

WESTSIDE

▼ COUNCIL

Bigger sign shows an appetite to encourage commerce

JASON LUCIW
WESTSIDE REPORTER

In a show of support for local business, West Kelowna municipal council has granted a bylaw variance, allowing for a much larger sign for the World Gym and Valley Motorsport complex at the

corner of Westlake Road and Highway 97.

The allowable height of the sign will more than double at 10 metres, compared to the four-metre maximum permitted under the bylaw.

The face of the sign will also be expanded from the allow-

able six-square-metres to 8.4-square-metres.

Coun. Rosalind Neis said she felt the sign by-law restrictions that council passed earlier this year were too stringent, to the detriment of local businesses.

"I think we need to support our local busi-

nesses. I think we should be doing everything that we can to help them be successful," said Neis.

"One way that business is successful is obviously by letting visitors and shoppers know that they're there and that comes through signage."

Neis said council and

staff must be cognizant of the competition businesses in the municipality face from the adjacent Westbank First Nation's commercial sector.

The municipality should reconsider its entire sign bylaw so its guidelines are more in line with permissions be-

ing given to businesses on WFN land.

Coun. Gord Milsom said council must try to support businesses whenever it can.

"If this signage can increase the awareness for the businesses concerned then I am certainly in favour of it."

Coun. Duane Ophus noted that this site in particular is appropriate for the variance given the size of the site and the development and the sloped topography, with the mall sitting below Highway 97.

Council gave unanimous support for the variance.

▼ LAW

Jury award is merely symbolic

A Vancouver jury recently awarded \$12.5 million in compensation to a lady who was injured in three car crashes that ICBC has described as minor.

It really irritates me when it refers to crashes as "minor," with the suggestion that it takes a really big crash to cause a serious injury.

The truth, which any honest medical specialist will agree with, is that a crash resulting in a small amount of damage can cause a chronic pain condition that never goes away, and a crash resulting in a large amount of damage can cause injuries that completely resolve.

Particularly with modern cars that are built to bounce instead of crumple at lower velocity impacts, it can be safer to collide at a higher speed than a lower speed.

But back to the jury verdict.

When I first heard about the verdict, I got a little choked up.

Eight ordinary citizens had spoken, and spoken loudly.

They stood up for justice.

I suspected from the extremely high award, they were angry, angry about the insurance com-



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pany's tactics, either during the trial or in the way the injured victim was treated.

And I also suspected they were sending a message.

But then reality set in. Any message the jury tried to send will fall flat.

If a jury suspects a crash claimant is exaggerating or being unfair in any other way, the jury can send a message by awarding a very small amount of compensation.

The low award will likely bankrupt the claimant because of the tens of thousands of dollars of legal costs the insurance company will claim.

Instead of receiving financial compensation for suffering an injury, the crash victim will end up financially destroyed.

That message, which may be a lot stronger message than the jury intends to send, will stick.

The reason I say that the message will stick is that the Court of Appeal will very rarely overturn a

low jury award.

On the other hand, the law of this country actually requires the Court of Appeal to overturn an excessively high jury award.

The maximum amount of compensation that can be awarded in Canada for pain and suffering arising from an injury is approximately \$330,000.

No, that's not typographical error.

Three-hundred and thirty thousand dollars of "pain and suffering" compensation, reserved for the most life altering and life destroying of injuries is the maximum.

On appeal, \$6.2 million of the \$6.5 million part of the award for pain and suffering will go up in smoke.

In addition, depending on the facts of the case, the Court of Appeal may substitute its own numbers for pain and suffering, which may be substantially lower than the \$330,000 maximum.

Then there is the other \$6 million of the \$12.5 million award, for income losses and other financial losses arising from the crash injuries.

Depending on the facts of the case, that award may also be substantially reduced on appeal.

So much for sending a message.

I wonder how upset the jury is going to be when it finds out what will happen to its award.

The jurors are the victims here. They spend days, sometimes weeks, of their lives listening to evidence and doing their very best to deliver a just verdict.

They aren't told what ranges of compensation are likely to withstand an appeal.

They are told that the amount of compensation is for them to decide.

They are told that they have a loaded sling-shot and can use it to shoot at the forehead of Goliath, but they're not told that Goliath can just lift his shield and block.

Congratulations to the jury for standing up for justice.

I apologize on behalf of our justice system that its award will not get the respect it deserves.

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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