



Docket **LP10-112**  
Order **LP10-015**

**IN THE MATTER** of an  
alleged contravention of sub-section 2(a), sub-  
section 2(b) and sub-section 5(1) of the Prince  
Edward Island Lands Protection Act by Jasper  
Wyman & Son Canada Inc.

**BEFORE THE**  
**COMMISSION**

On Wednesday, the 20th day of October, 2010

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

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**Order**

**IN THE MATTER** of an alleged contravention of sub-section 2(a), sub-section 2(b) and sub-section 5(1) of the Prince Edward Island Lands Protection Act (the Act) by Jasper Wyman & Son Canada Inc. (the Corporation).

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# Order

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**WHEREAS** pursuant to section 2 of the Act,

*2. Subject to section 6.1,*

*(a) no person shall have an aggregate land holding in excess of 1000 acres;*

*(b) no corporation shall have an aggregate land holding in excess of 3000 acres*

**AND 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** on December 12, 2008 the Corporation's legal counsel filed an application to acquire provincial parcel #894170 from John F. Acorn and Janet M. Acorn in conjunction with an application for three parcels being acquired from John F. Acorn Inc. and eight parcels being acquired from John F. Acorn;

**AND WHEREAS** Commission staff notified the Corporation's legal counsel that, upon initial analysis of the aggregate land holdings of the Corporation and its shareholders, it appeared that the Corporation and three of its shareholders, Elizabeth W. Doudoumopoulos, Alexander Doudoumopoulos and John S. Clapp, Jr. would be in excess of their respective limits if all of the parcels in the three applications were acquired by the Corporation.

**AND WHEREAS** on December 15, 2008 the Corporation's legal counsel requested that the application for provincial parcel #894170 be withheld;

**AND WHEREAS** in its 2009 Land Holding Disclosure Statement, the Corporation reported that it had acquired an interest in provincial parcel #894170 on January 14, 2009;

**AND WHEREAS** Commission staff was later advised by the Corporation's legal counsel that the parcel was acquired by Ginny MacDonald in trust for the Corporation.

**AND WHEREAS** Section 1(4) of the Act states:

*(4) For the purpose of calculating the aggregate land holding of any person or corporation land held on trust shall be deemed to be in the possession of both the trustee and the beneficiary.*

**AND WHEREAS**, by Notice of Intention dated September 14, 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 30, 2010;

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

**THE COMMISSION HEREBY FINDS** that the Corporation contravened sub-section 2(a), sub-section 2(b) and sub-section 5.(1) of the Act when it acquired an interest in parcel #894170 through Ginny MacDonald, in trust for the Corporation.

**THE COMMISSION HEREBY IMPOSES**, pursuant to clause 15.1(1)(a) of the Act, a penalty in the form of \$900.00 for the aforementioned contraventions of the Act.

**THE COMMISSION HEREBY FIXES** November 30, 2010 as the date by which the Corporation must pay the \$900.00 penalty.

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

**BY THE COMMISSION:**

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**Allan Rankin, Vice-Chair**

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**John Broderick, Commissioner**

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**Michael Campbell, Commissioner**

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**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.*