

NEWS

**Fitness bootcamp fundraiser**

Results 4 Life Fitness is organizing a fundraiser for the annual CIBC Run For The Cure which takes place in Kelowna on Oct. 6.  
On Aug. 25, a Tabata-style fitness bootcamp training session will held at Loseth Park in the Black Mountain neighbourhood, 1 to 3 p.m.  
For more information how to take part, email rhonda@results4fitness.com.

**The Sensible BC tour is coming to town!**

*Meet Dana Larsen and join the campaign for a marijuana referendum.*

**Saturday August 17**

Kelowna - All day  
at the Okanagan Pride Festival  
(Kelowna City Park)



Join the Campaign for a Marijuana Referendum

Find out more at <http://SensibleBC.ca>



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(Beside Sunshine Market)  
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**Breast baring limitations not legally clear**

**C**redit for this week's column topic goes to local Internet phenom Lori Welbourne, who produces an edgy talk radio show every Wednesday night called On The Rocks with co-hosts Jason Rock and Stuntman Steve.

The show comes with the alluring warning: "On The Rocks contains mature and sexual subject matter, listener discretion is advised".

One of the Internet headline topics of discussion this week was 19-year-old model, Chyenne Lutek.

Lutek tested the limits of New York City's recently relaxed laws regarding partial nudity by slipping off her blouse in a trendy restaurant.

She was escorted out by management, but later posed topless with two New York City police officers who have been directed not to cite topless women for public lewdness or indecent exposure.

To prepare for the show, Welbourne posted the topic on Facebook asking about the legality of baring breasts in Kelowna. So I couldn't resist doing a little research.

What would happen if you were to bare your breasts in public in Kelowna?

In 1906, you might have spent time in jail. When looking for by-laws on the subject on the



ACHIEVING JUSTICE

Paul Hergott

City of Kelowna website I came upon this piece of history—1906, Kelowna City Council passed a bylaw and instructed the presiding Chief of Police, William Brent, to prohibit nude bathing in Okanagan Lake between 6 a.m.—9 p.m. Skinny-dippers were fined \$100 or sentenced to 30 days in jail!

The only current Kelowna bylaws I could find related to breasts, have to do with the circumference of trees.

I was interested to learn that tree circumference is measured at breast height. It's a defined term is "Circumference at Breast Height" (CBH for short).

Imagine that. In the context of women's breasts, does that strike you as problematic? Is it unrestrained or brassiered breasts, for example?

The municipality of Maple Ridge passed a by-law in 1997 requiring "females over the age of eight (8) years" to "fully cover all portions of their nipples and aureole with opaque apparel."

The bylaw was passed in specific response to Linda Meyer's declara-



CONTRIBUTED

**TOAST WORTHY...**The Mt. Boucherie Winery wine shop team (Bree Jefferson, Cathy Marks, Karin Vermassen and Pinki Gidda) each raised a glass last week to toast the generosity of the public. With many of the winery's long time and repeat summer visitors coming from Alberta, the West Kelowna winery wanted to collect donations to help those impacted by the recent floods. The donations collected at the winery totalled \$5,300, which was in turn matched by TD Canada Trust. The total of \$10,600 was turned over to the Red Cross to assist Albertans who suffered property losses due to the floods.

tion that she would be baring her breasts in a public leisure centre.

Meyer disregarded the bylaw and was subsequently charged. The court hearing the matter declared the bylaw void because a municipality does not have jurisdiction to create bylaws that fall within the gamut of criminal law.

Criminal law is an exclusively federal matter, those laws contained within the Criminal Code. Public nudity provisions in the Criminal Code do not specifically name body parts.

Instead, offending the Criminal Code requires offending "public decency."

Whether or not public decency is offended depends on what the community standard of tolerance might be.

Meyer's bold asser-

tion that she would go bare-breasted was no doubt inspired by legal developments in Ontario the previous year.

A 1996 Ontario Court of Appeal decision found that while most women might choose not to be bare-breasted in public, it is not something that offends the "community standard of tolerance."

The decision resulted in the acquittal of Gwen Jacob, who had been criminally charged and fined \$75 for removing her shirt.

You might find this odd, but court decisions in other provinces are not automatically binding in British Columbia.

They are persuasive, though, particularly when they come from a court of appeal.

If I "had a pair" in the female context, I would feel very confident that I

could dangle them on the streets of Kelowna without risk of a criminal conviction.

However, I doubt that this clarification about the law will result in the mass display of women's nude breasts in Kelowna.

But I wonder if it might reduce the frowns of disapproval that seem to crop up when a mother attaches her baby's mouth to that supposedly offensive part of her anatomy in public?

*This column is intended to provide general information about injury claims. It is not a substitute for retaining a lawyer to provide legal advice specifically pertaining to your case. Paul Hergott is a lawyer at Hergott Law in West Kelowna.*

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**REGIONAL DISTRICT NEWS**



1450 K.L.O. Road, Kelowna, B.C. V1W 3Z4  
• 763-4918 • Fax 763-0606  
• [www.regionaldistrict.com](http://www.regionaldistrict.com)

**TEMPORARY USE PERMIT**

Notice is hereby given that the Regional District of Central Okanagan will consider an application pursuant to Section 921 of the Local Government Act regarding issuance of a Temporary Use Permit. The application will be considered at 7:00 p.m., Monday, August 26, 2013, in the Woodhaven Board Room at the Regional District of Central Okanagan, 1450 KLO Road, Kelowna, B.C.

A copy of the above application may be inspected at the offices of the Community Services - Planning Section of the Regional District of Central Okanagan, 1450 KLO Road, Kelowna, B.C., (Phone: 250-469-6227) during the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding statutory holidays) from the date of this notice up to and including the date of the meeting.

**Owners/Applicants:** Parvinder and Baljit Uppal & Paramjit and Harjinder Gill  
**File:** TUP-13-04  
**Agent:** Parvinder Uppal  
**Legal Description:** Lot A, Section 6, Township 24, ODYD, Plan 16575  
**General Location:** Adjacent to Lakha Road in the Ellison area (Central Okanagan East)  
**Street Address:** 2711 Lakha Road  
**Present Zoning:** A1 Agricultural  
**OCP Designation:** Agriculture  
**Purpose:** The applicant is requesting issuance of a three-year permit in order to allow temporary accommodation for migrant farm workers.



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**THE MARTIN CENTRE • 1434 Graham St., Kelowna**  
**www.slrkelowna.ca 250-448-1203**

**Diabetes support group**

Support group for adults with diabetes and their support person will meet the first Tuesday of the month starting Sept. 3, 6:30 p.m., at the Green Bay Bible Camp, 1441 Green Bay Rd. In West Kelowna.

The support group helps bring together people coping with Type 1 and Type 2 diabetes for support and discussions. Participation is free. Drop-ins are encouraged. For more information email Gabriela (volunteer coordinator) at [kelownadiabetes@gmail.com](mailto:kelownadiabetes@gmail.com).