

Court awards woman \$86,201.72 to cover costs of fight over seized Calgary condo

BY JASON VAN RASSEL, CALGARY HERALD JULY 16, 2010

CALGARY - A judge has awarded more than \$80,000 to senior citizen who sued the Crown after authorities wrongly tried seizing her Calgary condominium under legislation targeting properties tied to criminal activity.

The ruling, issued today by Queen's Bench Justice Alan Macleod, awards ██████████ the entire amount of legal bills she incurred while fighting to keep her 1,200-square-foot Calgary condo.

"I hope it's going to cause the minister to be far more careful about pushing the limits of this legislation," said Thomson's lawyer, Michael Bates.

Alberta Justice obtained a restraining order regarding ██████████'s condo last July and was seeking to have it forfeited to the Crown under the Victims Restitution and Compensation Payment Act.

The Crown alleged — wrongly — that ██████████'s condo was used by her adult son and other suspects implicated in a fraud scheme.

It turned out the suspects listed ██████████'s address on corporate and banking documents but there was no evidence the actual property was used in the crime.

Macleod quashed the restraining order in February, saying the Crown's attempt to seize it was a "fishing expedition" based on little solid evidence.

While it's common for a successful civil litigant to sue the loser for legal costs, the legislation had a provision preventing wrongly accused respondents from doing so.

However, Macleod ruled Thomson, 74, could seek compensation because the government acted outside the authority of the act.

Macleod's award totals \$86,201.72, including \$73,761 in legal bills paid to Bates and co-counsel Karen Molle; \$5,000 to cover her application for costs and \$7,439 to cover expenses incurred by her mortgage-holder, the Toronto Dominion Bank.

The legislation required the bank to file affidavits and documents to prove it wasn't complicit in the alleged criminal activity, or risk losing its investment in ██████████'s property.

██████████'s mortgage would have required her to pay the bank's legal costs if the court didn't