



Docket **LP10-101**
Order **LP10-004**

IN THE MATTER of an
alleged contravention of sub-section 5(1) of the
Prince Edward Island Lands Protection Act

**BEFORE THE
COMMISSION**

On Wednesday, the 12th day of May, 2010

Allan Rankin, Commissioner
John Broderick, Commissioner
Ernest Arsenault, Commissioner
Anne Petley, Commissioner

Order

IN THE MATTER of an
alleged contravention of sub-section 5(1) of the
Prince Edward Island Lands Protection Act (the Act)

Order

WHEREAS, pursuant to sub-section 5(1) of the **Act**,
A corporation shall not have an aggregate land holding in excess of five acres or having a shore frontage in excess of one hundred and sixty-five feet unless it first receives permission to do so from the Lieutenant Governor in Council.

AND WHEREAS, by deed dated July 5, 2007, Larkin Bros. Inc. (the respondent) of New Glasgow, Queens County, Prince Edward Island, acquired a 50% interest in 8.50 acres of land (being Provincial Parcel #1009349) from Robert Jorgensen and Hilda Jorgensen.

AND WHEREAS, by application dated November 5, 2009, the respondent's legal counsel informed the Commission that the corporation had acquired parcel #1009349 without Executive Council's approval;

AND WHEREAS, by Notice of Intention dated December 30, 2009 the respondent was advised of the apparent contravention and provided with an opportunity to respond;

AND WHEREAS, the Commission received a response to the Notice of Intention from the applicant corporation's legal counsel, dated January 4, 2010;

AND WHEREAS, the Commission has fully considered the original application, the Notice of Intention and the Respondent's legal counsel's response to the Notice of Intention and other relevant material before it;

THE COMMISSION HEREBY FINDS that the Respondent has contravened the Act when it acquired an interest in parcel #1009349, by deed dated July 5, 2007, without approval of the Lieutenant Governor in Council.

THE COMMISSION HEREBY IMPOSES, pursuant to clause 15.1(1)(a) of the Act, a penalty in the form of \$50.00 for the aforementioned contravention of the Act;

THE COMMISSION HEREBY FIXES June 30, 2010 as the date by which the Respondent must pay the \$50.00 penalty;

DATED at Charlottetown, Prince Edward Island, this 12th day of May, 2010.

BY THE COMMISSION:

Allan Rankin, Commissioner

John Broderick, Commissioner

Ernest Arsenault, Commissioner

Anne Petley, Commissioner

TAKE NOTICE that any person or corporation that has contravened section 2, 4, 5, 5.3, 6.1 or 6.2 is liable to a penalty, pursuant to Subsection 15.1(1) of the Act, of not more than \$10,000;

Pursuant to Subsection 15.1(3): If any person or corporation fails to pay any penalty imposed by the Commission within the time fixed by the Commission for the payment of the penalty, the Commission may make application, without notice to the person or corporation, to a judge of the Supreme Court for an order that judgment for the amount of the penalty or any unpaid portion of the penalty may be entered in the court against the person or corporation.

AND FURTHER TAKE NOTICE that Section 12 of the *Island Regulatory and Appeals Commission Act* reads as follows:

12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it or rehear any application before deciding it.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13.(1) and 13(2) of the **Act** provide as follows:

13.(1) An appeal lies from a decision or order of the Commission to the Appeal Division of the Supreme Court upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Supreme Court within twenty days after the decision or order appealed from and the Civil Procedure Rules respecting appeals apply with the necessary changes.