



**BC Association
for Community Living**

Supporting people with developmental disabilities and their families

Update on Woodlands Class Action Law Suit December 7, 2006

The BCACL Board of Directors met December 1-3, 2006 and discussed at length the status of the community's ongoing advocacy efforts on behalf of former residents of BC's major institutions. Two motions were passed:

That BCACL write a letter of support to the We Survived Woodlands Group endorsing their leadership on behalf of former residents of Woodlands to ensure that they receive fair and adequate compensation for the abuse suffered in the institution. In addition, the Group will be encouraged to support BCACL's efforts over the long term to ensure this compensation is made available to former residents of Tranquille, Glendale and the Endicott Centre.

That BCACL support the "common experience" approach to establish compensation to former residents of Woodlands and support the We Survived Woodlands Group's recommendation that \$15,000 represents fair and equitable compensation for each former resident of Woodlands.

Background Summary

Following the release in 2002 of the McCallum Report, *The Need to Know: Administrative Review of Woodlands School*, and BCACL's province-wide consultations with former residents and their families and supporters, BCACL has been advocating that the government take action on the 12 recommendations of the report. The review found that physical and sexual abuse of residents took place and that the abuse was systemic. BCACL has taken the position that there be a fair and equitable out-of-court restitution process for all former residents of Woodlands, Tranquille and the Endicott Centre.

The We Survived Woodlands Group (WSWG), composed of former residents and family members was also formed in 2002 and has been active in their efforts to support former residents. The Group is working with the BC Coalition of People with Disabilities (BCCPD).

When the government cited that it did not agree with the findings of the report that there was widespread abuse at Woodlands, a class action law suit was filed in the BC Supreme Court by former residents against the provincial government. In



February 2005 the past residents of Woodlands were constituted as a "class" of people who suffered damages because of the government's failure to properly manage Woodlands and the case was ordered to proceed as a "class action". A trial date is set for January 2008 and is scheduled for 27 weeks. The law firm of Poyner Baxter is counsel for the class action.

In the early summer of 2006 WSWG and BCCPD issued a community alert that a proposal was being developed by the lawyers in the class action for an out-of-court settlement that may exclude people who lived at Woodlands before 1974. Former residents were encouraged to engage the services of a new lawyer, David Klein who hopes to broaden the class to include residents from before 1974.

In August 2006 a draft settlement agreement was made public. It was based on a detailed points system for different degrees of abuse. This agreement outraged former residents and the community. Not only would it subject former residents to the agony of having to describe the abuse they suffered in order to be evaluated by a point system, it was put forward by the class action counsel of Poyner Baxter without consultation with former residents.

Given the disappointment with Poyner Baxter expressed by former residents, WSWG sought the advice and counsel of David Klein to help better understand the class action law suit and provide alternatives to the counsel they were receiving to be able to make fully informed decisions.

It is important that former residents of Woodlands know about the class action law suit and to also have the opportunity to retain independent counsel. Mr. Klein's legal fee will be 15% of the amount received by the individual. If no compensation is received by the individual, there will be no fee. This would be over and above the fee to Poyner Baxter.

There are three forms that can be accessed through the internet at www.bccpd.bc.ca and clicking on Community Alerts and Current Campaigns. Former residents of Woodlands only need to sign one of the two retainer forms and complete the contact information form. One of the retainer forms is for individuals and needs the signature of the former resident and the signature of a witness. The other form is for representatives or guardians and needs the signature of one or the other if the former resident is unable to sign for themselves.

Given the lengthy and uncertain outcome of the class action law suit, BCACL, WSWG and BCCPD are continuing to advocate for an out-of-court settlement based on a "common experience" payment.

WSWG has proposed that the Government of BC match the \$18 million the government received from the sale of Woodlands School property to create a settlement fund of \$36 million. This would provide a common payment of \$15,000 to each former resident of Woodlands, and eliminate the need for a lengthy court process and spare former residents from being re-victimized by the points system.

At the end of November WSWG sent letters to the Minister of Children and Family Development, Tom Christensen and Attorney General Wally Oppal. The letters outlined the proposal for an out-of-court common experience payment and requested a meeting. Another letter was also sent to all MLA's which outlined the proposal and shared three recent newspaper articles about the survivors of Woodlands. BCACL recently met with Minister Christensen to reiterate our position for an out-of-court settlement.

Recommendations

BCACL recommends that our member associations and other community organizations:

- Support the We Survived Woodlands proposal, *Do the Right Thing*.
- Support the proposal for an out-of-court settlement with a common experience payment to all survivors of Woodlands in the amount of \$15,000.
- Inform and support former Woodlands residents to learn about the class action law suit and ensure they have the opportunity to retain independent counsel.

Conclusion

BCACL is committed to continue our advocacy efforts to work with former residents of Woodlands, their family members and community to negotiate a fair and equitable out-of-court restitution process.

In addition, we know that similar conditions to Woodlands existed at Tranquille, Glendale and the Endicott Centre. There are over 1,000 survivors of those three institutions who cannot be forgotten. BCACL will continue over the long term to advocate on their behalf for a fair and timely restitution process.

For more information about the class action law suit, or how former residents can retain independent counsel, or to show your support, please contact Sue Scott at BCACL at 604-875-1119 local 517 or sscott@bcacl.org. The We Survived Woodlands Group can also be contacted through Gregg Schiller at 604-688-7001 or GreggSchiller@shaw.ca, or c/o BCCPD at 604-872-1278.