



Metro Vancouver's bubble tea boom

Demand for the sweet Asian tea-based beverage has stirred up local competition | Page 6

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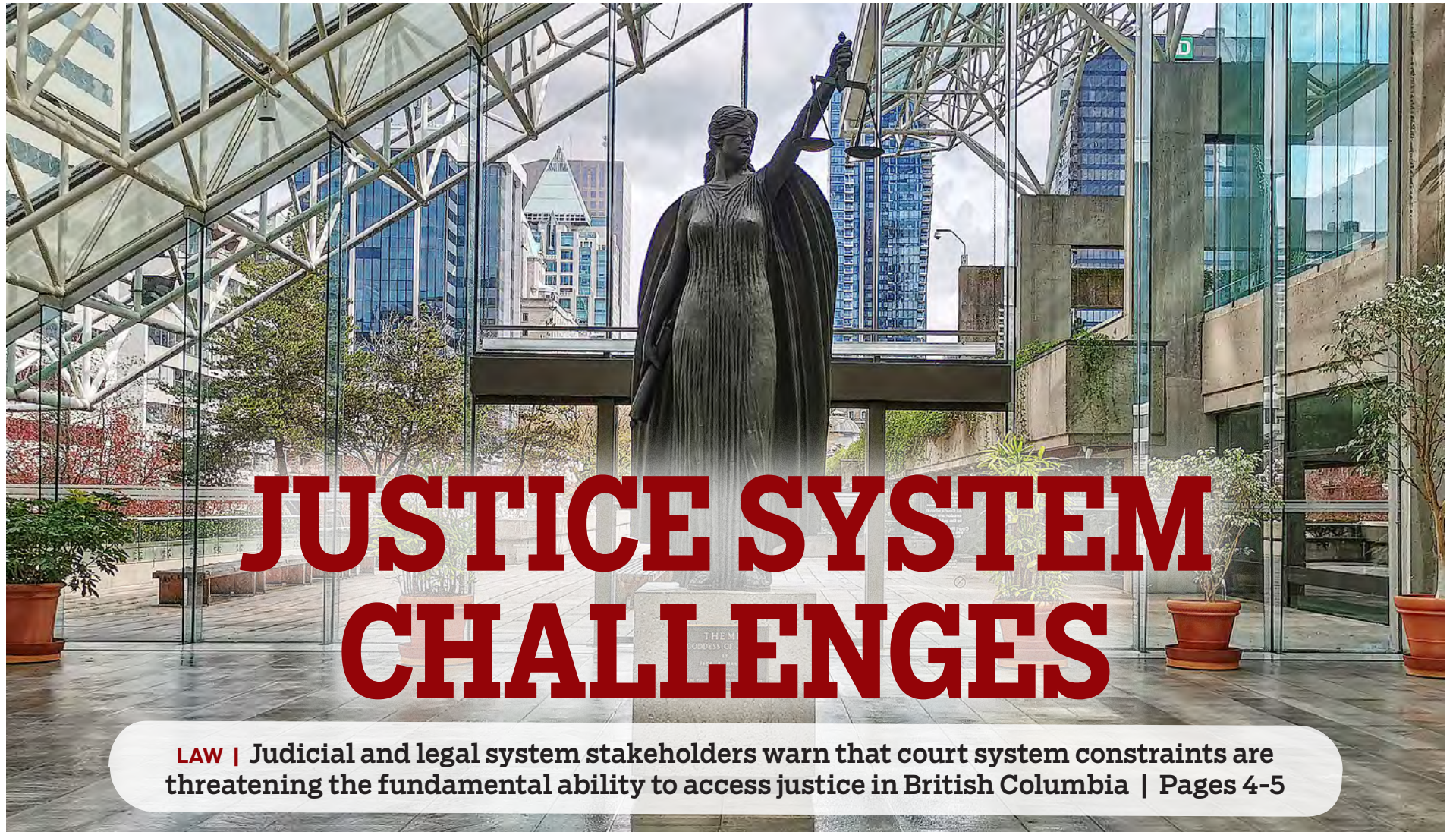


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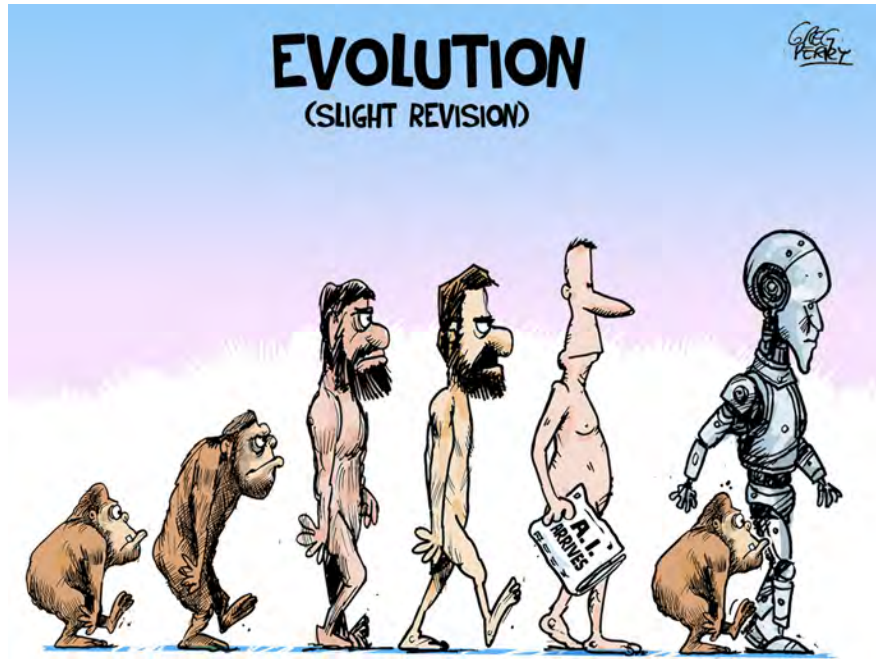


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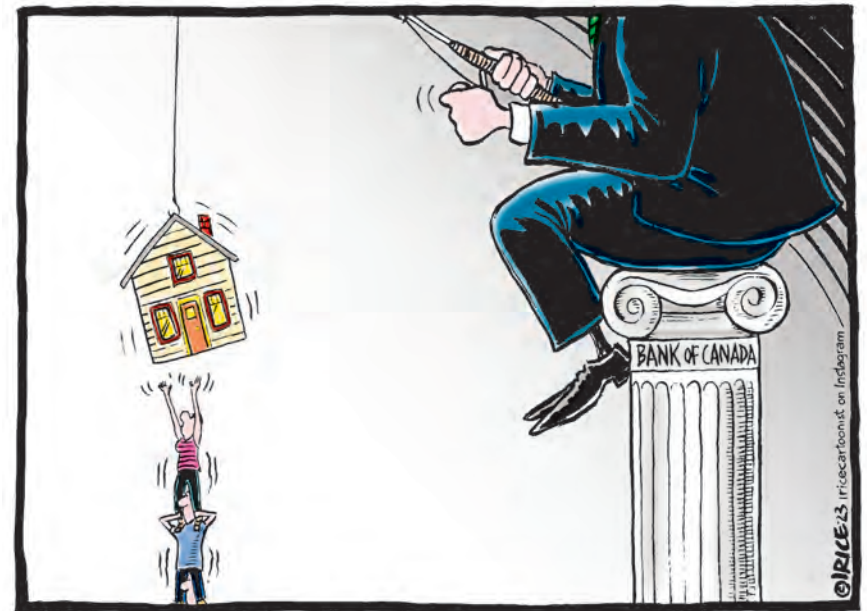
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Ports, ocean carriers drifting into economic doldrums

SHIPPING | Earnings sinking fast as consumer demand dries up and shipping capacity bulks up

BY TIMOTHY RENSHAW
TRENshaw@BIV.COM

Navigating lower numbers in a down-bound economy will be on the radar of major shipping lines and port terminals in 2023's second half, as the spillover from 2022's extraordinary earnings bonanza recedes.

That is among the takeaways from recently released maritime supply chain financial results and insights.

A US\$13 billion net income haul for the container shipping industry in 2023's first quarter would be good news in any other year for an industry that is notoriously volatile and often finds itself drifting in seas of red ink rather than generating profit.

But, as container shipping analyst **John McCown** pointed out in his most recent roundup of quarterly financial results, Q1 2023 marks the third straight quarterly drop in earnings for major ocean carriers after seven consecutive quarters of record profits and a 78-per-cent nosedive from the US\$58.7 billion in earnings reaped during the same quarter in 2022.

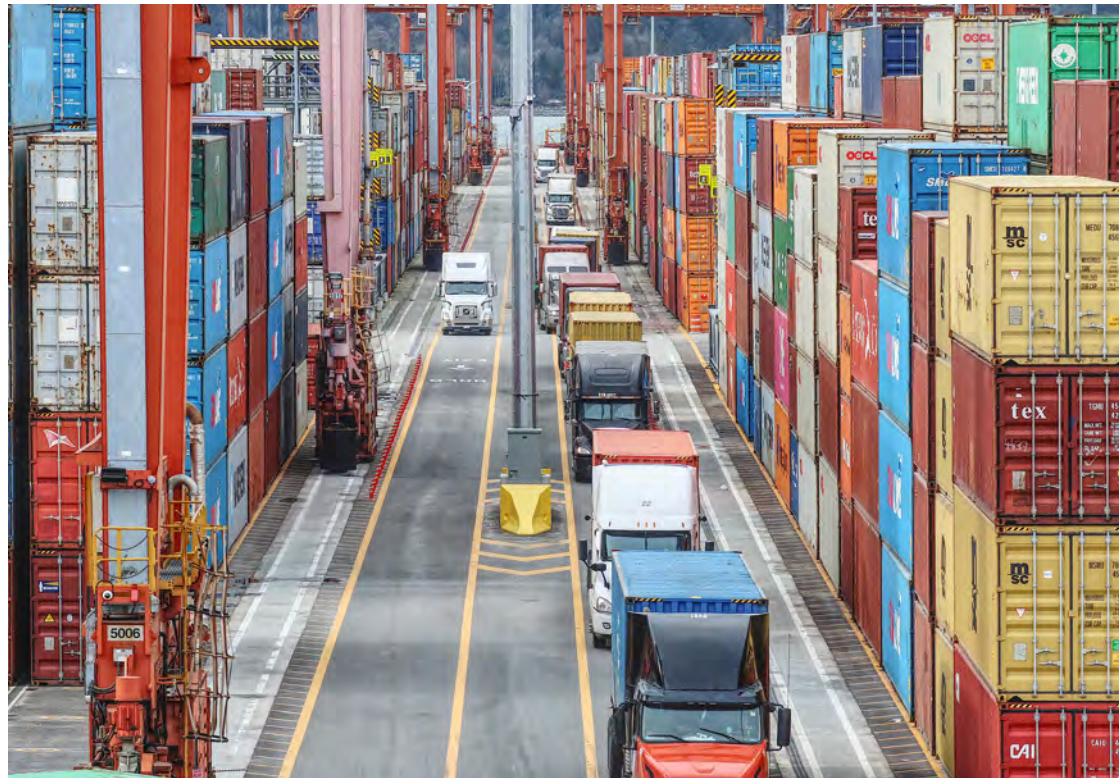
Those numbers reflect the overall drop in consumer goods demand as fears of recession persist in North America and the increase in shipping industry capacity, coupled with the decrease in port congestion, erode freight rates on the transpacific and other major trade routes.

