



# Discipline Case Digest

**Case:** 2022-14

**Registrant:** Registered Professional Forester (Retired)

**Referred to:** Investigations Committee

**Date of Decision:** July 24, 2023

## Background

A retired registrant lives in a strata complex and was a strata council member in 2020. A plum tree and two cherry trees were present on the strata property. In 2020, the plum tree was damaged in a wind event, causing a large branch to fall onto a pedestrian sidewalk. In consultation with a municipal arborist, the strata council decided to remove the plum tree due to its declining health and for the safety of residents and ground maintenance workers. In the summer of 2021, a large branch from one of the cherry trees broke off. The strata council voted to get a quote from an independent contractor to have the cherry tree removed. An arborist for the independent contractor inspected the two remaining cherry trees and recommended that the trees be removed as they were hazardous to persons or property. The strata council discussed the advice from the independent arborist but decided to leave the cherry trees.

In the summer of 2022, another branch broke off from one of the cherry trees and landed on the pedestrian walkway that provided access to the residential building. The retired registrant was returning to their residence when they encountered the strata council president removing tree debris from the walkway. The retired registrant advised the strata president that strata had a legal duty under the *Workers Compensation Act* (WCA) to remove known hazards from a workplace. The retired registrant also advised the strata president that the strata corporation is legally responsible for the health and safety of persons at or near the strata property, not just the maintenance workers. The retired registrant told the strata council president it was time to contact the independent contractor and the strata council got the quote from in 2021. The strata president agreed with the retired registrant, and the independent contracting company removed the two cherry trees from the strata property.

## The Complaint

A resident of the strata complex (the “complainant”) took issue with the retired registrant providing advice to the strata council about hazards posed by the trees. The complainant’s position was that a retired registrant cannot practice professional forestry, which includes providing advice about the hazards posed by the cherry trees.

In the summer of 2022, FPBC received a complaint from the complainant due to their concerns the retired registrant was practicing professional forestry contrary to FPBC Bylaw 5-13(3)(a), which states: “A retired registrant must not engage in the practice of professional forestry.” The

*Forest Professional Regulation (FPR)* states the “practice of professional forestry” means the provisions of: advice or service in relation to trees, forests, forest lands, forest resources, forest ecosystems, or forest transportation systems; or advice or services that are ancillary to those described in paragraph (a). Additionally, the FPR defines “protective purposes” as the safety, health and welfare of the public, including the protection of the environment and the promotion of health and safety in the workplace. The complaint also included an allegation that the registrant, in their role as a residential strata council member, was in a conflict of interest when they advised the strata council and president.

### **Discussion and Considerations**

The investigators determined that the retired registrant, a strata council member, had a legal duty under Section 31 of the *Strata Property Act* to act in good faith with a view of the best interest of the strata corporation. The investigators determined that the retired registrant’s advice to the strata president related to the strata corporation's legal obligations under the WCA.

Investigation Committee members reviewed the complaint, the registrant’s response to the complaint, and the investigation report to make a recommendation to the registrar as per Bylaw 13.16. The discussion primarily focused on whether or not the retired registrant’s advice to the strata council president fell within the definition of the practice of professional forestry.

### **Decision**

Investigation Committee members agreed that the advice provided by the retired registrant did not fall within the practice of professional forestry; therefore, the retired registrant did not breach Bylaw 5-13(3)(a). Investigation Committee members moved to dismiss the complaint against the retired registrant.