



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**
Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LP11-105
Order LP11-005**

IN THE MATTER of an alleged
contravention of subsection 5(1) of the Prince
Edward Island Lands Protection Act by The
Native Council of Prince Edward Island.

BEFORE THE COMMISSION
On Wednesday, the 26th day of January, 2011

Allan Rankin, Vice-Chair
John Broderick, Commissioner
Michael Campbell, Commissioner
Peter McCloskey, Commissioner

Order

IN THE MATTER of an alleged contravention of subsection 5(1) of the Prince Edward Island Lands Protection Act (the Act) by The Native Council of Prince Edward Island (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 by deed dated November 19, 2009, the Corporation, of Charlottetown, Queens County, Prince Edward Island, acquired provincial parcels #1035682, #1035690, #1035708 and #1034750, consisting of a total of 1.51 acres of land in Charlottetown from Ellis & Birt Limited;

AND WHEREAS on November 24, 2010, the Corporation filed a retroactive application with the Commission to acquire provincial parcels #1035682, #1035690, #1035708 and #1034750, which was subsequently approved by Executive Council on December 14, 2010 (Executive Council Order No. EC2010-693);

AND WHEREAS the application reported that the Corporation had acquired the parcels prior to making application to Executive Council for approval pursuant to the Act to acquire such land;

AND WHEREAS, by Notice of Intention dated January 4, 2011, 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 January 14, 2011;

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 contravened the Act when it acquired an interest in provincial parcels #1035682, #1035690, #1035708 and #1034750 by deed dated November 19, 2009, without the approval of Executive 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 March 31, 2011 as the date by which the Corporation must pay the \$50.00 penalty.

DATED at Charlottetown, Prince Edward Island, this 9th day of February, 2011.

BY THE COMMISSION:

Allan Rankin, Vice-Chair

John Broderick, Commissioner

Michael Campbell, Commissioner

Peter McCloskey, 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;

Subsection 15.1(3) reads as follows:

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 Court of Appeal upon a question of law or jurisdiction.

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

NOTICE: IRAC File Retention

In accordance with the Commission's Records Retention and Disposition Schedule, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.