But ship owners are not the only link in the supply chain with reasons to be nervous.

Vancouver and other major West Coast container hubs will soon be feeling the knock-on effect of that slowdown.

As **Simon Heaney** pointed out earlier this year, "demand, both in terms of port throughput and loaded trade volumes, remains very weak."

Presenting his company's updated 2023 outlook in late April, the senior manager of container research at U.K.-based shipping consultancy **Drewry** estimated that port throughput globally declined 3.1 per cent in the year's first quarter compared with the



Container cargo movement through West Coast ports is down thus far in 2023 compared with 2022. Uncertainty over long-term labour peace on the waterfront resulting from stalled dockworker contract negotiations up and down North America's West Coast could further reduce that cargo flow | ROB KRUYT

same quarter in 2022.

Heaney added that any increase in demand this year will not be enough to offset the massive increase in container shipping capacity resulting from the "ordering frenzy [of new ships] that we saw in 2021, when there was a record 4.4 million TEUs [20-foot-equivalent units] contracted."

He said Drewry is expecting the global container fleet to increase by 4.7 per cent in 2023. But Heaney added that when "the comfort blanket of port congestion" is taken away, the effective year-on-year rise in shipping capacity will be closer to 25 per cent.

"And the timing of those new ships coming in from those orders couldn't be much worse coincided with the slump in volumes."

Drewry's Q1 2023 port equity index, which tracks the stock market performance of publicly traded port companies, shows a value loss of 2.1 per cent compared with Q4 2022's increase of 19.8 per cent.

According to McCown's numbers, inbound volume at the 10 largest U.S. ports dropped close to 21 per cent in April, which he said was "the third-worst year-over-year decline in memory" and the seventh straight month of year-over-year double-digit declines.

West Coast ports, he noted, recorded bigger volume declines (down 21.9 per cent) than their East Coast counterparts (down 19.9 per cent).

That reflects, in part, the ongoing migration of transpacific container traffic away from North America's West Coast to ports in Mexico, the Gulf of Mexico and the U.S. East Coast.

Stalled contract negotiations between West Coast dockworkers and maritime employers could accelerate that migration as shippers worried about the reliability of cargo movement through West Coast North American ports resulting from potential labour disruptions reroute cargo.

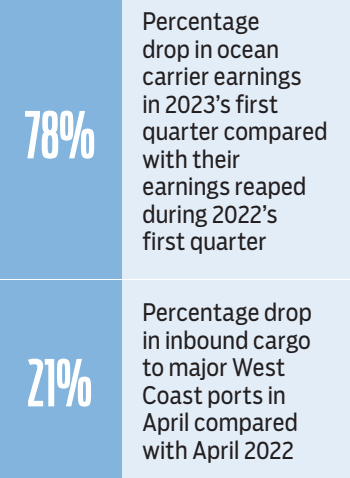
Approximately 22,000

unionized workers at U.S. West Coast ports have been without a contract since July 2022. Frustration over the lack of progress in securing a new contract recently boiled over into temporary closures of port terminals in Long Beach and Oakland.

In B.C., the contract between the **BC Maritime Employers Association (BCMEA)** and **7,400 International Longshore & Warehouse Union Canada (ILWU)** dockworkers and foremen employed at Canada's West Coast ports expired at the end of March.

Negotiations between the two sides entered a 21-day cooling off period on May 31 following the expiration of a **Federal Mediation and Conciliation Service** conciliation process that the union had kick-started when it filed a notice of dispute with the federal government following only a handful of preliminary contract discussions with the BCMEA.

Heaney added that Europe and North America "look like being the ... sick dogs this year as far as



The shipping industry is experiencing a freight recession, mainly because overstocked retailers are postponing inventory replenishment cycles

CHRISTIAN ROELOFFS
CEO, CONTAINER XCHANGE

demand is concerned."

He said Drewry anticipates transpacific spot and contract freight rates to drop on average by approximately 60 per cent this year.

In his company's May analysis of global container cargo movement, **Christian Roeloffs**, CEO of Hamburg, Germany-based logistics technology company **Container xChange**, said that even though a global recession has been avoided thus far in 2023, "the shipping industry is experiencing a freight recession, mainly because overstocked retailers are postponing inventory replenishment cycles."

However, despite the gloomy numbers and news, McCown said his analysis of current container shipping data indicates that the industry will remain profitable.

"But, to channel **Yogi Berra**, it's tough to make predictions, especially about the future." ■

B.C.'s clogged court system is

COURTS | A reluctance to adopt new technologies, a shortage of judges, mandatory

BY GLEN KORSTROM
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B.C.'s court system is riddled with challenges that some say put business owners' and the broader public's ability to access justice at risk.

Critics say problems stem from the justice system's reluctance to embrace technology. Others point fingers at the federal government, which has left unfilled 11 openings for **B.C. Supreme Court** judges, and two **B.C. Court of Appeal** judges.

Social problems also play a role. Unhoused residents, grappling with drug and addictions issues, and in a cycle of committing crimes, may repeatedly face charges in court – a pattern that diverts limited judicial resources.

One senior lawyer told *BIV* that if surgeons from 100 years ago were transported to the present day, they would be lost in a modern emergency room. Transport a lawyer from 1923 to today, and that lawyer would be right at home – because so little has changed technologically.

The big beefs for those who say that the justice system needs to better adapt to the digital age include the fact that:

- paper documents, not PDF files, are required when presenting evidence;
- lawyers are customarily required to appear in person and are not allowed to use video technology that worked well during the pandemic; and
- attempts to schedule court appearances must be done by phone, and not by using an online platform.

What's at stake is the ability to access justice in a timely and affordable way. For business owners, long litigation timelines, delays and scheduling challenges can create significant costs and uncertainty. For small business owners in particular, these issues might at times put the pursuit of justice out of reach financially.

B.C. Attorney General **Niki Sharma** told *BIV* that her government has made investments



Refresh Law founder and lawyer Oscar Miklos said B.C.'s court system needs to better adapt to new technologies | CHUNG CHOW

to modernize B.C.'s court system and to increase its internet capacity.

"The courts operate independently," she said. "There's a clear line when it comes to decisions of when things are in person, and when they are hybrid [video link and in person] that are based on the chief justices' and the chief judges' decision making."

Her role, she said, is to equip courts to enable judges to choose to use technology.

Refresh Law founder and lawyer **Oscar Miklos** told *BIV* that the court system at best has been making baby steps in allowing lawyers to use digital documents.

"The [B.C.] Supreme Court allows the electronic filing of documents, but once you appear before the judge, there's still a requirement that you produce a binder of filed documents," said Miklos, who specializes in real estate law.

"You actually have to pull the files and print copies of the documents that you're going to be referring to. Then you give them to the judge, who, rather than looking at a computer screen, can open up a binder. Then you walk them through the binder."

Miklos said he often makes three copies of needed binders – for the judge, for himself and sometimes for opposing counsel.

Allowing PDF files, he said, would be better for the environment as it would eliminate unnecessary paper, but it would also

be much cheaper because there would be no paper or printing costs to pass along to clients.

There is also a reluctance to use artificial intelligence (AI) to transcribe audio recordings.

When lawyers appeal B.C. Supreme Court judgments, they get audio files that they are required to provide to authorized transcribers who provide official transcriptions, Miklos said.

Those transcribers often charge daily rates, which can add up. The official transcripts must be printed out for B.C. Court of Appeal judges, which also adds costs, he said.

Software that uses AI, such as Otter.ai, can provide rough transcriptions. *BIV* spoke with lawyers and judges, however, who said AI technology does not yet provide accurate-enough transcriptions for courts to rely on, and the priority of the justice system should be to ensure that it uses accurate transcriptions, not fast and inexpensive ones.

Courts revert to in-person attendance

Lawyers and witnesses were able to appear before judges via video links during the pandemic, but in many cases, they are now required to appear in person.

Multiple lawyers told *BIV* that this not only wastes their time, but it means that they have to bill their clients for that wasted time. This hikes their clients'

legal bills, thereby potentially deterring clients from choosing to appeal judgments or to pursue certain legal strategies.

Justice, as a result, may be lost, they said.

One lawyer told *BIV* that during the pandemic, he was able to work on other matters while he monitored court proceedings from his home office. Then, when his own hearing was ready to be heard, he could take part.

The process now is that lawyers and sometimes clients or witnesses must show up in person and sit in the hearing room, waiting until their own hearing or trial is heard.

B.C. Supreme Court Chief Justice **Christopher Hinkson** pushed back at lawyers' assertions that this wastes their time, pushes up legal bills and is an obstacle to administering justice.

"There is a certain *je ne sais quoi* about seeing somebody in person," he said, adding that he is better able to assess a witness's credibility.

When lawyers on both sides of a case are sitting in a courtroom awaiting their turn in front of a judge, they are more likely to speak with each other, he added.

"If you have got them in the same room, they often will go out to the hall and settle," he said. "Whereas, if they're not forced to get together, they often seem incapable of picking up the telephone and working things out."

Settlements, he said, mean that the court system is spared from having to go through some lengthy hearings or trials.

"It's a question, I suppose, of who do you want sitting around waiting? Judges, who are in short supply, waiting for lawyers to get around to being prepared?" Hinkson said.

Sharma added that a new initiative in **B.C. Provincial Court** is that defendants can participate via video in virtual bail hearings. This means that jail staff do not need to move them to courthouses from jails, which speeds up proceedings and reduces labour costs.

"Virtual bail has been adopted in a lot of parts of the province and we're going to continue to expand that," she said.

Scheduling court dates fraught with delays

Miklos equated the B.C. Supreme Court's scheduling system for court dates, courtrooms and judges to radio contests years ago.

"In high school I used to listen to a radio station that would have a trivia contest, and I would call in if I thought I knew the answer," he said.

"I would hope to be caller No. 9 [or whichever caller would be given the chance to answer a question and win a prize.]"

No online scheduling platform exists for lawyers to attempt to book court dates. This is unlike booking a restaurant reservation, which can often be done using an application such as **OpenTable**.

