

## Escheat Act Modernization Project Backgrounder

### Backgrounder no. 1: Introduction to the Project

The BCLI is carrying out a project to examine the law of escheat. This project aims to produce a report containing recommendations for modernizing the BC *Escheat Act* and exploring pathways for bringing it into alignment with the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

#### *What is escheat?*

The law of escheat dates back to the feudal system in England. It is based on the premise that the Crown ultimately owns all land and individual property owners hold land of the Crown under a granted interest. Accordingly, a property owner's interest in land can return to the Crown, a process known as escheat. In BC, property can escheat to the Crown when a person dies without a will or heir or when a corporate owner dissolves.

#### *Impact of escheat*

When property escheats, the previous owner's interest ends, and the Crown can manage the property. That power to manage the property can include granting a new title or selling the property. This legal mechanism for dealing with property without an owner is based on an assumption of underlying Crown title over unceded lands.

#### *BCLI process for this project*

The BCLI will develop recommendations for the reform of this area of law with the support of an expert project committee. Committee members engage with legal research and share their expertise to inform the development of recommendations. While recommendations don't have official status, they influence law reform. Legislative amendments are dependent upon the provincial government taking key steps towards implementation, including the fulfilment of Crown obligations to consult and cooperate with First Nations.

BCLI aims to support future consultation and cooperation efforts by ensuring that our work is informed by Indigenous perspectives. BCLI's process of engaging subject matter expertise, including Indigenous expertise, early and throughout the life of a project, provides a framework for supporting legal pluralism and the integration of alignment of laws priorities at the earliest stages of development of policy and legislation.

#### *Project Committee Members*

The project committee supporting this work includes the following members:

Lydia Hwitsum  
*Committee Chair*

Alexandra Flynn  
*Allard School of Law*

Greg Nielsen  
*Executive Counsel, Public Guardian and Trustee*

Tyler Nyvall  
*Ministry of Attorney General Liaison Observer*

Stephen Mussell  
*Mandell Pinder*

Jeffrey Nicholls  
*Ratcliff LLP*

Mary Childs  
*General counsel, Tsawwassen First Nation*

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