



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LT08018
Order LT10-01**

IN THE MATTER of an appeal by
Beverley and Donald Ridley of a decision of
the Provincial Treasurer regarding the 2007
assessment of Provincial Property Number
915751 located in Rice Point.

BEFORE THE COMMISSION
on Friday, the 16th day of April, 2010.

Allan Rankin, Vice-Chair
John Broderick, Commissioner
David Holmes, 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 Beverley and Donald Ridley of a decision of the Provincial Treasurer regarding the 2007 assessment of Provincial Property Number 915751 located in Rice Point.

Appearances & Witnesses

1. For the Appellants:

**Donald Ridley
Beverley Ridley**

2. For the Respondent

**Paul Olscamp
Eugene Power**

IN THE MATTER of an appeal by Beverley and Donald Ridley of a decision of the Provincial Treasurer regarding the 2007 assessment of Provincial Property Number 915751 located in Rice Point.

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 Beverley and Donald Ridley (the Ridleys) of the decision by the Respondent Provincial Treasurer [now the Minister of Finance and Municipal Affairs] (the Provincial Treasurer) with respect to the 2007 assessment of Provincial Property Number 915751, a single family home with 5.06 acres of land located at Rice Point (the subject property).

[2] According to the Provincial Treasurer's Assessment Valuation Summary (AVS) the 2007 assessment of the subject property was determined to be \$318,800.

[3] On October 23, 2008, the Commission received a Notice of Appeal from the Ridleys. After suitable scheduling for the parties, the Commission heard the appeal on January 29, 2010.

2. Discussion & Findings

The Ridleys' Position

[4] The Ridleys filed numerous documents in support of their appeal. They also made a detailed presentation and analysis, a written copy of which was provided as Exhibit E-13. A brief summary of their position follows.

- The Ridleys purchased the land for the subject property in 2003. Construction of their home on the subject property began in May 2004 with completion in late October of that year.

- In 2003, the initial assessment (land only) was \$70,400. That year, there were twelve similar properties assessed the same or lower, and only one property assessed higher. The assessment for the subject property then increased to \$82,500 as of January 2004. In mid October 2004, the assessment was \$202,000 (building mostly complete). In June 2005, the assessment was \$295,300 (seven months after completion). In January 2006, the assessment was \$324,000.
- The Ridleys submitted that the Provincial Treasurer erred by classifying the land component of the subject property as “Recreational”. They submit that uniformity of assessment is impossible unless all such properties are so classified, not just some of them. A gradual implementation of the “Recreational” classification means that some taxpayers carry the burden of extra taxation for the years it takes for all shorefront properties to turnover.
- The Ridleys submitted that regardless of mass assessment multipliers, Consumer Price Index (CPI) percentages and the various terms and definitions used by the Provincial Treasurer, the real indicator of uniformity is not necessarily in the method, but is depicted in the bottom line.
- The Ridleys further submitted that fair, equitable and uniform taxation can never be a reality unless the base amounts are fair and equitable. It is submitted that there is an inequity between the assessment of the subject property and neighbouring properties.

[5] The Ridleys request that the Commission lower all of the land assessments for the subject property for the period of 2003 to 2009. They further request that they receive the owner-occupied credit for 2005 since their home was completed and occupied in the 2004 taxation year.

The Provincial Treasurer’s Position

[6] The Provincial Treasurer provided a copy of the AVS (Exhibit E-4) to the Commission and to the Ridleys 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 submissions follow.

- In 2003, the purchase price of the land component only of the subject property was \$294,500, per document number 4723 dated June 27, 2003.
- The initial 2007 assessment of the subject property totaled \$356,300. The land component was assessed at \$99,800 and lot improvements were assessed at an additional \$4,500.

- As a result of discussions between the Ridleys and the Provincial Treasurer, discrepancies were identified with respect to land values between the subject property and properties in adjacent districts. The Ridleys, by letter dated March 5, 2007, requested that the subject property be assessed at the average assessed value per acre of the adjacent properties. The Provincial Treasurer agreed to make the adjustment until such time as a complete review of all shorefront and recreational properties in the area was completed.
- Accordingly, the revised 2007 assessment for the value of the land component of the subject property was reduced from \$99,800 to \$62,268 [5.06 acres @ \$12,306 per acre]. The value of lot improvements remained unchanged at an additional \$4,500. As a result, the total revised assessment for the subject property was \$318,800.

[7] The Provincial Treasurer requests that the Commission confirm the 2007 total assessment of the subject property at \$318,800.

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 has had the benefit of a very thorough and well constructed presentation made by the Ridleys as well as a very thoughtful response provided by the Provincial Treasurer's staff. The Commission wishes to commend the parties for their professionalism and thought provoking analysis.

[10] Subsection 22(1) of the **Act** sets out the jurisdictional parameters of an appeal:

22.(1) Where an assessment has been referred to the Minister under section 20, and after the Minister has notified the person making the reference of his decision, the person making the reference may appeal to the Commission to have the assessment vacated or varied.

[11] It is important to note that only the assessment may be appealed to the Commission.

