

# Fulton.

## Notice Requirements for AAPs: *Wunderlich v. City of Kamloops, 2025 BCSC 555*

Fulton recently represented the City of Kamloops in a legal challenge of two loan authorization bylaws adopted by way of the Alternative Approval Process (“AAP”). The resulting decision has implications for local governments conducting AAPs across British Columbia.

### Background

On September 24, 2024, the City of Kamloops adopted two loan authorization bylaws:

1. The Kamloops Center for the Arts Loan Authorization Bylaw No. 57-1, 2024 (the “Performing Arts Bylaw”); and
2. The Arena Multiplex and Future Development Loan Authorization Bylaw No. 57-2, 2024 (the “Arena Bylaw”).

(collectively, the “Loan Authorization Bylaws”)

The Loan Authorization Bylaws were adopted following elector approval by way of two AAPs pursuant to ss. 84 and 86 of the Local Government Act (the LGA). Pursuant to the AAP process outlined in the LGA, the City was required to publish statutory public notice of the AAPs in accordance with ss. 94 – 94.2 of the Community Charter.

Since the City had no print newspaper, the City could not provide public notice by way of the default newspaper notice contemplated in the Act. Instead, the City was authorized to publish notice by “alternative means” that Council considered “reasonably equivalent” to publication by newspaper. Accordingly, the City provided public notice of the AAPs by way of the public notice board at City Hall and the City’s website. The City conducted the AAPs and accepted elector response forms opposing the projects. Following the conclusion of the submission period, the City’s Corporate Officer certified that elector approval had been obtained with respect to both Loan Authorization Bylaws and Council adopted the Bylaws.

### Legal Challenge of the AAPs

A Petitioner filed a Petition in the BC Supreme Court seeking to set aside the Loan Authorization Bylaws under section 623 of the LGA. The Petitioner argued that the Bylaws were invalid because the City had not complied with the public notice requirements for the AAPs. Specifically, the Petitioner argued that the City’s publication of notice on its website was insufficient to meet the statutory requirements for public notice. Among other reasons, the Petitioner argued that website notice was insufficient because it was inaccessible to seniors and those without internet access.

The Court dismissed the Petition in its entirety. Applying the Vavilov test, the Court found that the City’s actions in giving notice of the AAPs by way of the City’s website and public notice board were reasonable and therefore complied with the requirements of the LGA.

## Takeaways

This case is one of the only court decisions in BC interpreting s. 94.1(3) of the Community Charter and what constitutes “reasonably equivalent” alternative means of public notice for AAPs where default newspaper notice is not possible. This decision:

- reiterates that a court may not quash a bylaw under s. 623 of the LGA unless the adoption of the bylaw was unreasonable; and
- highlights the evidence that municipalities can adduce to show the reasonable equivalency of their methods of “alternative means” of public notice.

In light of this decision, municipalities conducting AAPs should review their public notice procedures to ensure that they:

- provide default public notice by way of newspaper within the frequencies specified in the Community Charter;
- provide public notice in accordance with a public notice bylaw adopted under s. 94.2 of the Community Charter; or
- have implemented alternative means of public notice that Council has considered to be “reasonably equivalent” to newspaper notice and can adduce evidence of such reasonable consideration upon legal challenge.

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