



# Anglican Network in Canada

## News release

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### BC Supreme Court issues mixed decision in church property dispute

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**Vancouver, BC** – Mr Justice Stephen Kelleher of the British Columbia Supreme Court issued a mixed decision today in the case involving the Anglican Church of Canada (ACoC) Diocese of New Westminster and four Greater Vancouver parishes in the [Anglican Network in Canada](#).

The four parishes – St Matthew’s (Abbotsford), St Matthias & St Luke’s (Vancouver), St John’s Shaughnessy (Vancouver) and Church of the Good Shepherd (Vancouver) – had asked the courts in early September 2008 to clarify their Trustees’ responsibilities in light of hostile action taken by the Diocese of New Westminster. After all four parishes voted overwhelmingly in February 2008 to disaffiliate with the ACoC and realign with the Anglican Network in Canada (ANiC), the bishop purported to terminate and replace the Trustees and take control of two of the churches’ properties and their bank accounts. ANiC is now part of the Anglican Church in North America (ACNA), a new Anglican province formed as a result of the worldwide split in the Anglican Church over profound disagreement on issues of doctrine.

Mr. Justice Kelleher found that the Bishop of New Westminster did not have legal or canonical authority for his purported termination and replacement of the Trustees, who were validly elected by the congregations and who control the use of the properties. However, he said the Trustees were required to exercise their authority “in relation to the parish properties in accordance with the Act, as well as the Constitution, Canons, Rules and Regulations of the Diocese.” He then said he would “leave it to the parties to arrive at a workable solution”. This clearly leaves the parties in a difficult position as they dispute the interpretation of those documents, particularly the Constitution.

Mr Justice Kelleher preferred to follow American legal principles rather than apply British and Canadian cases which have held that “*As a rule, where a church organization is formed for the purpose of promoting certain defined doctrines of religion, the church property which it acquires is impressed with a trust to carry out that purpose, and a majority cannot divert the property to inconsistent uses against the protest of a minority however small.*” (See *Anderson v. Gislason* 1920 Man. CA) He also chose not to apply established British and Canadian “cy pres” trust principles in dealing with the church properties.

However, he did apply trust principles in finding that the \$2.2 million bequest of Dr. Daphne Chun to “the building fund of the Church of Good Shepherd” should be held on trust for the building needs of the ANiC congregation.

“We are very grateful that Mr. Justice Kelleher understood and respected Dr. Chun’s intention when she left her bequest to our building fund” said Eric Law, a Trustee of the congregation of Good Shepherd. “We look forward to using those funds toward the building we currently worship in.”

Without deciding the issue, Mr. Justice Kelleher also expressed his opinion that “the parish properties are held on trust for Anglican ministry as defined by the [Anglican Church of Canada].”

In recent years, the ACoC's governing body has changed church doctrine to the dismay of the global Anglican Communion.

"The 98 page decision is very complex and our lawyers will need some time to review it before we make any decisions about whether to appeal" said Cheryl Chang, Chancellor (in-house legal advisor) to the ANiC. "It is a great concern to hear that a majority can redefine and change the doctrine of the church and that those who wish to remain faithful to the church's teaching must change their beliefs or sacrifice their buildings. At the end of the day, if forced to choose, we will have to choose our faith over our buildings."

"People will turn to what is true," said Bishop Donald Harvey. "So, as Archbishop Bob Duncan, our ACNA Primate said last week, even if we have to leave our properties, *"We'll have the souls and they'll get the stuff. We'll get the future, they'll get the past. I'd rather have the souls and the future"*. Our greatest concern is for the congregations and the ministries. We will continue to preach the unchanging gospel of Jesus Christ, even if called to sacrifice buildings and money in the process."

ANiC now numbers 33 parishes and eight forming congregations in North America with more than 3500 in church on an average Sunday. Members of the Anglican Network in Canada are committed to remaining faithful to Holy Scripture and established Anglican doctrine and to ensuring that orthodox Anglicans are able to remain in full communion with their Anglican brothers and sisters outside North America.

ANiC is under the Episcopal authority of Bishop Harvey and is a diocese in the [Anglican Church in North America](#) which unites over 100,000 faithful Anglicans from across this continent. ANiC is also affiliated with the Anglican Province of the Southern Cone (in South America) under Primate Gregory Venables.

For more information see [the ANiC website](#).

**Contact:**

Marilyn Jacobson  
Communications, Anglican Network in Canada  
604 929-0369, 604 788-4222 (cell)  
[mjacobson@anglicannetwork.ca](mailto:mjacobson@anglicannetwork.ca)  
[www.anglicannetwork.ca](http://www.anglicannetwork.ca)