[12] In the present appeal, the assessment of the home constructed on the subject property is not at issue. The issues relate to the assessed value of the land component of the subject property and the extent to which any retroactivity applies to adjustments in the assessed value of said land.

[13] Subsection 3(2) of the **Act** reads as follows:

3(2) All real property owned by the Crown or any person shall be assessed at its market value, either

- (a) *as commercial realty; or*
- (b) *as non-commercial realty.*

[14] Market value is defined in the **Act** as:

1.1 (f) "market value" means, in respect of real property, the most probable sale price of that real property as indicated by consideration of the cost of reproduction, the sale price of comparable properties and the value indicated by rentals or anticipated net income;

[15] Section 19 of the **Act** reads as follows:

19. If at any time prior to a date to be set by regulation, the Minister discovers that there is an error or omission in any part of the assessment roll, he shall correct the error or omission and alter the assessment roll accordingly, and upon so correcting or altering any assessment, he shall deliver or transmit to the person assessed an amended notice of assessment, and shall make the appropriate amendment to the assessment roll. R.S.P.E.I. 1974, Cap. R-5,s.17; 1987,c.60,s.2.

[16] Section 4 of the **Real Property Assessment Act** Regulations (the Regulations) reads as follows:

4. For the purposes of section 19 of the Act, corrections to the assessment roll shall be made effective to January 1 of the year two years prior to the year in which the error or omission was discovered. (EC490/72; EC481/99)

[17] With respect to determining the market value of the land component of the subject property, neither "the cost of reproduction" nor "the value indicated by rentals or anticipated income" is applicable. The Provincial Treasurer's AVS does not provide sales prices of comparable properties. The only evidence before the Commission as to sales price is what the Ridleys actually paid for the land. That information alone does not provide a very accurate indication of market value. However, as the actual purchase price paid by the Ridleys was over four times the revised 2007 assessment for the land component of the subject property, this information does tend to serve as a 'reality check' and it would be difficult to objectively assert that said revised assessment exceeded the market value of the land.

[18] In his March 5, 2007 letter to the then Provincial Treasurer, Mr. Ridley stated in part:

We are pleased that you have requested the Manager of Assessment Services to review the base assessments of all properties in our area. In the mean time I would suggest that our property tax assessment should be adjusted to the average of the physically similar properties (203364-101 and 917906), which are adjacent to ours, until such time as rational, fair and equitable base assessments for all properties in the area are established via your new review. Hopefully this new study will correct the inequities that were not identified nor addressed in the original reappraisal review of a few years ago.

[19] Subsection 28(1) of the **Act** reads as follows:

28.(1) Subject to subsection (2), in any appeal to the Commission, the Minister shall demonstrate the uniformity of the assessment in relation to other assessments.

[20] The Commission finds that the Provincial Treasurer agreed to Mr. Ridley's request and based the assessment of the land component of the subject property on a per acre calculation from an average of the assessment of property numbers 203364-101 and 917906. Accordingly, the Commission finds that the Provincial Treasurer has demonstrated uniformity of assessment, at least between the subject property and the adjacent properties.

[21] The Ridleys request that the reduction of the land component assessment be made retroactive to their purchase of the subject property. At first blush, this makes sense on the basis that the Provincial Treasurer was responsible for the "discrepancies" or "inequities". However, the Commission, as a creature of statute, is bound by section 19 of the **Act** and section 4 of the Regulations. Accordingly, neither the Provincial Treasurer nor the Commission can provide the Ridleys with any further retroactivity with respect to the adjusted assessment of the land component.

[22] Accordingly, the Commission finds that discrepancies in the uniformity of assessment were identified by the Ridleys several years ago. The Provincial Treasurer acted upon this information and adjusted the assessment of the land component based on a formula proposed by the Ridleys. The Provincial Treasurer's ability to provide retroactive relief was limited by the **Act** and the Regulations.

[23] For the above reasons, the appeal is hereby denied and the revised 2007 assessment of the subject property is hereby confirmed at \$318,800.

3. Disposition

[24] An Order will therefore be issued denying the appeal and confirming the 2007 assessment for Provincial Property Number 915751 at \$318,800.

IN THE MATTER of an appeal by Beverley and Donald Ridley of a decision of the Provincial Treasurer regarding the 2007 assessment of Provincial Property Number 915751 located in Rice Point.

Order

WHEREAS the Appellants Beverley and Donald Ridley have appealed a decision by the Provincial Treasurer pertaining to the 2007 real property assessment of Provincial Property Number 915751 located in Rice Point;

AND WHEREAS the Commission heard the appeal at public hearings conducted in Charlottetown on January 29, 2010;

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 revised 2007 assessment for Provincial Property Number 915751 is hereby confirmed at \$318,800.

DATED at Charlottetown, Prince Edward Island, this 16th day of April, 2010.

BY THE COMMISSION:

(Sgd.) *Allan Rankin*

Allan Rankin, Vice-Chair

(Sgd.) *John Broderick*

John Broderick, Commissioner

(Sgd.) *David Holmes*

David Holmes, 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.*

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.

IRAC142A(2009/11)