Lawyers must call a phone number repeatedly until someone answers and helps them to manually book a court date.

Sharma accepted some responsibility for the lack of an online booking system.

"We can do better when it comes to equipping the courts with more digital tools," she said.

She said her government has a strategy that includes many potential technology improvements to the court system, and "some of them are related to better scheduling."

The exasperation for lawyers, however, does not end there.

Often, when lawyers and clients appear at their designated courthouse at assigned times, they learn that their court dates have been bumped – often because no judge is available to hear the case, Miklos said.

This waste of lawyers' time hikes clients' legal bills, he said.

Lawyers bill clients for travel time to get to courthouses. When lawyers need to travel longer distances to courthouses (because they are not allowed to appear via video) and they then learn that their court case has been postponed to a new date – months

putting access to justice at risk

in-person attendance are raising costs and creating challenges for clients, businesses

away – the legal bills for clients can soar.

B.C.'s court system needs more judges

Lawyers, clients, judges and politicians tend to agree that the system needs more judges.

Canadian Justice Minister **David Lametti** made his first B.C. Supreme Court judicial appointment of 2023 on June 1, when he appointed sole practitioner **Bradford Smith** to the bench in Kamloops.

Government data shows the province has 11 B.C. Supreme Court judicial vacancies, and two B.C. Court of Appeal judicial vacancies.

"We have two more vacancies imminent, and the [B.C.] Court of Appeal has two," Hinkson told *BIV*, in reference to upcoming retirements.

"Usually [appointments to] the B.C. Court of Appeal draws from our court, so we could be up to 15 vacancies if no more appointments are made before the end of the summer. We are a court of 97 judges so that is a little over 15 per cent."

Justice Ministry press secretary **Diana Ebadi** told *BIV* in an email that Lametti is aware of concerns that unfilled judicial positions puts access to justice at risk.

The minister, she said, is doing everything he can to fill judicial positions as soon as possible.

"He has spoken with members of the judiciary as well as the bar in B.C. to encourage more people to apply for the bench," Ebadi said.

Hinkson agreed that more lawyers need to apply to potentially become judges, and the key is to entice them.

B.C. Supreme Court judges will earn at least \$307,000 in the 2022-23 fiscal year if the B.C. legislature approves a proposed judicial compensation commission recommendation made in April. They may also be in for retroactive pay increases if the legislature approves recommended salary hikes for the past two years.

Hinkson, however, said salaries are not enough to entice many senior lawyers to apply.



BC Supreme Court has 11 judicial vacancies and pending retirements mean it may soon have 15 if new judges are not appointed | ROB KRUYT

"Senior members of the bar are making an awful lot more money than the judges are, and they're the ones we would like to become judges," he said. "It is a financial hit if you have a busy and successful practice."

Judges also travel a lot, he added.

The B.C. Supreme Court has 32 locations, and Hinkson said that he needs to send his court's judges to locations that need representation for what can be eight weeks per year.

That means judges need to suspend family commitments and other responsibilities in their home communities when they are away.

Workloads have increased compared with decades ago, Hinkson said, because more cases need to be heard, and trials can be longer.

Resources for support staff have not kept pace, he added.

Further deterring some lawyers from applying to be a judge is that they have honed specialties within certain legal niches, which they enjoy. Becoming a judge means that they would need to hear a range of cases in fields that they would need to educate themselves on, Hinkson explained.

"It's not attractive to some," he said.

The federal government has made efforts to increase the number of women, Indigenous people and racial minorities on the bench.

The challenge, Hinkson said, is that the underlying pool of senior lawyers is not as diverse as the cohort that is now being called to the bar.

He did not call out the government's desire to have a more diverse bench as a main reason for Lametti's sluggish pace in appointing B.C. Supreme Court judges.

Sharma, who is in her early 40s and is the first woman of colour to serve as B.C.'s attorney general, similarly rejected that premise.

"There are a number of people who I could think of that are very talented and are from diverse backgrounds and who have been practising for a long time," she said.

Legal recruiter and **Smith Legal Search** managing partner **Warren Smith**, however, told *BIV* that the government's desire to appoint qualified candidates who come from a wide range of ethnic backgrounds, and include women, is playing a role in the slow pace of appointments.

"The legal profession is very alive to the importance of diversity," he said.

"It's a big part of what they are working on in real time, right now, and you can see that in the emergence of quite a number of chief diversity officers at law firms. That didn't exist even five years ago."

The problem, he said is that while the younger generation of

lawyers is much more diverse than older ones, it is from among the older generations that judges tend to be appointed.

"You're not going to appoint a five-year-call [to the bar] to the bench," he said.

He alluded to how annual cohorts of lawyers are like vintages of wine.

There is only a certain number of lawyers in B.C. who have a specific number of years of experience.

"You can't bottle more 1990-vintage wine in 2023," he said. "There's a simple floor of how many people there are in the group, and if you want to ensure more diversity but they are not interested [in applying to be judges], then there isn't an option. You can't just fabricate one out of thin air."

Canadian judges are required to be members of provincial bar associations, so that necessarily limits who Lametti is eligible to appoint, Smith said.

"There's only so much that he can do," he added.

Reducing homelessness and drug addiction can help the court system

Police on May 24 arrested **Justin Wayne Collins** for an alleged breaking-and-entering incident in Kelowna mere hours after Collins was released from court, where he faced charges for theft and mischief.

The prolific offender had racked up what was reportedly hundreds of police files and he became a lightning rod for critics who say the justice system should be tougher on repeat offenders by keeping them in jail.

At the very least, critics say, the Crown should ask judges at bail hearings to keep the offenders in jail.

BC Prosecution Service data from April, however, showed that in a recent six-week period, there were 1,325 bail hearings for defendants facing violent-offence charges. The Crown asked judges to detain the defendants in 516 of those bail hearings and was successful 221 times.

BC United mental health and addictions critic **Elenore Sturko** told media in April that the Crown should have sought detention in all of those cases.

Sharma has urged the federal government to amend Canada's Criminal Code to give judges legal standing to ensure that violent offenders are held in custody.

Her government has also been making moves to improve communication between police, prosecutors and judges.

Premier **David Eby** in April promised \$16 million in new money to create the Special Investigation and Targeted Enforcement (SITE) program in order to improve that communication.

Time will tell if that spending helps keep violent offenders off the streets.

Fowler Blok lawyer **Richard Fowler** told *BIV* that sending people to jail should be a last resort.

"Jail is incredibly expensive," said Fowler, who has been a director at the **BC Association of Legal Aid Lawyers**, and a member of the **Trial Lawyers Association of BC's** board of governors. According to **Statistics Canada** data, it cost more than \$124,000 per year on average to keep one inmate incarcerated in 2020-21.

"I hope most people would think that the money would be better spent trying to find stable housing for people, and employment, and access to drug treatment and mental health treatment," Fowler said.

The B.C. government's 2023 budget projected the province will spend \$1 billion over three years to try to reduce toxic-drug deaths.

Fowler said his experiences dealing with people who have been homeless and addicted to drugs is that if they can find stable homes and jobs, they commit fewer crimes.

"I don't think that the answer lies in six months in jail, or a year in jail or two years in jail. That is not going to change the problem because they're going to be the same person, if not worse, when they get out." ■

Bubble tea economy booms as drink demand grows

RETAIL | Chinese-Canadian demand helps sustain more than 200 stores across Metro Vancouver

BY DAISY XIONG
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Whenever a retail lease comes on the market or a new commercial development is completed in Metro Vancouver, it's quite possible that a new bubble tea shop will pop up in that space.

Bubble tea, a sweet tea-based drink accompanied by milk and chewy tapioca balls, originated in Taiwan and spread to Hong Kong and mainland China in the 1990s.

It has become especially popular in recent years among younger generations in Asia as a fun and social drink, and demand for the drink extends to Metro Vancouver. There are more than 200 bubble tea shops in the region – at least one in every city – and 80 per cent of them are in Vancouver, Burnaby, Richmond and Surrey.

In downtown Vancouver alone there are currently 25 bubble tea shops – about one-third of the number of coffee shops in the downtown core. On two blocks near Robson and Bute streets, six bubble tea stores operate almost side by side.

Is this a trend that will eventually fade away, or is there high-enough demand to sustain this many bubble tea stores in the region?

Shop owners believe demand is here to stay, but competition is getting fiercer as more players are eyeing the market.

A growing local market

Chao Li has been a loyal bubble tea drinker since he was in Grade



Agnes Mao, managing partner for Truedan Canada, at the company's Robson Street location, which opened in 2018 | CHUNG CHOW

3 in Taiwan, and this continued after he moved to Canada 15 years ago.

"Coffee was a luxurious thing in Taiwan but bubble tea was everywhere and was cheap. After school, I and my friends would go to buy a cup of bubble tea on the way home every day," said Li.

In Asia, many of the cheap street bubble tea shops of the 1990s have been replaced by big chains that offer a variety of creative, fancy drinks.

Li and his wife now visit different bubble tea shops twice a week, spending around \$100 every month.

"It's a lifestyle, a habit, like smoking," said Li.

As the Chinese-Canadian population keeps growing in Greater Vancouver – with 512,260 Chinese-Canadians in the 2021 census accounting for nearly

20 per cent of the region's total population – people like Li, who bring their love for bubble tea to Canada, are fuelling demand for the beverage.

This has attracted big bubble tea brands from Asia: At least 30 brands have entered the Metro Vancouver market in recent years and have expanded quickly using a franchise model.

"We saw the market potential here," said Agnes Mao, Canadian managing partner for Truedan. The Taiwanese brand opened its first store on Robson Street in 2018 and now has five locations in Metro Vancouver.

"Most of the brands here are from Taiwan with at least 10 years of history. I know some newer brands from mainland China intended to enter the Vancouver market but were held back by the pandemic – I expect to see them entering the market in the coming year."

Competing for market share

Last year, Carol Xu became a franchisee of Share Tea, a Taiwanese bubble tea brand founded in 1992, and opened her store in the Park Royal Shopping Centre in West Vancouver.

"People already knew the brand and the franchiser provides the supplies and recipes – as someone who was new to the industry, franchising was an easier way to get started," said Xu.

Her business is seasonal – it's quiet in winter but in summer, there is always a lineup in her store, with students hanging out after school and shoppers stopping by to get a cold drink and take a break.

Unlike Xu, many choose to open a store close to other bubble tea shops under a head-to-head strategy – a model often used in Asia where businesses of the same type concentrate to attract more traffic to the area. Locally, this has created "bubble tea streets" on Robson Street and on Kingsway.

"There is a well-known bubble tea street on Zhongxiao East Road in Tai Pei where the whole street is occupied by bubble tea shops and every shop is busy," said Mao.

