

CANADA / JUDGMENT

R. v. Crawford

2025 BCSC 2543

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 2543 R. v. Crawford IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: R. v. Crawford, 2025 BCSC 2543 Date: December 23, 2025 Docket: 91758-1 91758-3 94268-1 94268-3 Registry: Abbotsford Rex v. Cindy Charlene Crawford, Rusty Alexander Crawford and Northside Transport Ltd. Before: The Honourable Justice Ormiston On appeal from: Decisions of the Provincial Court of British Columbia, dated December 5, 2022 (Abbotsford Registry File 91758-1) and June 20, 2023 (Abbotsford Registry File 94268-1). Reasons for Judgment at Summary Conviction Appeal Counsel for the Crown T.J. DeSouza S. Currie-Roberts Counsel for the Appellants: R.W. Cooper, K.C. Place and Date of Hearing: Abbotsford, B.C. June 25, 2025 Place and Date of Judgment: Abbotsford, B.C. December 23, 2025 Table of Contents Background.. 3 Issues and Positions of the Parties. 4 Additional Evidence on Appeal. 4 Analysis. 6 Is the Bylaw Ultra Vires?. 6 Did the Appellants' operate a farm business on the property?. 9 Is the Bylaw in conflict with provincial legislation?. 10 Conclusion.. 11

[1] This is an appeal of two separate decisions made in the Provincial Court of British Columbia. In both trials, the appellants were found guilty on multiple counts of violating an Abbotsford city bylaw that restricts the storage of unauthorized commercial vehicles. On December 5, 2022, a judge of the Provincial Court convicted the appellants on Information 91758-1. On May 16, 2023, the same appellants were convicted by a different Provincial Court judge on Information 94268-1. The legal issues were identical, and the Court in the latter case applied the doctrine of stare decisis adopting the reasoning of the first trial judge.

Background

[2] At the relevant time the appellants, Rusty and Cindy Crawford, jointly owned and lived at a property on Huntington Road, in Abbotsford. The property is zoned as A1 agricultural land within the Agricultural Land Reserve ("ALR"). The appellant, Northside Transport Ltd., is a company owned and operated by Mr. Crawford, and its operations are based out of the property at issue.

- [3] The convictions were entered on the basis that the Crawfords stored multiple commercial vehicles on their property. This was found to be a violation of s. 140.5.6(c) of Abbotsford Zoning Bylaw No. 2400-2014 ("the Bylaw") which states[1]: In the A zones, the parking or storage of commercial vehicles whose use is not customarily incidental to the permitted uses of the zone is prohibited, except that, a maximum of two commercial vehicles may be parked or stored on a lot if:
- i. The commercial vehicles are registered in the Province of British Columbia; ii. the registered owner of at least one of the commercial vehicles is a resident of the lot; iii. the commercial vehicles are not used for hauling solid waste, sewage, hazardous materials or dangerous goods; and iv. the parking or storage of the commercial vehicles on the lot complies with all statutes, law, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction, relating in any way to the environment, health, nuisance or occupational health and safety. Issues and Positions of the Parties
- [4] The appellants assert that the trial judge erred in finding:
1. s. 140.5.6(c) of the Bylaw was validly enacted;
 2. that a farm business was not operated on the property; and
 3. s. 140.5.6(c) of the Bylaw is not in conflict with the Agricultural Land Commission Act, S.B.C. 2002, c. 36 [ALCA].
- [5] First, the appellants argue, as they did at trial, that enactment was invalid because it required approval by the Minister of Agriculture pursuant to s. 481(2) and s. 552 of the Local Government Act, R.S.B.C. 2015, c. 1 [LGA]. These two sections put restrictions on the municipal power to regulate farm business and farmland. While the respondent concedes that such approval was not granted, they submit it was not required. The respondent agrees that if the court finds ministerial approval was required to enact the Bylaw, then it is invalid as an ultra vires exercise of the City's power.
- [6] Second, the appellants maintain that the trial judge erred in deciding that 'keeping animals' on the property is not, on its own, sufficient to meet the definition of a 'farm business' or 'farm operation' as these terms are defined in the legislation. Finally, the appellants submit that the Bylaw is contradicted by paramount legislation, namely the ALCA, which states at s. 46(2) that local governments must ensure their bylaws are consistent with this provincial legislation. The parties agree that all issues raised on appeal are questions of law, reviewable on a standard of correctness. Additional Evidence on Appeal
- [7] The appellants also seek to rely on additional evidence that was not before the trial court. Specifically, the appellants have produced affidavits sworn in May and June of 2025 supporting their contention that the City has sought and received ministerial approval for amendments to the same Bylaw, during and after the trial before the trial judge in 2022.

