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## CASE SUMMARY: PROCEDURAL FAIRNESS IS REVIEWED ON A STANDARD OF CORRECTNESS

**Administrative law – Decisions reviewed – Municipal Councillor – Judicial review – Appeals – Natural justice – Procedural requirements and fairness – Standard of review – Correctness – Reasonableness**

*Murray Purcha & Son Ltd. v. Barriere (District)*, [2019] B.C.J. No. 2, 2019 BCCA 4, British Columbia Court of Appeal, January 3, 2019, S. Stromberg-Stein, J.E.D. Savage and J.J.L. Hunter JJ.A.

The appellant Murray Purcha & Son Ltd., a road maintenance contractor, submitted a proposal to the respondent Barriere, a municipality, in response to a request for proposal for winter road maintenance.

At the conclusion of the request for proposal process Barriere selected another proponent.

Murray Purcha sought judicial review of Barriere's decision on the basis Barriere breached the duty of procedural fairness owed to the proponents. In particular, Murray Purcha argued Barriere failed to disqualify the winning proponent's bid, on various procedural grounds related to the request for proposal process.

On review, the chambers judge reviewed the question of procedural fairness on a standard of reasonableness. The chambers judge found none of the procedural decisions of Barriere were unreasonable. The decision was upheld.

On appeal, Murray Purcha argued the same issues related to procedural fairness, on the basis the chambers judge applied the wrong standard of review.

The Court of Appeal found compliance with the duty of procedural fairness is not assessed on a standard of reasonableness. The process undertaken by the decision-maker either complies with the duty of fairness or it does not. No deference is given with respect to procedural fairness. The standard of review for whether a decision-maker has complied with the duty of procedural fairness is correctness.

The Court of Appeal held Barriere owed a duty of procedural fairness on the basis that a government procurement decision must follow the pre-established process rules; however, the Court found the mandatory requirements for the proposals were followed equally for all proponents. The duty of procedural fairness was met.

The appeal was dismissed.

This case was digested by [Joel A. Morris](#), and first published in the LexisNexis® Harper Grey Administrative Law Netletter and the Harper Grey Administrative Law Newsletter. If you would like to discuss this case further, please contact Joel A. Morris at [jmorris@harpergrey.com](mailto:jmorris@harpergrey.com).