



Statement from Mayor Helps on Today's Supreme Court of Canada Decision Not to Hear the City's Appeal on Checkout Bag Regulation Bylaw

Date: Thursday, January 23, 2020

For Immediate Release

VICTORIA, BC — Mayor Lisa Helps issued the following statement today about the Supreme Court of Canada ruling that it will not hear the case about the City's Checkout Bag Regulation Bylaw. As is customary, the Court did not issue reasons for its ruling. The granting or denial of the leave does not signify that the Court agrees or disagrees with the lower court ruling.

"While we are disappointed that the Supreme Court of Canada will not hear the case, there are other avenues for us to achieve our goals of eliminating plastic checkout bags and reducing waste in our community.

"Thanks to our Checkout Bag Regulation Bylaw, our community has eliminated more than 17 million plastic bags from reaching the landfill. That achievement is too great for us to turn our backs on. And our recent scans tell us that our community continues to avoid plastic bags despite these setbacks."

"We've embarked on a Zero Waste Strategy to deliver on what our residents have told us is a clear priority. Approximately one-third of the trash in the city's public waste bins are single use items. People are throwing away 25,000 individual single use items every day, including 13,000 coffee cups. That's not sustainable and needs to change."

"Moving forward, we're going to continue to look for every opportunity to reduce plastic waste, which includes working with our provincial and national governments to develop high and shared standards. We're confident we will see bold leadership from the Province of B.C. in their Plastics Action Plan."

Background

The City of Victoria's Checkout Bag Regulation Bylaw came into effect on July 1, 2018 and regulated businesses providing checkout bags to customers and included restrictions on the use of plastic checkout bags. The bylaw was developed with extensive input from local businesses, industry and the community during a two-year engagement period. The implementation of the City's checkout bag bylaw in 2018 was enthusiastically embraced by both businesses and customers and was used as a model by a number of other B.C. municipalities.

The bylaw was challenged by the Canadian Plastic Bag Association, an industry lobbying group, that alleged the bylaw was not a valid business regulation but rather an environmental regulation that required provincial approval prior to adoption by the City.

The Association's challenge was dismissed by the BC Supreme Court in June 2018 when the judge found that the bylaw was, in fact, a business regulation and that any environmental effect of the bylaw was merely incidental and secondary to its main purpose to regulate business checkout transactions. In July 2019, the BC Court of Appeal overturned the lower court's finding when it concluded that the purpose of the bylaw was the protection of the natural environment and that it required approval from the Province of B.C. prior to being enacted.

After careful review, the City decided to ask the Supreme Court of Canada to review the Court of Appeal decision to clarify a municipal government's power to regulate unsustainable business practices that negatively impact the community.

The City believes that the Court of Appeal applied a very restrictive interpretation of municipal power to regulate business, which could potentially affect other municipal bylaws not only in Victoria but across B.C. and in other provinces that have similar municipal legislation.

Victoria has made sustainable business practices the new norm. Since the bylaw's introduction, the community has eliminated more than 17 million plastic bags from the waste stream which will result in both short-term and long-term cost savings for waste management. Although the Checkout Bag Regulation Bylaw has been set aside and has not been in effect since the Court of Appeal decision on July 11, most businesses in Victoria continue to operate as if the bylaw was still in effect – a testament to the wide community support of the bylaw.

— 30 —

For More Information

Bill Eisenhauer

Head of Engagement

Cellular: 250.858.1061

beisenhauer@victoria.ca