

2024 LSBC 46
Hearing File No.: HE20180041
Decision Issued: December 11, 2024
Citation Issued: May 15, 2018

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

VALORIE HEMMINGER

RESPONDENT

**DECISION ON AN APPLICATION
TO RECORD THE CONTINUATION OF THE HEARING**

Written Materials: December 4, 2024

Panel: Jennifer Chow, KC
Monique Pongracic-Speier, KC

Discipline Counsel: Angela Westmacott, KC
Alandra Harlinton

Counsel for the Respondent: Richard Gibbs, KC

Moving Party on Application: Brandon Nelson Leudke

[1] By notice of motion dated November 28, 2024, the moving party on this application (the “Applicant”), a self-represented member of the public, seeks permission to record, by video and audio, the continuation of the hearing in this matter. The Applicant did not file any evidence in support of the motion. The Applicant argues that,

in addition to the Tribunal's recording of the proceedings, permitting him to record the proceedings would serve the goals of openness and transparency.

[2] Both the Law Society and the Respondent oppose the Applicant's motion.

[3] Rules 5-8 and 5-9 of the Law Society Rules ("Rule(s)") and LSBC Tribunal Practice Direction 8.9 promote the open court principle and permits the hearing panel to exercise discretion to depart from standard hearing arrangements where warranted.

[4] Rule 5-8(1) provides that hearings are open to the public, subject to the hearing panel's discretion to exclude some or all members of the public on grounds specified in Rule 5-8(1.1). In addition, Rules 5-8(4) provides:

(4) Except as required under Rule 5-9 [*Transcript and exhibits*], when a hearing is in progress, no one is permitted to possess or operate any device for photographing, recording or broadcasting in the hearing room without the permission of the panel or review board, which the panel or review board in its discretion may refuse or grant, with or without conditions or restrictions.

[5] Rule 5-9(1) obliges the Tribunal to record all proceedings at a hearing "by a court reporter or by other means." Rules 5-9(2) and (3) further provide:

(2) Subject to the Act, these rules and the *Freedom of Information and Protection of Privacy Act*, any person may obtain, at the person's own expense, a copy of

(a) a transcript of any part of the hearing that is open to the public, or

(b) an exhibit entered in evidence when a hearing is open to the public.

(3) This rule must not be interpreted to permit the disclosure of any information, files or records that are confidential or subject to a solicitor client privilege.

[6] Practice Direction 8.9 supplements the Rules. It provides that no one other than the Tribunal may, without permission:

(a) take photographs or make a video or audio recording in the Tribunal premises or the hearing room;

(b) take a screen shot or make a video or audio recording of a telephone or video-conference appearance; or

(c) operate cell phones or electronic devices in the hearing room.

[7] The Applicant's reasons for seeking to record the proceedings, which include his past dealings with the Respondent and the assumption that the Tribunal's recording of the proceedings is not available to the public, are not persuasive.

[8] Subject to any order that might be made to exclude members of the public from the hearing, the Applicant may attend the continuation of the hearing to observe the proceedings. However, to be clear, the Applicant is not permitted to make his own video or audio recordings, including any photographs, screenshots, or use any other methods of recording the proceedings. The Applicant may request a transcript of the hearing, or access to an exhibit, pursuant to Rules 5-9(2) and (3).

[9] The application is denied.