- [8] The admission of additional evidence on appeal is governed by *Palmer v. The Queen*, [1980] 1 S.C.R. 759, 1979 CanLII 8 (S.C.C.) at p. 775. I accept that the evidence proffered by the appellants is credible. However, even if the appellants could successfully establish that the evidence could not have been produced at trial, I cannot find that the remaining branches of the Palmer test have been satisfied. In order to be admissible, new evidence must bear upon a decisive or potentially decisive issue at the trial and it must reasonably be capable of affecting the result at trial, when taken with the other evidence heard by the trial judge. The overarching consideration is whether admission of the evidence accords with the interests of justice. The test in *Palmer* is meant to balance the need for finality in orders made at trial, and the flexibility required to serve the truth-seeking function of our judicial system.
- [9] The appellants maintain that the trial judge's decisions about whether or not ministerial approval was required to enact the Bylaw may have been different if they had known that the approval the City was arguing they did not need, was in fact sought and granted around the time of the trial. In my view, the City's conduct is not relevant to the issues decided by the trial judge, nor could these new facts have affected his decision. The issue before the trial court was one of statutory interpretation, based in the language and context of the Bylaw. The City's own view of the Bylaw is not determinative of the questions the court had to answer about the meaning of the LGA or the ALCA (*Denman Island Local Trust Committee v. Ellis*, 2007 BCCA 536, *aff'd* on appeal at para. 52). In addition, the new evidence from June 2025 was produced by the appellants late in the day, without an opportunity for the City to respond, which weighs against its admission. There has never been a formal application made in relation to the May affidavit.
- [10] Ultimately, the fact that the trial judge was not apprised of this evidence about subsequent efforts to secure ministerial approval does not detract from his interpretation of the legislation. The City's conduct years after the bylaw was enacted, and in the context of the appellant's assertions of invalidity at trial, is not tantamount to a concession that ministerial approval was in fact required to enact the Bylaw. In my view, the evidence the appellants seek to tender is not capable of impacting the trial judge's analysis, nor would it impact the decisions being made on appeal. I am not satisfied that admitting the additional evidence on appeal is necessary or justified.

Analysis

Is the Bylaw Ultra Vires?

- [11] Turning to the alleged errors of law, the appellants first argue that the trial judge erred in finding that enactment of the Bylaw did not require approval by the Minister of Agriculture. It is not in dispute that ss. 481(2) and 552 of the LGA bind the City in relation to their legislative powers. The respondent concedes that if ministerial approval was required to enact the bylaw, then the bylaw is invalid, and the convictions must be overturned.

- [12] Section 481(2) of the LGA states: Despite section 479 [zoning bylaws] but subject to this section, a local government must not exercise the powers under that section to prohibit or restrict the use of land for a farm business in a farming area unless the local government receives approval of the minister responsible for the administration of the Farm Practices Protection (Right to Farm) Act. [Emphasis added.]
- [13] Section 552 states:
- (2) A local government may make bylaws in relation to farming areas as follows:
- (a) respecting the conduct of farm operations as part of a farm business;
 - (b) respecting types of buildings, structures, facilities, machinery and equipment that are prerequisite to conducting farm operations specified by the local government and that must be utilized by farmers conducting the specified farm operations;
 - (c) respecting the siting of stored materials, waste facilities and stationary equipment;
 - (d) prohibiting specified farm operations. []
- (4) Unless exempted under subsection (5), a bylaw under subsection (2) may be adopted only with the approval of the agriculture minister.
- [14] It is not controversial that the appellant's land is in a 'farming area' to which ss. 481 and 552 apply. The appellant submits that the trial judge fell into error by deciding that validity of the Bylaw depends on whether it restricts non-farm use, when the determinative issue was whether the Minister of Agriculture had given approval for the Bylaw. I cannot agree with the appellant's characterization of the trial judge's decision. The task of the trial judge was to interpret ss. 481 and 552 of the LGA and decide whether or not ministerial approval was required to enact the Bylaw. The live issues are whether the Bylaw (i) restricts the use of land for a farm business contrary to s. 481(2); or (ii) regulates a farming area in the ways set out in s. 552. If either question is answered in the affirmative, then ministerial approval was required and the Bylaw is invalid.
- [15] Turning first to s. 481(2), the appellants argue this sub-section prohibits the City from enacting bylaws that restrict the use of farmland in a farm area, however I agree with the trial judge the prohibition created by s. 481(2) is not as broad as the appellants suggest. In my view, the appellant's position does not account for the full wording of s. 481(2), which states that the City cannot restrict the use of land for a farm business in a farming area.
- [16] Given that the City is only prohibited from restricting the 'use of land for a farm business,' I can find no error in the trial judge deciding that the application of s. 481(2) requires some consideration of the nature of the restriction, and specifically whether it impacts farm business.

