

December 3, 2020

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BULLETIN: Update on Judicial Review Proceedings in the Supreme Court of BC

On June 12, 2020, Prokam Enterprises Ltd. and CFP Marketing Corporation commenced judicial review proceedings in the Supreme Court of British Columbia concerning a series of decisions made by the BC Vegetable Marketing Commission (Commission) and the BCFIRB between October, 2017 and January, 2020.

The Commission and the BCFIRB each brought on applications to strike out the Petition on the grounds that (a) it disclosed no reasonable claim; (b) it is unnecessary, scandalous, frivolous or vexatious; and (c) it is otherwise an abuse of the process of the court. The applications to strike the petition were heard by the Court on October 22 and 23, 2020 and the petition was scheduled to be heard over 5 days commencing next week on December 7, 2020.

On December 2, 2020 oral reasons were delivered by the Court. The Court found that the Commission and the BCFIRB were each entirely successful in their applications and the Petition was struck out by the Court in its entirety.

Among other things, the Court found that the statutory right of appeal to the BCFIRB presents an adequate alternative remedy which, in the circumstances of this case, operates as a discretionary bar to judicial review of decisions made by the Commission. In addition, the Court held that the Petitioners' efforts to seek judicial review of decisions made by the Commission, after they had initiated and participated in appeals from those decisions to the BCFIRB, constitutes an abuse of the process of the Court. The Court affirmed BCFIRB's role as an expert decision-maker vested with first-instance appellate and supervisory jurisdiction.

The Commission will be proceeding with making a written submission with respect to costs.

Yours truly,



Andre Solymosi, General Manager