But not everyone can survive the competition – two bubble tea

shops closed their doors on Robson Street recently, and there are also bubble tea shops closing or being replaced by new bubble tea brands across the region.

"You need to pay the operation costs and a percentage-based royalty fee on top of that – if you don't sell a certain number of cups, it will be hard to last," said Xu, who says she believes quality and innovation are key for a brand to stay competitive and keep up with customers' expectations.

"We have new series every five to six months at least and each new series has three to four flavours – if it's liked by customers, it may be added to our permanent menu."

For Mao, location and its suitability with a brand's target market is also essential to the success of a store.

"Some brands are more focused on traditional bubble tea drinks while others are more experimental – their products may not have bubble or tea, but focus on milk, fresh fruit and other ingredients," she said.

Non-traditional ingredients such as taro, tofu, rice wine, osmanthus, purple rice, winter melon, Oreo and peach gum can all be found in bubble tea drinks.

"In markets like Richmond where many people have had bubble tea for a long time and are more eager to try new products, the more experimental brands will be more popular," said Mao.

"Brands focusing on more traditional bubble tea have a better chance to succeed in newer markets like West Vancouver."

She added that franchise support is also important – some franchisees expanded impulsively during the pandemic and ended up having to close some stores.

Expanding the customer base

Many bubble tea brands are doing everything they can to stand out – through unique flavours and ingredients, cup and drink design and store decoration.

But with the number of bubble tea shops already open in Metro Vancouver, and with more brands expected to enter the market, Mao said she believes the Chinese-Canadian consumer market has been saturated. Growth, she

says, will require marketing to new customer segments.

"No matter how big the Chinese-Canadian population is here, it's still quite limited.... But the mainstream market is a boundlessly vast sea," she said.

Truedan has slowed down its pace for new store openings in Metro Vancouver and has opted instead to open three locations in Alberta, with plans to continue to expand eastward to Saskatchewan, Manitoba and Quebec to reach 15 stores in total by next year.

"The majority of new franchisees are people outside the Chinese-Canadian community," said Mao.

"They saw their children getting bubble tea with their friends.... Children are the best marketers – they introduce bubble tea to their friends and classmates and the intercultural influence is very strong."

Another area for competition, according to Mao, is producing healthier drinks – for example, many brands now use brown sugar, considered a healthier alternative to refined white sugar – and reducing a brand's environmental footprint.

Although the traditional plastic bubble tea straws have largely been replaced by paper ones, the beverage's classic plastic cups still create a large volume of plastic waste every day, and they are not included in Canada's single-use plastic ban that took effect in December 2022.

Mao said she won't be surprised if at some point the single-use plastic cups used in the bubble tea industry become further regulated or banned.

"At that time the look of the drink, which is one of the selling points, won't matter because we won't be using see-through plastic cups," she said.

Xu also sees the potential of a broader market for bubble tea. Most of her customers are not Chinese-Canadians and bubble tea has been used more often in parties and events as an alternative to coffee or cocktails.

"I believe one day, bubble tea will become an essential part of people's life, just like Starbucks," she said. ■

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DEVELOPMENT | Builders hope Vancouver's changes are just two of many updates to approval process

BY CLAIRE WILSON
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When it comes to the City of Vancouver's housing approval backlog, stakeholders admit there is no "silver bullet."

But recent changes to address the issue demonstrate a willingness to fix the problem in the eyes of housing and construction professionals.

On May 30, Vancouver city council voted to expedite approvals of development and rezoning permits for housing projects that will provide the most units, and to eliminate the policy enquiry process (PEP).

The intended result is a system that will approve housing faster. However, underlying issues remain. The complexity of the system, the absence of clear goals and a culture that appears to restrict new building rather than facilitate it will continue to frustrate the delivery of housing in the city, according to those who spoke to Glacier Media.

Council's motion allows for the expedition of projects with the "greatest amount of net new housing units across the entire housing continuum, for all housing types and tenures," according to council meeting minutes.

Meanwhile, the PEP process was intended projects that don't match existing zoning, bylaws or policies. The city described it as a "time-consuming stage" of the housing development process that will now be discontinued.

"The council of the day seems to be on track to improve processing times and accelerate approvals. That's really positive, but my issue is that while we're making commitments to accelerate processing, we're not fixing the underlying problem," said **Hani Lammam**, executive vice-president at **Cressey Development Group**.

Lammam says there is overlap between what are currently distinct processes: Submitting a letter of inquiry, applying for rezoning applications and approvals, and applying for development and building permits.



The City of Vancouver has voted to expedite approvals and permits for certain housing projects and to eliminate the policy enquiry process for others | CHUNG CHOW

"We've just added layers to the process and time delay for really the same thing.... There's multiple processes that we have to go through only to inevitably end up at the same place," Lammam said.

While Lammam said he sees the need to deliver more housing in a timely manner, he said he doesn't believe that the prioritization of major projects will speed things up.

"Big projects are really complicated, they take forever and they're very difficult to finance," he said. "It can take four to five years to build a project of this scale, where I can turn around and deliver a six-storey wood-frame building in 18 months. So why don't we process all of it, so that we can deliver some units quickly?"

In a press release, Vancouver Mayor **Ken Sim** described the

recent motions as a "significant step forward" to deliver more housing in the city.

"These decisions are about better-focusing staff resources towards the delivery of more housing units across the City of Vancouver – they will have the potential to shave months off of wait times for certain projects while minimizing the risk of displacement. While there is still work ahead of us, the actions council took last week mean that we are another step closer towards building more housing faster," he said in a statement to Glacier Media.

For **Jake Fry**, CEO of **Smallworks Studios and Laneway Housing Inc.**, which specializes in laneway and infill housing, the underlying issue in Vancouver is a focus on procedure rather than the goal.

"While there is movement to

willingness to really step back from a lot-by-lot analysis and take an approach where we're able to produce and focus on what is the outcome of the housing, rather than what the process to get that housing is."

Both the province and many municipalities have made it clear that the goal is to build the greatest amount of housing, as fast as possible, said **Ron Rapp**, CEO of the **Homebuilders Association Vancouver**.

"All of these initiatives, whether it be directly from council, coming down from the province or from leadership positions, the direction has to be put forward to staff to embrace that it's time for a culture of 'Yes,' as opposed to a culture of 'No.' That is to say, let's find a way to make things work, instead of finding ways to inhibit or obstruct them as the case may be," Rapp said.

Fry echoed this, adding that when a project goes in for assessment, the approach seems to be "what is wrong with this," rather than "how can we make it better."

Rapp said the discontinuation of the PEP process will allow city staff to devote their time to projects that will "manifest real results." While he acknowledges that this may discourage the construction of projects that feature innovative and creative solutions, the extent of the backlog warrants changes like these.

"It's appropriate to provide a forum where you could look at out-of-the-box thinking.... That's to some degree what we're missing in general here, but let's keep it in perspective and not make that the priority," he said.

Though the elimination of the process will refocus staff, it won't necessarily speed up the approval process for typical housing projects that are based on existing zoning or building policies.

"The vast majority of projects should not be impacted by that at all. It was a very small minority of projects that had to go through the [PEP] process and it was only because they were atypical," said Lammam. ■



Jake Fry, CEO of Smallworks Studios and Laneway Housing Inc. | SUBMITTED

start looking at new housing initiatives, we're finding it's gonna need a much more facilitative approach and it needs better alignment between departments," Fry said.

"There needs to be a

REALESTATE

POWERED BY 

Multiple factors influence in-person work willingness

OFFICE SPACE | Predictive calculation helps companies take an informed approach to hybrid work

BY CLAIRE WILSON
CLWILSON@GLACIERMEDIA.CA

The office market in Vancouver is in a period of re-adjustment, as companies continue to adapt to different work models following the height of the COVID-19 pandemic.

To assist, real estate company **Colliers Canada** has developed a way to predict the number of hours a group of employees is likely to spend in a physical office space.

The tool takes into account the factors that most impact employees' desire to work in-person: Company mandated days, type of workspace and the time and cost of commuting. The result is a more informed approach to hybrid work, according to a recent Colliers report on the tool.

Across Canada, 55 per cent of workers still feel reluctant to work at the office – a number that is slightly above the global average of 51 per cent. The main reasons for this reluctance are believing it to be unnecessary (17 per cent), not wanting to spend money (15 per cent) and a feeling of anxiety (14 per cent), according to a survey by **Unispace**, a workplace design and construction company.

In Western Canada, employees are logging more hours in the



The hybrid-work sweet spot for employees is around three to four days in the office, according to research by Colliers Canada | **ROBKRUYT**

office than those in Eastern Canada. The Colliers report noted that 49 per cent of companies surveyed have finalized their plan for how they will approach the balance between in-office and remote work.

When assessing different work models, many employers are only focusing on singular factors and not the “cumulative effect of multiple things going on,” said **John Duda**, president of real estate management services with Colliers Canada.

“The [type of workspace] factor was the one that surprised us,” said Duda. “Really what it was telling us is: If I have privacy that’s suitable for my work, I will go in much more. Even though that was a surprise for the scale of the impact it has, the fact that people don’t like open offices is no surprise at all.”

Over a third of Unispace survey respondents indicated that they miss being able to have the same privacy as they do at home, while

29 per cent feel that they are more productive away from the workplace and 28 per cent believe they are more effective in a quiet space.

The impact of the time and cost of a commute is heavily weighted in Vancouver, due to 42 per cent of employees commuting from suburban cities, according to data from Colliers. In terms of time and cost, these employees bear the heaviest commuting burden, the report said.

“We’re seeing a few [companies] say, ‘Okay, so I’ve got offices downtown, but I’m going to put a satellite office in North Vancouver or West Toronto, because most of my staff are commuting from there.’ And, what you’ll see happen, is that attendance in the office will skyrocket because you’ve just cut their commute in half,” said Duda.

Employees across all of Metro Vancouver spend an average of 29 hours in the office per week, while those in Vancouver proper spend 24 hours a week, according to Colliers. This equates to three or three-and-a-half days of in-person office time.

Duda said that, by Colliers’ calculation, if a company required employees to be in the office for one to two days per week, those workers came in on average more than required. If the mandate was

What we’re emphasizing in this report is that it’s the cumulative effect of all these things. Don’t try to isolate a single thing when you’re trying to coordinate your business and look at how your space is designed

JOHN DUDA
PRESIDENT OF REAL ESTATE
SERVICES, COLLIERS CANADA

for three days, employees came in for all three days. When the mandate was four or five days, employees came in less frequently.

“It seemed to be gravitating to somewhere around three, maybe four days. And people were going to do that with the least amount of friction,” Duda said.

