From: Christopher Bray [cbray@sover.net]
Sent: Tuesday, May 05, 2015 8:20 PM
To: Springer, Darren
Subject: re litigation cost recovery

Erika's on her way back in (she lives two minutes away) so that I can get version 2.4 and get it to the committee this evening.

RE recovery provision
It was drafted back when this was coming through the municipalities -- whereas now it's (as I understand it) the municipalities write bylaws or ordinances and it's the PSB that ... considers them? ensures conformance with them?

In short, does the PSB have discretion in issuing the CPG in terms of what an applicant must comply with? If yes, then it would make no sense to have the muni liable for discriminatory regulation (e.g. prohibitive screening requirements), because it would actually have been the PSB that interpreted the muni requirement.

I'll pause here because without the actual amendment's language, it doesn't make sense to try to work on this.

BUT ... here's the concept: provide some financial incentive to towns to be reasonable because if they're found not to be reasonable, they lose not just the case but also pay 1/2 of the applicant's legal fees.

I'd like to ensure we maintain balance for all parties in the new paradigm -- not just let the munis gain too much control.

--C

On May 5, 2015, at 8:00 PM, Springer, Darren wrote:

> Just took a look at this one. My take is if you approve the new Campbell amendment 2.4 it is clear that screening provisions offered by locality will be decided within 248 process by PSB, instead of litigation, and that should make cost recovery for an applicant moot.