

IN THE COURT OF APPEAL FOR THE NORTHWEST TERRITORIES

IN THE MATTER OF the *Property Assessment and Taxation Act*,
R.S.N.W.T. 1988, C. P-10

BETWEEN:

**THE MINISTER OF ECONOMIC DEVELOPMENT AND TOURISM and THE
NORTHWEST TERRITORIES BUSINESS CREDIT CORPORATION**

Appellants

- and -

THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE

Respondent

Application for stay of execution pending appeal. Granted.
Application to broaden terms of appeal to include transfer of land issue. Appellant to file
a second appeal within the expiry period; both appeals to be heard together.

REASONS FOR JUDGMENT OF THE HONOURABLE MR. JUSTICE J.E. CÔTÉ

Heard at Yellowknife, Northwest Territories
on October 16, 1996

Reasons filed: October 17, 1996

Counsel for the Appellants: Douglas McNiven

Counsel for the Respondent: Yvonne MacNeill

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REASONS FOR JUDGMENT

1 This is a twofold application in Court of Appeal chambers.

2 The first part is for a stay of execution pending appeal. That was not strenuously opposed, providing that the appeal could proceed promptly. It is evident that the argument of either side would (if correct) put the other side totally out of court if certain things occurred before the appeal was heard. Thus there would be, or might be, irreparable harm, or a moot appeal, if one side or the other took the steps which it wished before trial.

3 Therefore, I direct that all proceedings be held in abeyance pending appeal. And I forbid either side to take any steps to change the title, status, or possession of these lands pending the decision of the Court of Appeal. No sheriff's sale will be held, and no

transfer of land will be registered, before that decision. But municipal taxes and interest on them may continue to be assessed and registered against the land in the interim.

4 The more contentious issue arises this way. There were cross suits in Supreme Court. The City's suit sought to sell the land for unpaid taxes through sheriff's sale; the Minister and the Business Credit Corporation's suit sought a *Rice* order. The Minister's evidence included a transfer of land in favour of the Business Credit Corporation signed shortly before the chambers hearing. The chambers judge denied a *Rice* order. Then pending appeal the Business Development Corporation threatened to register the transfer of land. Then the chambers judge gave a temporary order barring filing the transfer.

5 Now counsel for the appellant Minister and Business Credit Corporation fears that the appeal may go on the sole point of the *Rice* order and never consider the transfer of land or what effect it would have. He wishes the appeal broadened to consider the transfer. The City's counsel objects that the transfer is an afterthought and not properly part of the appeal. I cannot of course rule on those points, as it will take a panel of three Justices to do so. However, I pointed out that the time to appeal the chambers judge's second order had not yet expired, and counsel for the appellant Minister announced that he would appeal it at once.

6 Therefore, I make the following additional directions. The second appeal will be heard with the first appeal. There will be a common appeal book. If the parties cannot agree within one week on the contents of the appeal book, they are to arrange with the Registrars of this Court and of the Court of Appeal of Alberta for a telephone conference

application before me to settle the contents. The appeal book is to be ordered as soon as the contents are agreed or fixed, and is to be filed and served as soon as it is ready. The appellant's factum for both appeals is to be filed and served no later than 2 weeks after the appeal book is ready. The respondent's factum for both appeals is to be filed and served no later than 2 weeks after the appellant's factum is served.

7 Costs of the proceeding before me on October 16 will be dealt with by the panel which hears these appeals.

J. E. Côté

J.A.

Dated at Yellowknife, Northwest Territories
this 17th day of October, 1996

Counsel for the Appellants: Douglas McNiven

Counsel for the Respondent: Yvonne MacNeill

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**Reasons for Judgment of the
Honourable Mr. Justice J. E. Côté**
