



Docket **LP10-111**
Order **LP10-014**

IN THE MATTER of an
alleged contravention of section 5.3 of the Prince
Edward Island Lands Protection Act by Margate
Farms Ltd.

**BEFORE THE
COMMISSION**

On Wednesday, the 20th day of October, 2010

Allan Rankin, Vice-Chair
John Broderick, Commissioner
Michael Campbell, Commissioner
David Holmes, Commissioner

Order

IN THE MATTER of an
alleged contravention of section 5.3 of the Prince
Edward Island Lands Protection Act (the Act) by
Margate Farms Ltd. (the Corporation)

Order

WHEREAS subsection 5(1) of the Act reads as follows:

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 section 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, by application dated June 16, 2010, the Corporation's legal counsel informed the Commission that the Corporation held an interest in 113.00 acres by way of lease without Executive Council's (referred to as *the Lieutenant Governor in Council* in the Act) approval;

AND WHEREAS the Commission received an application on August 2, 2010 for the Corporation to lease up to 275.00 acres of land which Executive Council subsequently approved (Executive Council Order No. EC2010-433);

AND WHEREAS, by Notice of Intention dated September 10, 2010, the Corporation 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 Corporation's legal counsel, dated September 28, 2010;

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

THE COMMISSION HEREBY FINDS that the Corporation has contravened the Act by holding land in excess of the limit pursuant to section 2(a) of the Lands Protection Act.

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 November 30, 2010 as the date by which the Corporation must pay the \$50.00 penalty;

DATED at Charlottetown, Prince Edward Island, this 20th day of October, 2010.

BY THE COMMISSION:

Allan Rankin, Vice-Chair

John Broderick, Commissioner

Michael Campbell, Commissioner

David Holmes, 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.