- [17] Similarly, s. 552 provides that local governments can make bylaws in relation to farming areas "respecting the conduct of farm operations as part of a farm business," but only with ministerial approval. The trial judge reasoned that the Bylaw does not in fact regulate farm business but rather regulates storage of vehicles that are not incidental to agricultural uses. Section 140.5.6(c) is one of a series of provisions in the Bylaw regulating commercial vehicle parking in different zones, including but not limited to farming areas.
- [18] I agree with the trial judge's reasoned conclusion that the Bylaw's dominant characteristic is the regulation of commercial vehicle parking, and not the regulation of land used for farm businesses. The express wording of s. 140.5.6(c) purposefully avoids regulating commercial vehicles that are customarily incidental to the permitted use of the zone. By definition, the Bylaw only prohibits the storage of vehicles that are unrelated to farm business. In addition, s.140.5.6(c) is one of a series of provisions in the Bylaw regulating commercial vehicle parking in different zones, including but not limited to farming areas.
- [19] There is no logical support for the appellant's contention that regulating the storage of commercial vehicles that are not even incidental to farm operations is capable of restricting the use of land for a farm business, which is required to bring it within the ambit of s.481(2).
- [20] The trial judge's reasoning regarding the scope of the Bylaw also applies to the interpretation of s. 552. While the appellant submits that s. 552 requires ministerial approval for any municipal regulation of farmland, this is at odds with the specific wording of sub-section (2). It is only bylaws made respecting the enumerated aspects of farming that require ministerial approval according to s. 552(4). For the same reasons given above, I cannot find the Bylaw regulates the 'conduct of farm operations as part of a farm business,' which would fall within the scope of s. 552(2)(a).
- [21] The appellants have not identified any other sub-section in s. 552 that could reasonably be engaged by the Bylaw. The 'commercial vehicles' regulated by the Bylaw are not 'stationary equipment' as per sub-section (2)(c). And, while sub-section (2)(b) mentions 'machinery and equipment,' these must be 'prerequisite to conducting farm operations specified by the local government and that must be utilized by farmers conducting the specific farm operations.' In contrast to the aspects of farm operations that fall within the scope of s.552, the Bylaw only regulates vehicles that are not customarily incidental to farming operations.
- [22] In conclusion, I find that the trial judge correctly decided the Bylaw falls outside of the scope of s. 480(2) and s. 552(2), and as such it was a valid exercise of the City's power. Did the Appellants' operate a farm business on the property?
- [23] I also find the trial judge's determination regarding the actual use of the land by the appellants to be correct. The trial judge's conclusion that the appellants were not operating a 'farm business' is amply supported by the evidence at trial. The term 'farm business' is defined in the legislation as 'a business in which one or more farm operations are conducted.' (s. 455 LGA and s. 1 of the Farm Practices Protection (Right to Farm) Act, R.S.B.C. 1996, c. 131 [FPPA]). The appellants rely on the definition of 'farm operations,' which

includes 'growing, producing, raising or keeping animals.' (s. 1, FPPA), in submitting that nothing more than these activities is required to meet the broad definition of a farm business.