“What we’re emphasizing in this report is that it’s the cumulative effect of all these things. Don’t try to isolate a single thing when you’re trying to coordinate your business and look at how your space is designed.” ■

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Business in Vancouver is seeking B.C.’s outstanding C-Suite leaders in private, public sector and charitable organizations. Up to 6 leading CEOs and CFOs will be profiled in our BIV issue and honoured at a special awards luncheon in October/November 2023.

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FINANCE

The number of B.C. EI recipients remained low in March



DATA POINTS

BRYAN YU

In March, the number of seasonally adjusted employment insurance (EI) recipients in Canada edged down 0.6 per cent following an increase the month prior. Outside lows observed during the pandemic – when households were supported by the Canadian Emergency Response Benefit in place from March to September 2020 – this was among the lowest EI levels on record since 1997. Meanwhile, B.C. results continued to remain low and unchanged in regular EI beneficiaries (down 40 people or down 0.1 per cent) to a total of 39,830 people in March. B.C.’s

labour market also saw little change in March with a negligible and insignificant decline in seasonally adjusted employment, according to the Labour Force Survey (LFS).

Patterns differed by age cohort for EI statistics. Following the large proportional decline in February, the number of core-aged EI recipients inched up by 0.3 per cent in March. The cohort aged 55 and up also had a 2.3-per-cent increase in EI beneficiaries during the same month. The decline in EI recipients was concentrated in the 15-to-24 age group, which reported a 10.6 per cent decline in numbers. The number of male EI recipients was down by 4.3 per cent, while female EI beneficiaries surged by 6.2 per cent in March.

B.C.’s EI counts were 22.8 per cent lower than the same month in 2021, without seasonal adjustment. Regionally, all economic regions reported lower EI counts on

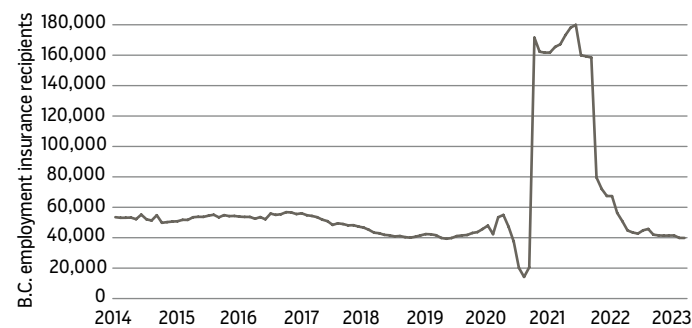
an unadjusted year-over-year basis. Among all economic regions, the Lower Mainland/Southwest region led the EI decline with a drop of 72.9 per cent, while the North Coast/Nechako region reported the lowest drop at 47.4 per cent. Among census metropolitan areas, Kelowna (down 7.5 per cent) reported one of the largest proportional decreases in regular EI beneficiaries.

The B.C. unemployment rate dropped below five per cent again to 4.5 per cent, largely because of a labour force contraction of 0.6 per cent in March. The provincial labour figures remained solid despite softness in some of the details. EI statistics in B.C. may remain steady and stay in line with labour market performance in the upcoming period despite an expected softening in economic activity. ■

Bryan Yu is chief economist at Central 1.

B.C. employment insurance count stays low

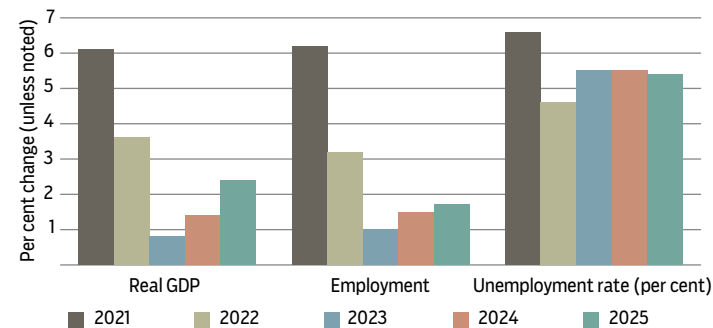
Number of recipients has returned to pre-pandemic levels



SOURCES: STATISTICS CANADA, CENTRAL 1; LATEST: MARCH 2023

B.C. economic growth slowing in 2023

Province's GDP set to rise 0.8 per cent after inflation in 2023



SOURCES: STATISTICS CANADA, CENTRAL 1; LATEST: PROJECTION FOR 2023

INSIDER TRADING

The following is a list of stock trades made by corporate executives, directors and other company insiders of B.C.'s public companies filed in the week ended June 6, 2023. The information comes from a compilation

of required reports filed with the BC Securities Commission and obtained from DisclosureNet.com.

INSIDER James A Pattison, 10% owner

Company: **Westshore Terminals Investment Corp.** (TSX:WTE)
Shares owned: 4,022,130
Trade date: June 2
Trade total: \$4,022,130
Trade: **Acquisition** of 125,300 shares at a price of \$32.10 per share

INSIDER David Mark Smithson, officer
Company: **LI-FT power Ltd.** (CNSX:LIFT)
Shares owned: 10,600
Trade date: June 1, 2
Trade total: \$92,253
Trade: **Acquisition** of 10,600 shares at prices from \$8.68 to \$8.75 per share

INSIDER Edward Richard Klue, officer
Company: **Copper Mountain Mining Corp.** (TSX:CMMC)
Shares owned: 70,000
Trade date: June 2
Trade total: \$72,300
Trade: **Sale** of 30,000 shares at a price of \$2.41 per share

INSIDER Paul Anthony Larkin, officer
Company: **Condor Resources Inc.** (TSX-V:CN)
Shares owned: 1,174,000
Trade date: June 2
Trade total: \$64,000
Trade: **Sale** of 200,000 shares at prices from \$0.31 to \$0.33 per share

INSIDER Glenn J Mullan, director
Company: **Gold Royalty Corp.** (NYSE:GROY)
Shares owned: 1,768,348
Trade date: June 2
Trade total: US\$53,255
Trade: **Sale** of 27,400 shares at prices from US\$1.94 to US\$1.95 per share

INSIDER Richard Pozzebon, officer
Company: **Interfor Corp.** (TSX:IFP)
Shares owned: 41,936
Trade date: June 1, 6
Trade total: \$50,735
Trade: **Acquisition** of 2,500 shares at prices from \$19.91 to \$20.87 per share

INSIDER Lembit Janes, director
Company: **Spanish Mountain Gold Ltd.** (TSX-V:SPA)
Shares owned: 45,894,548
Trade date: June 1
Trade total: \$47,500
Trade: **Acquisition** of 250,000 shares at a price of \$0.19 per share

INSIDER Bryan James Rees Slusarchuk, director
Company: **Turmalina Metals Corp.** (TSX-V:TBX)
Shares owned: 507,500
Trade date: June 1, 6
Trade total: \$43,450
Trade: **Acquisition** of 190,000 shares at prices from \$0.22 to \$0.24 per share

INSIDER David Charron, officer
Company: **Tiny Ltd.** (TSX-V:WE)
Shares owned: 50,636
Trade date: June 2
Trade total: \$39,600
Trade: **Acquisition** of 10,000 shares at a price of \$3.96 per share

LAW BUSINESS



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Land and First Nations' rights in the DRIPA era

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Comment: The impact of upcoming legislation

Big businesses 14
BIV's list of the region's largest law firms

Claims granted under B.C.'s *Mineral Tenure Act* are the subject of a recent B.C. Supreme Court lawsuit | ROB KRUYT

How DRIPA will change the legal landscape

LAW | Mineral Tenure Act just one of many acts to be amended in the province

BY NELSON BENNETT
NBENNETT@BIV.COM

One way or another, by court order or legislative process, the B.C. *Mineral Tenure Act*

will be changed to address concerns First Nations have over the way mineral claims are granted and exploited in the province.

It's just one of many provincial acts and statutes that will need

to be amended to bring B.C. laws into conformity with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), through the enabling legislation of the provincial *Declaration of*

the Rights of Indigenous Peoples Act (DRIPA).

From a First Nations perspective, a mineral title registry that

CONTINUED ON PAGE 12

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ABORIGINAL TITLE

CONTINUED FROM PAGE 11

allows anyone to file a claim in the traditional territory of a First Nation without their consent or knowledge violates the UNDRIP principle of “free, prior and informed consent.”

In a recent judicial review, the **Gitxaala First Nation** asked the **B.C. Supreme Court** to order that the *Mineral Tenure Act* be changed to require Gitxaala consent for any future claims filed in their traditional territory. Their concerns over mineral claims stem from an environmental mess left by a small gold mine on Banks Island that was shut down by the provincial government in 2015 for various permit violations.

The B.C. government would prefer to follow its own process for amending the act, rather than have the courts prescribe the changes.

“Long before the court case was launched, we had a commitment that we would be modernizing that act, as per the action plan under the Declaration Act,” **Murray Rankin**, minister of Indigenous Relations and Reconciliation, told *BIV*.

DRIPA will require provincial regulations and acts to be changed, and one of the priorities for amendment is the *Mineral Tenure Act*, Rankin said. Another is the *Heritage Conservation Act*.

Last week, the B.C. government announced \$200 million in funding for First Nations to



Murray Rankin (right), minister of Indigenous Relations and Reconciliation, speaking at the recent Indigenous Partnership Success Showcase in early June | IPSS

participate in the Declaration Act Action Plan to implement DRIPA. Each First Nation in B.C. is eligible to receive \$260,000 a year for four years – a total of approximately \$1 million – to help with the legal costs of participating in the implementation plan.

One area that could prove tricky when it comes to DRIPA and Aboriginal rights and title is sub-surface rights. Even when Aboriginal title is proven, would it include subsurface rights to

minerals and oil and gas?

“There’s only one place where title’s been proven – it’s in the **Tsilhqot’in**,” noted **Robin Junger**, a partner at **McMillan LLP** specializing in Indigenous and environmental law. “Even then – even when title’s proven – it’s not clear who will own the minerals.”

In the case of the **Nisga’a First Nation**, sub-surface rights are spelled out in the Nisga’a Treaty: The Nisga’a own the sub-surface minerals and rights. Otherwise, if

it’s not spelled out in a treaty, it’s unclear whether Aboriginal title would include sub-surface mineral rights.

In Canada, landowners typically only own surface rights, while subsurface rights are owned by the Crown.

“No court has yet ruled on whether title includes mineral rights,” Junger said. “Even where title is proven, nobody knows for sure what it means for mineral tenure.”

And as for Aboriginal title itself, despite the fact the **Supreme Court of Canada** has confirmed it exists in principle, proving Aboriginal title to specific areas has proven extremely challenging – as the **Nuchatlaht First Nation** recently learned.

The Nuchatlaht had laid claim to 200 square-kilometres of Nootka Island. Last month, a B.C. Supreme Court judge dismissed the Nuchatlaht’s claim.

