



Docket **LP13-104**
Order **LP13-004**

IN THE MATTER of an
alleged contravention of section 4 of the Prince
Edward Island Lands Protection Act

**BEFORE THE
COMMISSION**

On Friday, the 20th day of September, 2013

John Broderick, Acting Vice-Chair
Mike Campbell, Commissioner
Peter McCloskey, Commissioner

Order

IN THE MATTER of an
alleged contravention of section 4 of the Prince
Edward Island Lands Protection Act (the Act)

Order

WHEREAS, pursuant to section 4 of the Act,

A person who is not a resident person 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 he first receives permission to do so from the Lieutenant Governor in Council;

AND WHEREAS, on October 26, 2012, the Commission received a non-resident application from a third party to acquire parcel #180513. The Commission noted that one of the vendors, Karen Johnson (the Respondent), had acquired a one half interest in the subject parcel prior to making application to Executive Council for approval pursuant to the Act to acquire an interest in such land by way of deed dated December 22, 1995;

AND WHEREAS, on November 19, 2012, the Commission received a non-resident application on behalf of the Respondent, to acquire a one half interest in parcel #180513;

AND WHEREAS Executive Council subsequently approved the acquisition on December 11, 2012 (Executive Council Order No. EC2012-709);

AND WHEREAS, by Notice of Intention dated July 25, 2013, the Respondent 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 Respondent's legal counsel, dated August 8, 2013;

AND WHEREAS the Commission has fully considered the original application, the Notice of Intention, the response thereto from the Respondent’s legal counsel and other relevant material before it;

THE COMMISSION HEREBY FINDS that the Respondent has contravened the **Act** when she acquired an interest in parcel #180513, by deed dated December 22, 1995, without approval of the Lieutenant Governor in 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 October 18, 2013 as the date by which the Respondent must pay the \$50.00 penalty;

DATED at Charlottetown, Prince Edward Island, this 20th day of September, 2013.

BY THE COMMISSION:

John Broderick, Acting Vice-Chair

Mike 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;

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.