- [24] If the appellant's interpretation were adopted, then I would find Mr. Crawford's evidence that he keeps a few horses and miniature donkeys sufficient to constitute a farm business. However, the appellant's position that merely keeping animals falls within the statutory definition ignores the full meaning of a 'farm operation.' According to the statutory definition, a farm operation is not only 'keeping animals,' but doing so must be 'involved in carrying on a farm business.' The appellant's interpretation gives no meaning to the word 'business' in the definitions of 'farm business' and 'farm operation.'
- [25] In my view, the trial judge's reasoning that keeping animals, essentially as pets, does not fall within the scope of farm business, is well supported by the language of the legislation. The ordinary meaning of 'a business' entails an aspect of commerce, trade or economic activity. This meaning is consistent with the definition of 'farm operation' which reads: "'farm operation' means any of the following activities involved in carrying on a farm business." [Emphasis added.] While the evidence of Mr. Crawford about his animals may be within the list of activities listed in s.1, there is no basis to find that the appellants kept animals as part of carrying on a farm business. I cannot accede to the appellant's argument that the trial judge erred in finding that the appellants did not conduct farm business on their property. Is the Bylaw in conflict with provincial legislation?
- [26] Finally, the appellants submit that the Bylaw conflicts with paramount provincial authority in the ALCA. Section 46(2) of the Act provides that local governments must ensure its bylaws are consistent with the ALCA. Section 46(5) states that a bylaw will be deemed inconsistent where it (a) allows use of land in the ALR that is not permitted under the Act, or (b) contemplates a use of land that would impair or impede the intent of the Act, the regulations or an order of the commission, whether or not that use requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order. Section 46(6) clarifies that a local government bylaw restricting farm use of land in the ALR in addition to those provided for in the Act, are not, for that reason alone, inconsistent with the Act.
- [27] The appellants argue that because the Bylaw at issue permits storage of two commercial vehicles on agricultural land, it is inconsistent with the ALCA by operation of s. 46(5)(a) which says that a bylaw is inconsistent where it allows use of land that is not permitted under the Act. The appellants submit that because the ALCA does not expressly permit the parking of commercial vehicles on ALR land, the City cannot allow it either.
- [28] This ground of appeal must ultimately fail regardless of whether the Bylaw allows a use of ALR land that is not permitted under the Act. This is because the statutory remedy for such an inconsistency would still result in a Bylaw that was violated by the appellants. Section 46(4) states that where a bylaw is inconsistent with the Act, it is only "to the extent of the inconsistency, no force or effect." Where there are no inconsistencies, s. 46(3) establishes

that nothing in the ALCA affects or impairs the validity of a local government bylaw relating to the use of land in the ALR.

- [29] If s. 140.5.6(c) is read down to exclude the allowance for parking two commercial vehicles, the result would be a bylaw that simply prohibits the storage of commercial vehicles whose use is not customarily incidental to the permitted use of the zone. On the facts found by the trial judge, the appellants remain guilty of the charges on which they were convicted. The appellants go on to argue that the trial judge's reasoning still results in a bylaw that is inconsistent with the ALCA because it continues to permit the parking and storage of vehicles that are customarily incidental to farm use.
- [30] I cannot accede to this submission. For the reasons outlined by the trial judge, the Bylaw does not contemplate a use of land that would impair or impede the intent of the ALCA, in fact the Bylaw appears to have been intentionally crafted to avoid treading into the Province's exclusive jurisdiction over the ALR. The Bylaw does not expressly allow the storage of commercial vehicles incidental to the permitted uses of the zone, rather, it exempts them from its regulatory scope.
- [31] However, even if the exemption for farm-related commercial vehicles were to be considered inconsistent with the ALCA, when the Bylaw is read down to remove this additional alleged inconsistency (as per s. 46(4)), the Bylaw would then prohibit the parking or storage of all commercial vehicles. Again, the appellants would remain in violation of the Bylaw based on the unchallenged facts found by the trial judge.

Conclusion

- [32] Having found no errors in the Reasons of the Provincial Court in convicting the appellants on Information 91758-1, the appeal on files 91758-1 and 94268-1 is dismissed. "Ormiston J."
- [1] The section under which the appellants were convicted is now s. 140.5.4.(c)

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