While the judge gave the Nuchatlaht the option of narrowing their claim to smaller areas and specific sites, he found overall that the Nuchatlaht had not proven Aboriginal title to the entire claimed area.

“The courts are applying the test to prove Aboriginal title strictly,” noted **Tom Isaac**, chair of **Cassels’** Aboriginal Law Group. “It’s a very high evidentiary burden to prove title.”

“We accept that First Nations have Aboriginal title, but it still requires proof of that in some process, and the rigorous tests that the courts have promulgated must be met,” Rankin said. “There’s many complications, one of which is significant areas of overlap where different nations will claim Aboriginal title.”

As long as Aboriginal title is unsettled, there will continue to be uncertainties in B.C. with respect to Aboriginal jurisdiction, due to overlapping rights and title claims. ■

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Pay transparency rules will change hiring, job searches



PODIUM

J. GEOFFREY HOWARD

With the recent passage of the Pay Transparency Act (PTA) now set to take effect Nov. 1, 2023, employers and their recruiters will have to change how they communicate about pay when recruiting.

Employees will gain new rights to information which should help them learn more about the pay offered for a job when they first consider applying. But the new rules will prove impractical for some employers and may not ultimately provide much useful pay information for some job

postings.

The first phase of the PTA will:

- require employers to post pay or pay ranges for all jobs;
- prevent employers from trying to stop employees from sharing pay information or discussing their pay; and
- prevent employers from asking job applicants about their pay at their current or other past employers.

These changes are intended to ensure women and minorities are better able to negotiate fair pay equivalent to that earned by men. But nothing in the PTA limits the benefits of these new rules to members of those groups.

Here are a few major impacts we expect to see under the PTA.

Impact 1: Smaller employers will have to consider and post a pay range for each new job

It is fairly common for small and medium-size employers (SMEs) to be vague about compensation in their job ads, sometimes with a view to attracting applications by candidates who may expect higher salaries than the SME can offer. This is done in hopes of convincing them through the interview process that other aspects of the job/firm outweigh the lower pay.

For the applicant who does not want to waste time in applications and interviews for a job paying below their minimum requirement, in theory, the new pay range requirement will save time.

The flip side is that the applicant may miss out on a good opportunity – e.g. the start-up that while offering a lower salary range offers low-price options or room for faster advancement not available at most larger employers

because the applicant never arranged a first interview to learn about these advantages. For small firms hiring their first employee in a new role (e.g. their first HR manager), the requirement to post a salary range can be onerous. Sometimes the employer really does not know what is fair pay for a new role and is willing to negotiate with the right candidate. These employers will have to do some homework first in order to establish a pay range to post. Recruiters and HR compensation consultants can provide this insight, along with other hiring services.

Impact 2: Reduced confidentiality of pay

Employers who fiercely protect the confidentiality of pay for each employee and have a policy or even a contractual clause prohibiting discussion of pay, including

bonuses, amongst employees or with candidates will not like the PTA. Many do not want employees comparing pay rates with each other. Some want to protect pay rate information from competitors seeking to recruit their employees.

Under the PTA, these employers must drop these policies/clauses as they infringe the PTA.

While this probably benefits employees globally, including women and minorities who often earn less but are said to be more reluctant to ask about pay rates or lack sources of pay information, this new requirement to post pay ranges and allow employees to discuss their pay means competing employers (and their recruiters) are better able to gather intelligence on pay scales and

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FARRIS WELCOMES PAMELA SHEPPARD AND YASMIN D'COSTA

We are pleased to welcome Partner Pamela Sheppard and Associate Yasmin D'Costa to the firm. Pam's practice focuses on commercial litigation; complex family asset division cases involving corporations, partnerships, trusts and multi jurisdictional assets; and child and spousal support claims. Yasmin's practice is a blend of commercial & civil litigation and family law disputes.

Biggest law firms in Metro Vancouver

RANKED BY | Number of lawyers practising in the region



Rank '23	Law firm	Managing partner(s)	Focus areas	Year founded	Additional staff '23/'22	Partners/ Associate counsel/ Associates	No. of lawyers '23/'22
1	Fasken Martineau DuMoulin LLP 550 Burrard St Suite 2900, Vancouver V6C 0A3 P: 604-631-3131 F: 604-631-3232 fasken.com	William Westeringh, managing partner, B.C. region	International business law and litigation for every sector in business, industry and government	1889	245 257	NP NP NP	169 155
2	Borden Ladner Gervais LLP 200 Burrard St Suite 1200, Vancouver V7X 1T2 P: 604-687-5744 F: 604-687-1415 blg.com	Steve Winder, regional managing partner	Business and corporate commercial, commercial real estate, financial services, disputes and intellectual property	1911	193 187	68 11 64	143 132
3	Lawson Lundell LLP 925 Georgia St W Suite 1600, Vancouver V6C 3L2 P: 604-685-3456 F: 604-669-1620 lawsonlundell.com	Clifford Proudfoot, managing partner	Mining, corporate commercial, real estate, environment and regulatory, litigation and dispute resolution	1886	222 155	71 11 58	140 136
4	Blake, Cassels & Graydon LLP 1133 Melville St Suite 3500, Vancouver V6E 4E5 P: 604-631-3300 F: 604-631-3309 blakes.com	Jeffrey Merrick, office managing partner	Corporate finance and securities, corporate and commercial litigation, financial services, infrastructure and real estate	1856	85 80	42 0 78	120 108
5	Clark Wilson LLP 885 Georgia St W Suite 900, Vancouver V6C 3H1 P: 604-687-5700 F: 604-687-6314 cwilson.com	James Speakman, managing partner	Commercial real estate, capital markets and securities, estates and trusts, mergers and acquisitions, information technology and intellectual property	1911	186 179	NP NP NP	114 106
6	Norton Rose Fulbright LLP 510 Georgia St W Suite 1800, Vancouver V6B 0M3 P: 604-687-6575 F: 604-641-4949 nortonrosefulbright.com/ca/en	Kieran Siddall, managing partner, Vancouver office	Real estate, estates, trust and wealth management, business law, dispute resolution and litigation, employment and labour	1794 ¹	140 158	44 7 49	100 95
7	DLA Piper (Canada) LLP 666 Burrard St Suite 2800, Vancouver V6C 2Z7 P: 604-687-9444 F: 604-687-1612 dlapiper.com	Robert Seidel, Canada managing partner	Full-service business law firm	1892	120 128	43 11 44	98 91
8	McCarthy Tétrault LLP 745 Thurlow St Suite 2400, Vancouver V6E 0C5 P: 604-643-7100 F: 604-643-7900 mccarthy.ca	Sven Milelli, regional managing partner, B.C.	Business law, litigation, real property and planning, tax, labour and employment	1855	NP NP	NP NP NP	96 ² 90 ²
9	Harper Grey LLP 650 Georgia St W Suite 3200, Vancouver V6B 4P7 P: 604-895-2903 F: 604-669-9385 harpergrey.com	Jonathan Meadows, managing partner	Medical negligence defence, insurance, commercial litigation, business law, real estate, professional regulation, environmental, family, workplace, wills and estates, class actions, securities, construction and engineering, Aboriginal business law, insolvency, defamation, privacy, mediation	1907	145 141	29 21 40	95 92
10	Alexander Holburn Beaudin + Lang LLP 700 Georgia St W Suite 2700, Vancouver V7Y 1B8 P: 604-484-1700 F: 604-484-9700 ahbl.ca	Christopher Hirst, managing partner	Litigation/dispute resolution, insurance, business law, construction and engineering, aviation, labour and employment	1973	132 121	42 6 43	91 96
11	Farris LLP 700 Georgia St W Suite 2500, Vancouver V7Y 1B3 P: 604-684-9151 F: 604-661-9349 farris.com	Jeffrey Kay, managing partner, Vancouver	Corporate and commercial, litigation, employment and labour, tax, wealth management	1903	135 118	42 6 34	82 84
12	Bennett Jones LLP 666 Burrard St Suite 2500, Vancouver V6C 2X8 P: 604-891-7500 F: 604-891-5100 bennettjones.com	Radha Curpen, Vancouver managing partner, Jessie Lehal, specialist, marketing and client relations	Business law, litigation, regulatory and tax with focus on energy, ESG, mining, finance, tech and real estate	1922	61 56	28 1 35	80 67
12	Gowling WLG (Canada) LLP 550 Burrard St Suite 2300, Vancouver V6C 2B5 P: 604-891-2787 F: NP gowlingwlg.com	Brent Kerr, managing partner	Intellectual property, real estate, environmental law, securities and corporate finance, Indigenous law	1903	NP 124	NP NP NP	80 ² 76
14	Dentons 250 Howe St 20th Floor, Vancouver V6C 3R8 P: 604-687-4460 F: NP dentons.com	John Sandrelli, managing partner	Real estate, infrastructure/construction, corporate, litigation, restructuring/insolvency	2013 ³	123 84	36 4 36	76 86
15	McMillan LLP 1055 Georgia St W Suite 1500, Vancouver V6E 4N7 P: 604-689-9111 F: 604-685-7084 mcmillan.ca	Cory Kent, office managing partner	Capital markets, mergers and acquisitions, litigation, commercial real estate transactions, restructuring and financial services	1904	409 NP	39 7 19	65 68
16	Harris & Company LLP 550 Burrard St Suite 1400, Vancouver V6C 2B5 P: 604-684-6633 F: 604-684-6632 harrisco.com	Lindsie Thomson, managing partner	Labour and employment law, human rights, workers' compensation/occupational health and safety, commercial litigation, education law, administrative law, First Nations workplace law, immigration law, privacy and access to information	1992	50 45	30 2 26	58 49
17	Stikeman Elliott LLP 666 Burrard St Suite 1700, Vancouver V6C 2X8 P: 604-631-1300 F: 604-681-1825 stikeman.com	Richard Jackson, managing partner	Mergers and acquisitions, corporate finance and securities, public-private partnerships, real estate and corporate commercial litigation	1952	86 84	18 11 26	57 55
18	Richards Buell Sutton LLP 401 Georgia St W Suite 700, Vancouver V6B 5A1 P: 604-682-3664 F: 604-688-3830 rbs.ca	Mark Baron, managing partner, Angela Spanjers, managing partner, Surrey	Advanced education and research, business transactions, commercial real estate, litigation, wealth preservation	1871	99 89	25 7 24	56 55
19	Roper Greyell LLP 745 Thurlow St Suite 1850, Vancouver V6E 0C5 P: 604-806-0922 F: 604-806-0933 ropergreyell.com	Sandra Guarascio, Michael Kilgallin, Adam Garvin, Graeme McFarlane, management committee	All areas of workplace law, including: labour, employment, human rights, workplace investigations, privacy, and workers' compensation and occupational health and safety	2006	41 34	21 2 28	51 48
20	Osler, Hoskin & Harcourt LLP 1055 Hastings St W Suite 1700, Vancouver V6E 2E9 P: 778-785-3000 F: 778-785-2745 osler.com	Mark Longo, managing partner, Vancouver	Corporate (incl. M&A, capital markets, tax), emerging and high growth companies, litigation and dispute resolution, commercial real estate, financial services	1862	46 36	16 2 32	50 34

Sources: Interviews with above law firms and BIV research. Other firms may have ranked but did not respond to information requests by deadline. NP Not provided. 1 - Year firm was founded in the U.K.; merged with Bull Houser & Tupper, whose Vancouver office opened in 1890, on January 1, 2017. 2 - BIV estimate. 3 - Closure date of merger among SNR Denton, Fraser Milner Casgrain and Salans

Business in Vancouver makes every attempt to publish accurate information in the List, but accuracy cannot be guaranteed. Researched by Anna Liczmanska, lists@biv.com.

