



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LT07011
Order LT09-01**

IN THE MATTER of an appeal by
Pamela and Peter Sorensen of a decision of
the Provincial Treasurer regarding the 2007
assessment of Provincial Property Number
1801950 located in Summerside.

BEFORE THE COMMISSION

on Wednesday, the 11th day of March, 2009.

Brian J. McKenna, Vice-Chair
John Broderick, Commissioner
Chester MacNeill, Commissioner

Order

Compared and Certified a True Copy

(Sgd.) Philip J. Rafuse

Appeals Administrator
Land, Corporate and Appellate Services Division

IN THE MATTER of an appeal by
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IN THE MATTER of an appeal by Pamela and Peter Sorensen of a decision of the Provincial Treasurer regarding the 2007 assessment of Provincial Property Number 1801950 located in Summerside.

Appearances & Witnesses

1. **For the Appellants Pamela and Peter Sorensen**
Peter Sorensen

2. **For the Respondent Provincial Treasurer**
Paul Olscamp
Also present for the Respondent
Marlene Clark

IN THE MATTER of an appeal by Pamela and Peter Sorensen of a decision of the Provincial Treasurer regarding the 2007 assessment of Provincial Property Number 1801950 located in Summerside.

Reasons for Order

1. Introduction

[1] This is an appeal under the *Real Property Assessment Act*, R.S.P.E.I. 1988, Cap. R-4 (the *Act*), by the Appellants Pamela and Peter Sorensen (the Sorensens) of the decision by the Respondent Provincial Treasurer (the Provincial Treasurer) with respect to the 2007 assessment of Provincial Property Number 1801950, a condominium unit located at Harbour Terrace Condominiums, 8 Queen Street in Summerside (the unit).

[2] According to the Provincial Treasurer's Assessment Valuation Summary (AVS) the 2007 sale price of the unit was \$399,000. The Provincial Treasurer determined that the 2007 assessment was \$250,200.

[3] On December 7, 2007, the Commission received a Notice of Appeal from the Sorensens. After suitable scheduling for the parties, the Commission heard the appeal on February 17, 2009.

2. Discussion & Findings

The Sorensens' Position

[4] The Sorensens filed an Information Note detailing in written form their position on this appeal. A brief summary of their oral submissions follows.

- The Sorensens submit that condominium developments in Prince Edward Island, and especially in the City of Summerside, are an "immature" type of development from a property tax assessment perspective. It is submitted that there is virtually no baseline for the value of condominium units. They submit that the Harbour Terrace development has been on the market since January 2006 and, since that time, only five of the eleven units have sold. Without a sufficient number of units sold, the market value cannot be determined.

- The Sorensens submit that the condominium development should be assessed as a whole building, similar to the assessment of an apartment building. The assessment for a unit would then be determined as a portion of that whole unit.
- The Sorensens submit that Provincial Treasury erred in originally believing the sale price of the unit to be \$319,000.

[5] The Sorensens request that the Commission grant their appeal and lower their property tax assessment to \$210,000 for 2007 the baseline year, and for subsequent years, 2008 and 2009. They also request that the Commission instruct Provincial Treasury to perform a comprehensive policy review with respect to the assessment of condominium units with a view to determining a value for the condominium complex as a whole, similar to the approach taken for an apartment building.

The Provincial Treasurer's Position

[6] The Provincial Treasurer provided a copy of the AVS to the Commission and to the Sorensens well in advance of the hearing. The AVS details in written form the Provincial Treasurer's position on this appeal. A brief summary of the Provincial Treasurer's oral submissions follow.

- The Provincial Treasurer's representative noted that its staff has access to the recorded and sworn purchase price of the unit. However, the affidavit filed was in handwriting and it was initially believed that the purchase price was \$319,000. Based on an average [mean] assessment ratio, calculated on the basis of apartment buildings in Summerside of a similar number of units to the Harbour Terrace Condominiums, the Provincial Treasurer's staff calculated a mean sales ratio of 80%: $\$319,000 \times 0.80 = \$255,200$. From this figure, \$5,000 was subtracted for items included in the purchase price that would not constitute real property, such as household appliances, resulting in an assessed value of \$250,200. Later it was determined that the purchase price was actually \$399,000.
- The Provincial Treasurer acknowledges that only a few condominium units have sold in the City of Summerside and that there is some reduction in selling price for units sold in 2007 and 2008. If this trend continues, a further review will be warranted.
- The Provincial Treasurer's representative explained that apartment buildings are assessed as a whole building because the basis of ownership is as an entire building. By contrast, under the Condominium Act, condominium units are individually owned in fee simple, thus providing a complete "bundle of rights" to the owner. The same approach to the assessment of condominium ownership is used by other Canadian jurisdictions.

