



Docket **LP12-109**
Order **LP13-001**

IN THE MATTER of an
alleged contravention of subsection 2(b) and
subsection 5(1) of the Prince Edward Island
Lands Protection Act by Rollo Bay Holdings Ltd.

**BEFORE THE
COMMISSION**

On Thursday, January 24, 2013

Maurice Rodgerson, Chair
Leonard Gallant, Commissioner
Ferne MacPhail, Commissioner

Order

IN THE MATTER of an
alleged contravention of subsection 2(b) and
subsection 5(1) of the Prince Edward Island Lands
Protection Act (the Act) by Rollo Bay Holdings Ltd.
(the Respondent)

Order

WHEREAS pursuant to subsection 2(b) of the Act,

2. Subject to section 6.1,

...

*(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 pursuant to subsection
5.3(1) of the Act,

*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;*

AND WHEREAS, by Land Holding Disclosure Statement for 2011 dated January 31, 2012, the Respondent, of Souris, Kings County, Prince Edward Island, reported that it leased in 1,307.02 acres without receiving Lieutenant Governor in Council approval pursuant to subsection 5.3 of the Act. The leased land resulted in the Respondent having an aggregate land holding of 4,265.60 acres, which is 1,265.60 acres in excess of the amount permitted pursuant to subsection 2(b) of the Act;

AND WHEREAS, on January 31, 2012 the Commission was advised by the Respondent's legal counsel that the Respondent was in the process of bringing its land holding into compliance with the Act and that the Commission would be notified when the aggregate land holding of the Respondent was below the 3,000 acre limit;

AND WHEREAS, a Notice of Intention was issued to the Respondent's legal counsel on September 28, 2012;

AND WHEREAS, the Commission received a response to the Notice of Intention from the Respondent's legal counsel, dated October 24, 2012. The response indicated that the Respondent was continuing to make efforts to bring its land holdings into compliance after the inadvertent error as a result of the Respondent not being aware that leased lands were attributed to the Respondent's aggregate land holding;

AND WHEREAS, per conversation between the Commission and the Respondent on October 31, 2012, the Respondent was advised that it is expected to be in compliance with the Act at the time the contravention is considered by the Commission. As the Respondent failed to come into compliance, the matter was not taken to the Commission;

AND WHEREAS, on November 15, 2012, the Respondent advised the Commission that only two leases had not been terminated and that an affidavit would be provided when the remaining leases had been terminated;

AND WHEREAS, on December 10, 2012, the Commission inquired with the Respondent about the status of termination of the leases;

AND WHEREAS, on December 11, 2012, the Respondent's legal counsel confirmed termination of the leases necessary to bring the Respondent into compliance with the Act;

AND WHEREAS, the Commission has fully considered the Notice of Intention, 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 contravened subsection 2(b) and subsection 5.3 the Act when it leased in 1,307.02 acres without approval of the Lieutenant Governor in Council, resulting in an aggregate land holding of 1,265.60 acres in excess of the 3000.00 acre limit;

THE COMMISSION HEREBY IMPOSES, pursuant to clause 15.1(1)(a) of the Act, a penalty in the form of \$1,200.00 for the aforementioned contraventions of the Act;

THE COMMISSION HEREBY FIXES March 1, 2013 as the date by which the Respondent must pay the \$1,200.00 penalty.

DATED at Charlottetown, Prince Edward Island, this 24th day of January, 2013.

BY THE COMMISSION:

Maurice Rodgeron, Chair

Leonard Gallant, Commissioner

Ferne MacPhail, 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.