

Citation: *City of Whitehorse v. Dickey*, 2010 YKTC 102

Date: 20100914
Docket: 09-05834
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

CITY OF WHITEHORSE

Plaintiff

v.

LLOYD WILLIAM DICKEY

Defendant

Appearances:

Lori Lavoie
Lloyd Dickey

Counsel for the City of Whitehorse
Appearing on his own behalf

REASONS FOR JUDGMENT

[1] CAMERON J.P.T.C. (Oral): Mr. Dickey has been charged under s. 9(6) of the Maintenance Bylaw.

[2] We heard testimony from Constable Pruden in regards to the ongoing concerns in the storage of the tractor unit on this property; 15 Maple. 15 Maple is the property that is occupied by Mr. Dickey. It is a property that has been in the news, property that has accumulated a number of different items on it. Clearly, it is an eyesore for the neighbours.

[3] This tractor unit in question was found to be sitting on the property back in August of 2009, sitting in the front yard, and it had not moved for some period of time.

[4] A warning was then issued and the unit did move. We heard from a neighbour that it was away from the property for approximately three weeks. It then came back to the property and sat in the driveway. The unit is registered to Mr. Dickey; however, it is not registered as a commercial unit. It has a standard licence plate number on it and it is clear from the photos, from the exhibits, that it sat then, in the driveway, for some period of time. However, Exhibit 1, which is a certificate of registered ownership, shows that it was registered during that period of time and in all likelihood was certainly capable of being moved.

[5] Mr. Dickey has indicated to the Court that the purpose of this unit is not for any commercial purpose, but rather that it hauls a large recreational trailer that he stores in Haines Junction. That would put this unit, although it is highly unusual, in the class alongside large motorhomes and so on. The Court has to take the view, barring any evidence to the contrary, that it would not be contrary to any bylaws that I am aware of for an individual to park, in fact, their RV or their motorhome in their driveway.

[6] The licence plate number certainly supports Mr. Dickey's contention that this tractor is not for commercial purposes. Although this section, as it reads, specifically says, "You cannot park a tractor or store a tractor unit on the property," I have to interpret that as inferring in regards to commercially operated tractor unit and/or commercially operated heavy equipment. The simple fact that this is a tractor unit does not preclude use as a personal use vehicle, such as a unit to pull and tow an RV unit, as has been described by Mr. Dickey.

[7] In my view, I think it would be inappropriate to convict Mr. Dickey on this

particular offence given the unusual, I agree they are unusual, but certainly understandable circumstances that Mr. Dickey has put forward in regards to that particular unit. As such, I am dismissing the charge against you, Mr. Dickey. You are free to go.

CAMERON J.P.T.C.