[7] In spite of the error in interpreting the handwritten sale price, the Provincial Treasurer recommends that the Commission confirm the 2007 Real Property Tax assessment for the unit of \$250,200.

The Commission's Findings

[8] After giving careful and full consideration to the evidence presented in this case, and upon a review of the applicable law, it is the decision of the Commission to deny this appeal. The reasons for the Commission's decisions follow.

[9] The Commission notes that had the interpretation error not occurred, the assessed value of the unit would, in all likelihood, have been calculated on the following basis:

$$\$399,000 \times 0.80 = \$319,200 - \$5,000 = \$314,200$$

[10] The Sorensens submit that that there has been a significant reduction in the selling price for condominium units in Summerside and the Provincial Treasurer agrees that there has been some reduction.

[11] The Commission, having reviewed the table prepared in the Sorensens' Information Note, finds that the \$250,200 assessed value of the unit, calculated on the basis of an interpretation error whereby a handwritten \$399,000 was initially thought to be \$319,000, compensates, or perhaps more than compensates, for the reduction in selling price for condominium units in Summerside.

[12] With respect to the Sorensen's submission that, in an immature market, the building containing condominium units as a whole should be assessed as if it is an equivalent apartment building, the Commission notes that this is indeed an innovative argument. However, the Commission accepts the evidence of the Provincial Treasurer that the present policy is consistent with other jurisdictions in Canada and, indeed, the Sorensens were not able to identify any other jurisdictions which had adopted such a practice.

[13] Further, the Commission's role is to review the specific property assessment under appeal. It is very doubtful that the Commission possesses the jurisdiction to "instruct the Provincial Treasurer to undertake a comprehensive policy review as to why Condominium structures should not be treated as a "single" property for assessment purposes...", as section 30 of the **Act** reads:

30. The Commission may hear and dispose of an appeal by

(a) dismissing it;

(b) allowing it and directing the Minister to vacate the assessment, or to make specific variations in the assessment; or

(c) referring the assessment back to the Minister for reassessment in accordance with the directions of the Commission. R.S.P.E.I. 1974, Cap. R-5,s.28; 1991,c.18,s.22 {eff.} Nov. 4/91.

[14] For these reason, the Commission denies the appeal and confirms the assessment of the unit at \$250,200.

3. Disposition

[15] An Order will therefore be issued denying the appeal and confirming the 2007 assessment for Provincial Property Number 1801950 at \$250,200.

IN THE MATTER of an appeal by Pamela and Peter Sorensen of a decision of the Provincial Treasurer regarding the 2007 assessment of Provincial Property Number 1801950 located in Summerside.

Order

WHEREAS Pamela and Peter Sorensen have appealed a decision by the Provincial Treasurer pertaining to the 2007 real property assessment of Provincial Property Number 1801950 located in Summerside;

AND WHEREAS the Commission heard the appeal at public hearings conducted in Charlottetown on February 17, 2009;

AND WHEREAS the Commission has issued its findings in this matter in accordance with the Reasons for Order issued with this Order;

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Real Property Assessment Act*,

IT IS ORDERED THAT

1. The appeal is denied.
2. The 2007 assessment for Provincial Property Number 1801950 is hereby confirmed at \$250,200.

DATED at Charlottetown, Prince Edward Island, this 11th day of March, 2009.

BY THE COMMISSION:

(Sgd.) *Brian J. McKenna*

Brian J. McKenna, Vice-Chair

(Sgd.) *John Broderick*

John Broderick, Commissioner

(Sgd.) *Chester MacNeill*

Chester MacNeill, Commissioner

NOTICE

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 33 and 34 of the *Real Property Assessment Act* provide as follows:

33. *Notwithstanding anything in any public or private Act, an appeal lies to the Supreme Court of the province from any order, decision, or award of the Commission, if notice of the appeal is given the other parties within forty-five days after the making of the order, or decisions sought to be appealed from.*

34. *The rules and practices of the Supreme Court respecting appeals apply with the necessary changes to any appeal.*

IRAC142A(99/4)