



Docket **LP10-105**
Order **LP10-008**

IN THE MATTER of an
alleged contravention of subsection 5(1) of the
Prince Edward Island Lands Protection Act by
VanderZwaag Farms Inc.

**BEFORE THE
COMMISSION**

On Wednesday, the 14th day of July, 2010

John Broderick, Commissioner
Michael Campbell, Commissioner
Ernest Arsenault, Commissioner
Anne Petley, Commissioner

Order

IN THE MATTER of an
alleged contravention of subsection 5(1) of the
Prince Edward Island Lands Protection Act (the Act)
by VanderZwaag Farms Inc. (the Respondent)

Order

WHEREAS, pursuant to subsection 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, pursuant to subsection 5.3
of the Act,

(1) Where a person or corporation intends to acquire by lease a land holding for which permission is required pursuant to section 4 or section 5, the person or corporation shall

(a) apply pursuant to section 4 or 5 for permission to acquire by lease that specific land holding; or

(b) apply for permission pursuant to this section to acquire by lease and to continue to hold a certain number of acres of land as part of the applicant's aggregate land holding.

(2) Where permission has been granted by the Lieutenant Governor in Council for a lease of land pursuant to an application made under clause (1)(b), the person or corporation shall

(a) within one year of receiving permission; and

(b) in every subsequent year, prior to December 31, file a statement disclosing information prescribed by subsection (3).

(3) The statement required by subsection (2) shall disclose

(a) the parcel number;

(b) the acreage leased; and

(c) the term of the lease or leases;

for each parcel leased during the reporting period covered by the statement.

AND WHEREAS, the Commission received an application for VanderZwaag Farms Inc. to lease up to 243.00 acres of land on December 4, 2008, which Executive Council subsequently approved (Executive Council Order No. EC2009-29);

AND WHEREAS, by way of a 'Statement for Reporting Land Leased in' for 2009, the Respondent informed the Commission that it leases in 343.00 acres of land, 100 acres in excess of its lease permit;

AND WHEREAS, by Notice of Intention dated May 26, 2010, the Respondent was advised of the apparent contravention and provided with an opportunity to respond;

AND WHEREAS, the Commission received two responses to the Notice of Intention from the Respondent, dated May 28, 2010;

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

THE COMMISSION HEREBY FINDS that the Respondent contravened the Act when it leased 100 acres in excess of its permit;

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 August 31, 2010 as the date by which the Respondent must pay the \$50.00 penalty;

DATED at Charlottetown, Prince Edward Island, this 14th day of July, 2010.

BY THE COMMISSION:

John Broderick, Commissioner

Michael Campbell, 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 ***Island Regulatory and Appeals Commission 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.