Next list – Biggest wineries in British Columbia



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Largest Lower Mainland law firms increase their hiring

ANALYSIS | Since 2019, firms registered their largest one-year increase in lawyers from 2022 to 2023

BY ALBERT VAN SANTVOORT
AVANSANTVOORT@BIV.COM

Metro Vancouver's biggest law firms have sustained moderate growth in employment over the past several years, according to data collected on *BIV*'s list of the region's largest law firms (page 14).

The average number of lawyers working at B.C.'s top firms grew 4.8 per cent over the past year, to 91.1 in 2023 from 86.9 in 2022.

This was the third straight year of employment growth and the largest growth in at least the past five years.

Clark Wilson LLP (No. 5) had the largest five-year growth in

lawyers among the top five biggest firms: An increase of 26.7 per cent to 114 in 2023 from 90 in 2019.

While the average number of lawyers continues to climb, the list's median number of lawyers dropped slightly by less than two per cent to 86.5 in 2023 from 88 in 2022.

This suggests that smaller companies lower on the list saw employment contract, while larger companies higher on the list grew their numbers.

That said, an exception to this trend is **Osler, Hoskin & Harcourt LLP** (No. 20).

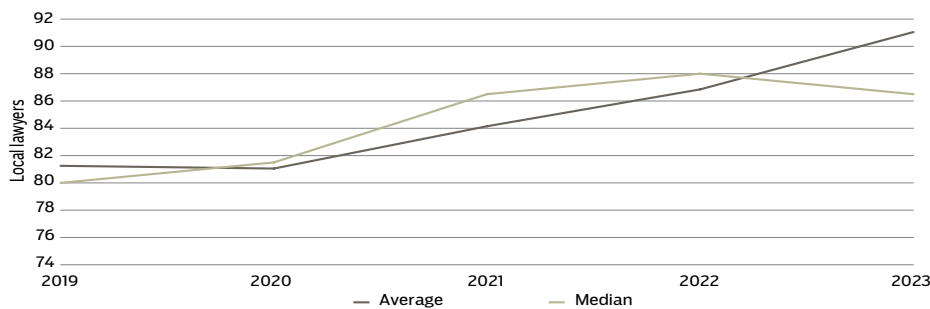
Though at the bottom of the list, the firm registered the

largest single-year growth in lawyers of all the companies on the list, with employment 47.1 per cent to 50 lawyers in 2023 from 34 in 2022.

The largest single-year decline in lawyers was at **Dentons** (No. 14), which decreased employment by 11.6 per cent to 76 lawyers in 2023 from 86 in 2022. ■

Average and median number of local lawyers at region's biggest firms

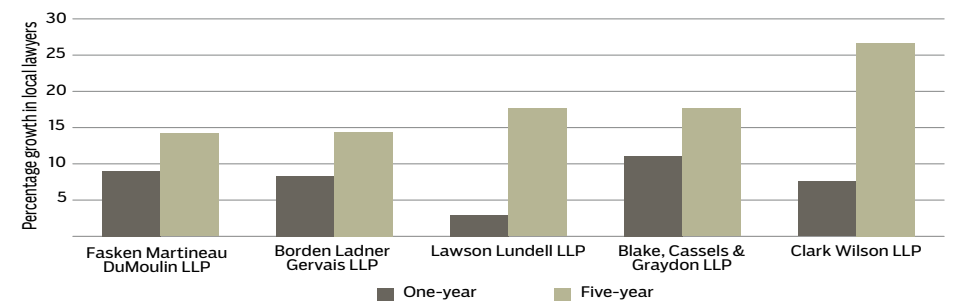
The average number of Metro Vancouver-based lawyers has grown 12.1 per cent over the past five years



SOURCE: BIV LIST

Growth in local lawyers at Metro Vancouver's top five largest law firms

Clark Wilson LLP had the largest five-year growth among the top five at 26.7 per cent



SOURCE: BIV LIST

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PAY TRANSPARENCY

CONTINUED FROM PAGE 13

target “underpaid” employees for recruitment with higher pay. Sandra Reder, founder of Vertical Bridge HR, predicts that in cases where existing employees see a job posted with pay scale higher than what they are earning in the same role, there is going to be unhappiness and demands for pay increases.

Impact 3: Expect wider pay ranges in some job postings

Employers who prefer to keep pay rates confidential from co-workers and competitors may decide to post very broad pay ranges to make it difficult for competitors and co-workers to really know the pay offered and/or to attract a broad range of

candidates. SMEs with limited information about the “going rate” for a job may also post very broad ranges so that they have plenty of flexibility to set pay according to the qualifications of the candidate. Thus ultimately, posted pay ranges may not be very meaningful for some employers.

Impact 4: Employers are unable to calibrate a pay offer to existing pay

It has been fairly common for employers to ask an applicant what they are making now in order to allow the new employer to ensure the amount offered is an increase or is close enough to existing pay to make the offer attractive.

Under the new rule banning such enquiries, employers will have to formulate pay offers without this key information. In cases where an employee rejects a pay offer as “less than I am making now,” a skeptical employer may want to respond that they would only consider increasing the offer if they received verification of such higher earnings – but without explicitly asking for it.

Leah Rubin of Foundation First HR points out that often applicants may hold a title which might imply an existing pay rate they do not, in fact, have. So attempting to make a fair pay offer based just on the title the applicant holds exposes the hiring employer to the risk of overpaying.

Overall, the PTA should improve competition in the labour market, in particular by allowing both job applicants and incumbent employees in a similar role to gather better information about pay rates and thus ask for and get higher pay. Capitalist market theory says this will ultimately lead to higher overall wages and higher pay for the most qualified/in demand talent.

These new rules taking effect in November will only have a modest impact on publicizing possible pay inequities between genders or other groups. For many larger employers who have always posted pay ranges, the PTA adds no new information. Anyone monitoring for pay inequity would have to

constantly record job postings, including job duties and the pay range, over many years and then attempt to analyze the data for examples of pay discrimination based on sex or other grounds.

Still to come under the PTA are regulations which will require employers down to 50 employees in B.C. to post aggregated information about pay received by various levels or categories of employee with breakdown by gender and potentially other criteria. ■

The content of this column should not be considered legal advice.

J. Geoffrey Howard (ghoward@howardlaw.ca) is the founder of Howard Employment Law.

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We need more than higher rates to correct our imbalanced economy



PODIUM

KIRK LAPOINTE

Few can argue that central banks, ours included, took far too long to recognize the intensity of inflation before trying to cool the economy by weaning us of the habit of near-free borrowing. The problem now, and the particular problem for our local economy and its real estate focus, is that the persistence of inflation is unexpectedly prolonging the pain of interest rates. The economy has been too good for too long and just won't sputter as expected when interest rates rise again and again and again.

We have, basically, full employment as a feature attraction in this economy's show of strength – or that much-used

pandemic word, resiliency – and we aren't stopping our spending and homebuying. Cost-of-living and cost-of-borrowing increases are still being absorbed, for the most part, because of pandemic-era savings and recent wage growth.

Of course, if you talk to those bearing variable-rate loans or mortgages or credit lines, this doesn't feel like an economy on their side. For them, the end of the "conditional pause" and the resumption of monetary tightening last week to bring the benchmark rate to 4.75 per cent, the highest since the first year of this century, just directs more and more to lenders from borrowers.

And if it took overly long to get on with the rate escalation, it is also going to take overly long to see those rates decline. Economists are now predicting the first quarter of 2024, not the back half of 2023, before we turn the page.

Our B.C. economy this century has fallen into the precarious

trap in which real estate is an asset class, and our personal prosperity and public finances have an inordinate dependence on the vitality of the building, buying and selling in residential and commercial markets.

Buyers appeared to have been faked out by the central bank's pause early this year in rate hikes, as if they might be done. Industry data shows that when prices began to tick upward again, buyers ready with down payments jumped back in. Last week's quarter-point bump might make some sit out the market, but higher bond yields and mortgage rates also affect development and could hit rental ventures especially hard.

This robust economy's pernicious inflation, and the effort to tame it with rate hikes, is also taking us down an unpleasant route that will inevitably yield problematic commercial vacancy rates (hybrid work isn't helping things) and consumer delinquencies among those who chose and stuck to and perhaps now

can't shake the variable rates.

We have seen the last of near-free borrowing – one economist, **Derek Burleton at TD Bank**, told me on our BIV Today podcast that we're likely to settle in around three per cent eventually as the central rate – but concomitant with that is the central bank's inflation target of two per cent. (Many economists are doubting that target can be reached.) No matter, it's taking a lot longer to get down the hill that the heated economy scaled in the last two years, again due to wage growth and labour shortages in part fuelling them.

The question now is when will consumer spending really slow to then take the steam out of inflation and the job market and to permit the central bank to reduce its rate slowly, cautiously, with an eye on the cost-of-living data.

It's unlikely the central bank will need to reach that inflation target, anyway, before it starts reducing its rate, but we could still be in store for another quarter-point or half-point rate

increase before the direction changes.

The larger trouble, though, involves the investment climate contributing to lack of business confidence and labour productivity problems contributing to inflation – both stand in the way of improvements in living standards. We used to be kingpins of standards in the OECD; now we're well down the ranks, and senior governments either don't seem disturbed or don't seem competent to contend with this. We trade better with the world than we do among ourselves in this country, for instance, and our neighbours to the south keep schooling us on how to stimulate markets and generate prosperity.

The **Bank of Canada** shouldn't be the only authorities leading us into the economy's next chapter; we could use some political leadership in its proper place right about now. ■

Kirk LaPointe is publisher and executive editor of *BIV* and vice-president, editorial, of Glacier Media.

Employer-employee disconnect frustrates job market conditions



PODIUM

MARIO CANSECO

At the height of the global financial crisis in 2008, more than half of British Columbians identified the economy and jobs as the most important issue facing the province. A decade and a half later, that proportion has dropped to 12 per cent. Housing, health care and public safety are currently more prevalent in the minds of British Columbians.

