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a policy decision, the determination of the scope of the jurisdiction of the city would be solely a matter for the decision of city council. That result would be inconsistent with the fact that the powers delegated to the city under the Act are limited to municipal issues.

[21] Nor does the fact that a matter relates to one of the categories of matters identified in section 8 (2) of the Act by itself make that matter a municipal issue. For example, the criminal laws of Canada certainly bear on the "social well-being of the city," but that fact does not by itself make the matters dealt with by the *Criminal Code* municipal issues within the jurisdiction of the city under the Act.

The court concluded that a shark fin ban would not be invalid "merely because another level of government could impose the ban with potentially greater effect." Rather, the ban failed because there would be no identifiable benefit to the environmental well-being of the city, as the ban would not make a significant different

to the protection of sharks. "[A]lthough ecological threats facing the planet affect the entire planet, including the city, that does not make those ecological threats a municipal issue." There was also no identifiable social benefit to the city. "There is nothing to suggest that the offensive practice of shark-finning in distant oceans affects the ability of Torontonians to live together as an urban community. For this reason, it cannot be considered to relate to their social well-being." Lastly, the court found there was "no air of reality to the potential adverse impact on health from shark fin consumption."

Climate Change a "Municipal Issue"?

Thus, the key question is whether climate change has a meaningful local nexus, so that raising awareness about it, and mitigating emissions, could be considered a "municipal issue." Is it more like shark finning, where all the harm takes place in "distant oceans," or more like pesticide use,⁶ which has both local and systemic effects?

Although climate change is a global issue, its causes and impacts are also local. In terms of causes: Drivers fill their tanks each day in municipalities across Canada, and burn their gasoline driving within those municipalities. Canadians are, per capita, among the world's worst GHG emitters, and the transportation sector is the largest contributor to our GHG emissions.⁷

In terms of impacts, climate change is already having effects within municipalities, with direct impacts on municipal budgets and local health and welfare. The National Climate Assessment and Development Advisory Committee recently released a scathing update on what climate change already means for the U.S., and

what is coming soon.⁸ "Climate change is already affecting human health, infrastructure, water resources, agriculture, energy, the natural environment, and other factors – locally, nationally, and internationally ... There is mounting evidence that the costs to the nation are already high and will increase very substantially in the future, unless global emissions of heat trapping gasses are strongly reduced."

Natural Resources Canada, in their booklet *Adapting to Climate Change: An Introduction for Canadian Municipalities*, sets out some of the many impacts on municipalities of the changing climate:⁹

Anticipated impacts across Canada include increased frequency and severity of extreme weather events (e.g., heat waves, floods, coastal storm surges, and droughts), more smog episodes and disease outbreaks, thawing of permafrost, loss of northern sea ice, and rising sea levels. These impacts will affect municipalities large and small, urban and rural, and have both positive and negative implications on infrastructure (e.g., transportation, water supply, sewage), social and economic systems (e.g., human health, competitiveness, recreation) and natural environments (e.g., biodiversity loss, habitat degradation, invasive species).

Perhaps fortunately, burning gasoline does more than just damage the climate. It also has more clearly local impacts, such as on air quality and on the urban heat island effect. The combined effect of these local impacts, and the real local pain caused by climate change as a whole, could be enough of a municipal nexus to support a labelling by-law.

We won't know for sure until someone tries. Where is the next Hudson? **MW**

3 2005 CanLII 36152 (ON CA).

4 2001 SCC 40.

5 2012 ONSC 6818.

6 *114957 Canada Ltée. v. Hudson (Town)*, 2001 SCC 40.

7 Environment Canada, Canada's Emissions Trends 2012 <www.ec.gc.ca/Publications/253AE6E6-5E73-4AFC-81B7-9CF440D5D2C5/793-Canada's-Emissions-Trends-2012_e_01.pdf>.

8 National Climate Assessment and Development Advisory Committee, Third National Climate Assessment Report <<http://ncadac.globalchange.gov>>.

9 Natural Resources Canada, *Adapting to Climate Change: An Introduction for Canadian Municipalities* <www.nrcan.gc.ca/earth-sciences/climate-change/community-adaptation/municipalities/373>.

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