

D. Alexander #4
August 31, 2004

No. S013235
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SUN PEAKS RESORT CORPORATION

PLAINTIFF

AND:

**JANICE BILLY, AMANDA SOPER, NICOLE MANUEL,
JOHN DOE, JANE DOE and other persons unknown to the
Plaintiff acting in concert with them**

DEFENDANTS

AFFIDAVIT

I, Darcy L. Alexander, businessman, of 1280 Alpine Road, Sun Peaks, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Vice President and General Manager of the Plaintiff Sun Peaks Resort Corporation ("Sun Peaks") and as such I have personal knowledge of the facts and matters hereinafter deposed to save and except where the same are stated to be made upon information and belief and where so stated I verily believe them to be true.
2. Sun Peaks is a company which operates a ski and recreation resort at Sun Peaks, British Columbia. In an earlier affidavit prepared in this action I have described the precise location of the recreation facilities of Sun Peaks and attached a copy of the Master Development Agreement between the Province of British Columbia and the predecessor to Sun Peaks.

3. For several years a small group of native protestors has objected to development at Sun Peaks. The named Defendants are among that group, as is Art Manuel who was formerly the Chief of the Neskonlith Band.

4. This action was commenced in June of 2001 when various groups of these protestors entered upon the Sun Peaks licence area and refused to leave. There were various activities, including occupation of a cabin at McGillivray Lake and setting up a protest camp in another area. In July of 2001 Sun Peaks obtained an injunction to prevent various protestors from maintaining one protest camp. In December of 2001 Sun Peaks obtained another injunction prohibiting the protestors from occupying any tent or other structure at or near the Mt. Morrissey connector ski run for a six month period, and the Attorney General of British Columbia obtained another injunction preventing them from occupying a cabin at McGillivray Lake.

5. There have been no further occupations since December of 2001, but on Sunday August 29, 2004, a number of protestors attended at an area on the fairway of the 16th hole of the golf course that is being constructed in the Controlled Recreation Area and set up a protest camp. I have been advised by Francis Argouin and verily believe that one of the protestors is Janice Billy, who was one of the group enjoined in 2001, and that others are from the same group. I understand that Mr. Argouin has sworn an Affidavit identifying some of the persons who are participating in the protest camp. Based on comments I have heard attributed to these protestors I believe their intention is to protest development at Sun Peaks.

6. The area where the protest camp is located is within what is called the Controlled Recreation Area, on land over which Sun Peaks has a licence of occupation. Now produced and shown to me and marked Exhibit "A" to this my Affidavit is a copy of the licence of occupation.

7. Attached as Exhibit "B" is a map showing the Controlled Recreation Area which is referenced in the Master Development Agreement. The Controlled Recreation Area is the area which Sun Peaks has the authority to occupy and regulate. Attached as Exhibit "C" is an expanded map of the base area. I have marked on this map the location of the protest camp.

8. This is a particularly difficult time for these people to be setting up this camp in this location. This week we are in the final stages of a real estate development project whereby two

parcels of land are to be acquired by two development companies so that they can construct a condominium development and a townhouse development. The location of the protest camp is quite near the location of the development sites and I am concerned that if the camp is not removed it will have a very negative effect on sales efforts. This type of development is important to Sun Peaks' business operations, as real estate sales are increasingly important to any recreational development. Sun Peaks is a joint venture partner in one of these real estate developments.

9. In 2001, Janice Billy, Nicole Manuel and her friends claimed to represent the Neskonlith Band. I do not believe they have any right to do so any longer. Art Manuel is no longer the Chief of the Neskonlith Band, and the Shuswap Nation Tribal Council, which does represent local bands, has issued a press release objecting to this protest. Now produced and shown to me and marked Exhibit "D" to this my Affidavit is a copy of the press release.

10. It is very important to Sun Peaks Corporation that these protestors be removed as soon as possible. There is cleanup work that is required on the golf course within the next few weeks while the weather is reliable in order to prepare the golf course for opening next spring. If we are significantly delayed in this work, we run the risk of not being able to open next spring. Sun Peaks has already spent over six million dollars on the golf course and any delays in completing work on the course, so that growth can take hold this fall and the course be available for use next spring, would have a significant impact on the Company.

11. As well, I am concerned that if these individuals are not removed from the area quickly there is a danger of escalating incidents. I base this concern on events three years ago when these individuals and their allies intimidated other users of the resort area and seemed to grow bolder the longer they were permitted to squat on the land.

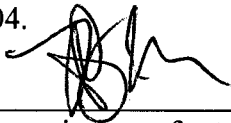
12. It was necessary in 2001 to obtain the RCMP authorization before the protestors would leave and even then, some did not and were arrested. On that basis the Plaintiff seeks the RCMP authorization as part of this Order. I have previously been advised by RCMP officers that it is

RCMP policy not to enforce the Court's injunctions unless the authorization is included as part of the terms of the Order.

13. I am authorized to undertake on behalf of the Plaintiff and do so undertake to the Court that the Plaintiff will abide by any order the Court may make as to damages in the event that this Court should be of the opinion that the Defendants have sustained damages by reason of making this Order which the Plaintiff ought to pay.

14. I make this Affidavit in support of an application for an order requiring the persons identified in the Affidavit of Francis Argouin and other persons acting in concert with them to leave the area of the protest camp, and preventing them from occupying any part of the Controlled Recreation Area without the Plaintiff's written permission.

SWORN BEFORE ME in the City of Kamloops, in the Province of British Columbia, on this 1 day of September, 2004.



A commissioner for taking affidavits in British Columbia

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WITNESSED AS TO EXECUTION ONLY.
NO ADVICE SOUGHT OR GIVEN.



DARCY ALEXANDER