The fact that British Columbians are not as stressed about the economy as they used to be might lead us to believe that everything is proceeding smoothly. The unique Addressing the Labour Market Gap survey outlines some of the challenges that lie ahead.

The survey collected responses from a sample of employers, which encompassed business owners and staffers who handle employment matters, and a sample of job seekers, which included adult residents of B.C. who are currently looking for work or who would entertain the opportunity to leave their current full-time or part-time position, if the right opportunity came along.

More than three in five employers (62 per cent) say it is harder to find qualified candidates now than before the COVID-19 pandemic. The struggle is also real for job seekers, with practically two in five (39 per cent) declaring that it is harder to find a job now than in 2019.

The most striking gap is observed when employers and job seekers are asked about the most appealing elements of job ads. When writing about the positions they are about to offer, employers concentrate primarily on describing the work environment and office culture (50 per cent) and touting additional benefits,

such as health, dental or wellness (also 50 per cent). Three other aspects are secondary: Work-life balance (45 per cent), opportunity for advancement (39 per cent) and salary (38 per cent).

While the same five features are present on the "wish list" of job seekers, the emphasis is decidedly different. A majority (51 per cent) want to know about the salary first, then focus on work-life balance (42 per cent), additional benefits (39 per cent), advancement (34 per cent) and, ranked last, a company's work environment and office culture (33 per cent).

This disconnect suggests how hard it is to communicate in the current labour market. With added inflationary and housing pressures, job seekers are desperate to know how much money they could make if successful in their application. Employers appear to be downplaying pay, hoping that a supposedly superior office culture will be enough to lure candidates.

There are other situations that

are making it harder for employers and job seekers to connect. The grind of running a business takes away the opportunity to give all applicants a fair review. At least two in five employers in B.C. find it difficult to manage the administrative tasks associated with hiring (43 per cent), dealing with applications from unsuccessful candidates (40 per cent) and finding adequate time to respond to successful applicants (also 40 per cent).

While these numbers do not represent a majority of business owners and staffers who handle employment matters, they are still noteworthy. The chance to establish a successful connection may be lost if decision makers lack the time and energy to pursue a careful and equitable process.

Job seekers are having a hard time with their part of the equation as well. While technology has made it easier to post résumés and cover letters from anywhere, other aspects of the search are more convoluted.

Almost three in five job seekers (59 per cent) admit that they find it difficult to negotiate salaries and offers, and majorities are also flummoxed by networking to find the right opportunities (54 per cent) and getting called for interviews (51 per cent).

Finally, the testimony of job seekers who feel left behind demands action. Some women painted a gloomy picture of the road back from being stay-at-home mothers. A sizable number of Generation X and Baby Boomers feel the interview process – and the ultimate decision – did not consider everything they could bring to the table. ■

Mario Canseco is president of Research Co.

The Addressing the Labour Market Gap survey was developed by the Ministry of Social Development and Poverty Reduction in partnership with the BC Chamber of Commerce. The results are based on an online survey conducted from Feb. 7 to March 3 among 812 employers and 1,225 job seekers in B.C.

TROUBLE

WHO'S GETTING SUED

These corporate claims were filed with the B.C. Supreme Court registry in Vancouver. Information is derived from notices of civil claim. Civil claims have not been tested or proven in court.

DEFENDANT

Jeffrey Woods

PLAINTIFF

PI Financial Corp.

CLAIM

Damages for breach of contract after the defendant, formerly an investment adviser with the plaintiff, resigned to compete with the plaintiff and used the plaintiff's customer lists and other confidential information to his benefit.

DEFENDANTS

Maninder Singh Gill and Find My Auto Inc. and Arvind Gupta and 2191585 Alberta Ltd. and Hasina Hedaia and Arashpreet Singh Gill and Hyde Park Insurance Agencies Ltd.

PLAINTIFFS

Foundation Automotive Corp. and Foundation Auto Squamish Inc. and Foundation Auto Squamish LP and Foundation Auto Vancouver Inc. and Foundation Auto Vancouver LP

CLAIM

Damages for unjust enrichment and civil fraud for using high-credit individuals' credit scores to approve financing for vehicle purchases for separate low-credit individuals' credit scores.

DEFENDANTS

John Doe and Canadian Imperial Bank of Commerce and Sealy Canada Ltd./Ltee and Missing Link Resources Inc. and Albert Maclean

PLAINTIFF

Watermark Hospitality Ltd.

CLAIM

An order for CIBC to return funds to the plaintiff after the plaintiff paid the funds to a CIBC account, wrongly believing due to actions by John Doe that the account belonged to Sealy Canada, which provided mattresses for the plaintiff's hotel.

DEFENDANTS

Parq Vancouver ULC and Parq Holdings LP and Parq Equity LP and Parq Vancouver LP and Parq Holdings GP Inc. and Parq Equity GP Inc. and John Doe

PLAINTIFF

Jian Liu

CLAIM

Damages for breach of duty of care for accepting bank drafts worth a total of \$49,000 from the plaintiff's husband, who then lost the funds at the defendants' casino, using their joint account despite regulations against accepting bank drafts from joint accounts.

DEFENDANTS

Rieghardt Van Enter and Andrea Lorraine Van Enter and Cloverdale Paint Inc.

PLAINTIFF

Teri Jack

CLAIM

Damages after painting work done by or through Cloverdale Paint at the Enters' home resulted in a fire that spread to the plaintiff's home.

DEFENDANT

9282-0448 Quebec Inc. doing business as Vidocq

PLAINTIFF

Kenneth Ingram Marsh also known as Kim Marsh

CLAIM

Damages for wrongful dismissal as the defendant's vice-president, including \$35,000 for severance pay and \$50,000 for a bonus after the plaintiff was fired over allegations he committed fraud with his tax filings submitted to the plaintiff.

DEFENDANT

Farzad Taheri

PLAINTIFF

Seylynn (North Shore) Development LP

CLAIM

A declaration that the defendant has violated the plaintiff's Denna Homes Trademark by registering websites and starting social media accounts using the Denna Homes name.

DEFENDANTS

Samuel Michael Dilts and New Sun Design Group Ltd.

PLAINTIFFS

Supplytobuild Industries Corp. doing business as Van Masonry and Ali Reza Zarei

CLAIM

An injunction against the defendants posting defamatory comments online about the plaintiff and damages for defamation.

DEFENDANTS

Valley Towing Ltd. and Jones Marine Group Ltd. and ABC Corp. and the owners and others interested in the ship Sea Cap XII and Maren J.

LAWSUIT OF THE WEEK

Developer claims partner blocked sales, withheld funding

CEO alleges that Vancouver Island project was stalled in effort to 'radically alter' business plan

BY DUSTIN GODFREY

The CEO of a development partnership claims a major shareholder is trying to thwart plans to establish a resort community on Vancouver Island.

Sanovest Holdings Ltd. and **599315 B.C. Ltd.** are equal partners in **Ecoasis Developments LLP**, which was formed in September 2013 to build a B.C. resort community under the company name **Ecoasis Bear Mountain Developments Ltd.** (EBMD).

The Bear Mountain project operated without significant hitches until June 2021, according to a recent lawsuit filed by 599315 and the LLP against Sanovest and **Tian Kusumoto**, a representative of Sanovest.

In a petition to the court, filed on the same day as the lawsuit, Matthews and 599315 claim Tian Kusumoto sought to advance a new goal for the Bear Mountain development that runs contrary to the original goal.

"Kusumoto has sought to radically alter the business objectives by seeking to involve EBMD and the partnership in vertical building partnerships with developers rather than pursue the established plan of bulk sales of multi-family sites and single-family residential lots," the petition claims.

"In order to further this plan, or otherwise to force the sale of 599315's interest in EBMD and the partnership on a distressed and devalued basis, Kusumoto and Sanovest have improperly withheld funding and prevented sales to deliberately place financial and operational pressure on Matthews and 599315."

Sanovest had appointed **Tom Kusumoto** as its representative in EBMD to act as secretary, while Daniel Matthews was 599315's appointee, serving as president and CEO, according to the lawsuit.

The lawsuit notes Sanovest agreed to provide a loan of up to \$35 million at an annual interest rate of eight per cent, with a November 2017 maturity date. That loan agreement was amended in June 2016 to a limit of \$70 million and to extend the loan to November 2021, a date that was further extended at a later point to May 2024, according to the lawsuit.

Tom Kusumoto was replaced in June 2021 as Sanovest's appointee to EBMD by Tian Kusumoto, according to the legal filings, which claim that was when things turned sour.

The lawsuit lists 11 particular breaches of the partnership agreement.

Specifically, it claims Tian Kusumoto prevented Matthews from carrying out his role as CEO and president of EBMD, "attempting to seize control" of EBMD's bank accounts and claiming a \$100,000 fee on the loan agreement.

That loan agreement fee, the plaintiffs argue, was improper and concealed from 599315 and Matthews.

The plaintiffs also claim Tian Kusumoto and Sanovest impeded EBMD's business, including blocking "commercially reasonable bulk sales and, indeed, sales for unprecedented value" attached to the project. In all, the lawsuit claims EBMD lost \$164 million in sales in 2022 alone.

The lawsuit claims blocking those sales were part of an attempt "to improperly entrench Sanovest's position as lender," which also allegedly included refusing to allow EBMD to refinance on terms more commercially advantageous to the partnership.

At the same time, the lawsuit alleges Sanovest and Tian Kusumoto prevented EBMD from building up cash reserves, and that they refused to advance funds under the loan agreement.

The plaintiffs are seeking damages for breach of the partnership agreements and for breach of fiduciary duty to the partnership.

The allegations have not been proven in court. A response had not been filed as of press time.

PLAINTIFF

Canadian National Railway Co.

CLAIM

Damages estimated at \$385,271 after a ship operated by the defendants crashed into a CN Rail bridge over the Fraser River.

DEFENDANT

Quadra Wood Products Ltd.

PLAINTIFF

Coast Fraser Enterprises Ltd.

CLAIM

An order that unsold wood products held in a lot by the defendant

belongs to the plaintiff after the defendant demanded a share of anticipated profits from the unsold wood following the dissolution of a profit-sharing agreement.

DEFENDANTS

Samuel Michael Dilts and New Sun Design Group Ltd.

PLAINTIFF

Supplytobuild Industries Corp. doing business as Van Masonry

CLAIM

Damages for breach of contract for failing to conduct subcontractor

work the plaintiff paid a 75-per-cent deposit on and for misrepresentation using the plaintiff's name after the defendant used Van Masonry email addresses, provided by the plaintiff for business related to Van Masonry, to solicit business for the defendant.

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