Case of CPHA appearing before the Supreme Court of Canada, as an intervenor on the side of Insite, the safe injection drug facility in Vancouver that the federal government was seeking to close down. The federal government was arguing that the existence of such a facility contravened the federal Controlled Drugs and Substances Act (CDSA). About 6 years ago, Insite had been allowed to exist initially as a 3-year pilot project, having received an exemption to the CDSA through the federal Minister of Justice and the federal Minister of Health. Over this period, the pilot project research studies would determine the cost-effectiveness and impact (negative and positive) of Insite. When the 3-year period was up, Insite asked for and received from the federal government a one-year time extension to complete the research studies. At the end of that one-year time extension period, the research demonstrated categorically that Insite was having a demonstrable and significant benefit on people addicted to injection drugs who used its services (it offers a range of health services as well as treatment, care and counseling for drug users), and as well was having a beneficial impact on the surrounding community (less drug-related crime, a decrease in overdoses occurring in public places, a decrease in people shooting up in public, and a decrease in drug-related paraphernalia (eg used syringes) in public places). It then asked the federal government for a permanent exemption, so that it could continue to operate. By this time, a right-wing conservative government had taken power at the federal level. It is dead-set against the concept of “harm reduction” and refused to provide the exemption.

Insite took the federal government to court at the provincial level (Supreme Court of British Columbia), to seek the exemption. This Court found in Insite’s favour. The federal government appealed this ruling to the BC Appeals Court, which again found in Insite’s favour. The federal government then appealed to the Supreme Court of Canada to hear the case. The Supreme Court agreed to hear it.

Insite and its supporters (eg CPHA) argued that given the positive outcomes and benefits to individual and community health and security provided through Insite, that the Court should compel the federal government to grant the exemption. I was the point person at CPHA to build the case with my colleagues and our legal team (a Toronto group of lawyers who offered their services to us pro bono) to (i) prepare the argument to convince the Supreme Court to allow CPHA to intervene before the Court on behalf of Insite (the Court announced its decision on this last January and agreed that CPHA could appear as an intervenor) and (ii) to build the factum, this being our argument in support of Insite being allowed to remain open under an exemption provided through the Federal Controlled Drugs and Substances Act.

The Supreme Court of Canada rendered yesterday morning its decision concerning the Insite appeal case. I am very pleased to announce that the Court found in Insite’s favour.

The Supreme Court found that although the existing Controlled Drugs and Substances Act is constitutional, the federal government has a constitutional obligation, under the Canadian Charter of Rights and Freedoms, to provide an exemption for public health facilities such as Insite as they protect the health and safety of Insite’s clients as well as the public’s health and safety.

This is a HUGE VICTORY for public health, for human rights, and for the health and security of people who are addicted to and use illegal injection drugs. The judgment compels the Government of Canada to approve an exemption for Insite, thereby allowing it to operate.

What is of significance is that the Court’s judgment was unanimous and was written by the Chief Justice herself! In legal circles, this is very significant, for it demonstrated the high degree of importance that the Court placed on the issue and the constitutional importance of its decision.

The press coverage and Twitter reactions have been interesting. Many people support the Court’s judgment. Others are horrified by it, stating that safe injection sites will now “pop up all over the country”. They haven’t bothered to read the Court’s ruling on the application of the judgment to future safe injection drug sites – there are conditions placed by the Court that must be met before other safe injection drug sites can be established. And, regrettably, many people who are criticizing the judgment are voicing their opinion that people addicted to drugs are less than human and should not have any “rights” to life, security and health. I am saddened to see such opinions expressed in my country.

Needless to say, we at CPHA are very pleased with the Court’s decision. If you want to read more about it, go to CPHA’s home page and click on the Insite judgment announcement. (www.cpha.ca)