individual's name on the certification envelope of the voter's mail-in voting package, and
- (c) refrain from attempting in any manner to influence the voter as to how the voter should vote.

Election Act at s. 109.01(5)(b.1).

54. Section 109.01(8) of the Election Act provides that an individual must not provide assistance as a translator under this section unless the individual is able to make the translation and makes it to the best of the individual's abilities.

Election Act at s. 109.01(8).

55. In the present matter, section 109.01(1), (2), (3), (5)(b.1), (c) and (8) were all contravened and this materially affected the results of the Election.

#### Against Public Policy For Begg/Elections BC to Rely on Limitation Period

56. There is a general theme in the case-law that the Crown should not be allowed to benefit, through legislation or by any other means, from its own wrongdoing because allowing it do so is against public policy. This theme can be found in case-law premised on section 24 of the Charter, which prevents the Crown from relying on evidence wrongfully acquired, and in international arbitration cases where the Crown is not permitted to capitalize on uncertainties that it itself created (See Gemplus S.A., SLP SA., Gemplus Industrial S.A. de C.V. v. The

United Mexican States, ICSID Case No. ARB (AF)/04/3). Furthermore, this theme is threaded through the concept of equitable fraud, and in the Supreme Court of Canada decision *Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14 where the Supreme Court of Canada held at para. 141 that to allow the Crown to shield its unconstitutional actions with the effects of its own legislation is fundamentally unjust.

*Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14 at para. 141.

57. Here, the Crown (the legislature) is abusing legislation that it enacted, directing a Chief Electoral Officer that it appointed, and relying on the conduct of an Officer that it created, to benefit from its own unconstitutional conduct. This is contrary to public policy.

58. Elections BC, the Officer of the Legislature, actively concealed and/or obstructed a candidate's ability to investigate into potential wrongdoings notwithstanding the fact at all times Elections BC stood in a special relationship vis-à-vis Randhawa. Election BC's obstruction and concealment prejudiced the voters and Randhawa's respective constitutional right under section 3 to a fair election, undermined electoral integrity, compromised public confidence in our democracy, and is against public policy.

59. Section 3 of the Charter provides that every citizen of Canada has the right to vote in an election of members of a legislative assembly and to be qualified for membership therein. Section 3 of the Charter incorporates the concept of "electoral fairness." "Electoral fairness" includes fairness to constituents and candidates. Conduct that breaches the concept of "electoral fairness" amounts to unconstitutional conduct.

60. The Court has defined the scope of Section 3's protection to safeguard the free and open participation of citizens in the electoral process.

*Ontario (Attorney General) v. Working Families Coalition (Canada) Inc.*, 2025 SCC 5 at para. 29.

61. Elections BC's, the Officer of the legislature, obstruction and concealment also flies in the face of the division of powers in that the Officer of Legislature, Executive, and Legislature is now

attempting to rely on a limitation period to oust the judiciary's ability to investigate into matters that touch upon constitutional issues. This constitutes an unconstitutional intrusion into the judicial realm and flies against public policy.

62. The seriousness of Begg's unconstitutional conduct cannot be downplayed as a mere irregularity and Begg and Elections BC must be estopped from relying on the 30-day limitation period to benefit from their own wrongdoing. This was a situation where the legislature, through its Officer, sent mail-in ballots to a mental health care lodge responsible for taking care of vulnerable people without ensuring there were proper checks and balances in place to ensure those vulnerable individuals were not exploited and utilized as an instrument for election fraud, thereby infringing on Randhawa's and the public's right to a fair electoral process under section 3 of the Charter. The Crown can never be permitted to say "yes, we made a mistake but too bad too sad you are now out of time" even though it was the Crown itself that obstructed Randhawa's ability to discover the Crown's wrongdoing. To allow Begg and Elections BC to rely on the 30-day limitation period, would be against public policy.
63. The maxims of equity are of significance, for they reflect the ethical quality of the body of principles that has tended not so much to the formation of fixed and immutable rules, as rather to a determination of the conscientiousness or justice of the behavior of the parties according to the recognized moral principles. The ethical quality remains and its presence explains to a large extent the adoption by courts of equity of broad general principles that may be applied with flexibility to new situations as they arise.

*Pro Swing Inc. v. ELTA Golf Inc.*, 2006 SCC 52 at para. 22.

### Costs

64. Section 152(1) of the Election Act provides that if the Court declares that a candidate is not qualified to hold office or that an election is invalid, the costs, within the meaning of the Supreme Court Civil Rules, of the individual who made the application under section 150 must be paid promptly by the chief electoral officer.

Election Act at s. 152(1).

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#### **Part 4: MATERIAL TO BE RELIED ON**

78. Affidavit of Parminder Mannan, sworn dated 9th January, 2025.
  79. Written statement of Voter R witnessed dated 28th December, 2024.
  80. Affidavit of Bhavika Manchanda, sworn dated 2nd January, 2025.
  81. Affidavit #1 of Prabhleen Kaur, sworn dated 3rd January, 2025.
  82. Affidavit #2 of Prabhleen Kaur, sworn dated 3rd January, 2025.
  83. Affidavit of Sarika Dhall, sworn dated 4th January, 2025.
  84. Statutory Declaration of Voter S, sworn dated 21st December, 2024.
  85. Affidavit of #1 Jatinder Singh, sworn dated 4th January, 2025.
  86. Affidavit #2 of Jatinder Singh, sworn dated 5th January, 2025.

87. Affidavit of Honveer Singh Randhawa, sworn dated 6th January, 2025.
88. Such further and other materials as the Petitioner may present under the Rules.

Date: June 16, January 10, 2025

  
.....

Signature of [ ] petitioner  lawyer for petitioner(s)  
**Honveer Randhawa****Sandeep Uppal**

***To be completed by the court only:***

Order made

[ ] in the terms requested in paragraphs ..... of Part 1 of this petition  
[ ] with the following variations and additional terms:

.....  
.....  
.....

Date: .....[date].....

Signature of [ ] Judge [ ] Associate Judge