

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES  
CROWN SIDE

IN THE MATTER OF the  
Judicature Act;

BETWEEN:

THE CITY OF YELLOWKNIFE

Applicant

- and -

POLAR PANDA DEVELOPMENTS LTD., LIZEL HOLDINGS LTD., POLAR PAINTING LTD., RAYMOND DECORBY, GABRIELLE DECORBY, YELLOWKNIFE INN LTD., BALD EAGLE ENTERPRISES LTD., 861958 NWT LTD., NALIMAR LTD., BROMELY & SON LTD., NWT COMMUNITY SERVICES CORP., GOGA CHO ENTERPRISES LTD., RAVEN RESOURCES LTD., and THE ASSESSMENT APPEAL TRIBUNAL

Respondents

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Application for relief in the nature of *certiorari* to quash certain decisions of the Respondent Assessment Appeal Tribunal adjourned *sine die*. Notice to two members of the Tribunal to be served on them regarding allegations of bias and that they may apply to be joined as respondents on that issue. Leave granted to the Applicant City of Yellowknife to file affidavit material to show passage of a resolution by City Council authorising the present proceedings to be brought.

Heard at Yellowknife on December 15th 1992

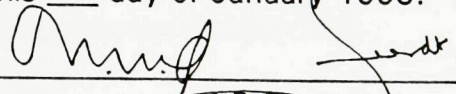
Judgment filed: January 28th 1993

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REASONS FOR JUDGMENT OF THE HONOURABLE MR. JUSTICE M.M. de WEERDT

Counsel for the Applicant: Earl D. Johnson, Q.C.  
Counsel for the Respondent  
Assessment Appeal Tribunal: Douglas G. McNiven, Esq.  
Counsel for the Respondent  
Bald Eagle Enterprises Ltd.: John U. Bayly, Q.C.  
Counsel for the Respondent  
Polar Panda Developments Ltd.: Garth Malakoe, Esq.

**FIAT:** Let the style of cause be amended as above shown. Dated this 28<sup>th</sup> day of January 1993.

  
\_\_\_\_\_  
J.S.C.

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IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES  
CROWN SIDE

IN THE MATTER OF THE  
SIT TO THOU SHALT NOT  
BETWEEN  
THE CITY OF YELLOWKNIFE

Applicant  
Respondents  
RESOURCES LTD., and THE ASSESSMENT APPEAL  
TRIBUNAL  
SERVICES CORP., GOOD ENTERPRISES LTD., HANNAH  
EARLE ENTERPRISES LTD., NORTH WEST LTD., HANNAH  
GABRIELLE DECOREY, YELLOWKNIFE INC. LTD., GALS  
LTD., YOCAL PAINTING LTD., KENNEDY DECOREY  
LTD., and THE CITY OF YELLOWKNIFE

Application for leave to appeal from the decision of the  
Assessment Appeal Tribunal was filed on the 15th day of  
November 1992. The Tribunal's decision was made on the  
15th day of November 1992. The Tribunal's decision was  
made on the 15th day of November 1992. The Tribunal's  
decision was made on the 15th day of November 1992.

Filed at Yellowknife on December 1st 1992  
Judgment filed January 28th 1993



REASONS FOR JUDGMENT OF THE HONOURABLE MR. JUSTICE M.A. DE WERTSE

For the Applicant: Eric E. Johnson, Q.C.  
For the Respondents: Douglas G. McEwen, Esq.  
For the Respondent: John U. Bayly, Q.C.  
For the Respondent: John U. Bayly, Q.C.  
For the Respondent: John U. Bayly, Q.C.

RAI: For the style of cause be amended as above shown. Dated this 15th day of January 1993.

*[Signature]*  
J.S.C.

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Respondents

REASONS FOR JUDGMENT

The City of Yellowknife moves the Court to quash certain decisions of the respondent Assessment Appeal Tribunal, established under the **Property Assessment and Taxation Act**, R.S.N.W.T. 1988, c. P-10, on grounds of legal error on the face of the Tribunal's record and on the ground that two members of the Tribunal who rendered those decisions were disqualified from so acting by reason of actual or reasonably apprehended bias.

On behalf of the Tribunal, objection was taken to the standing of the City to bring this application in the absence of a resolution of the municipal council authorising

this to be done. In support of that objection, counsel referred to s.64 of the **Property Assessment and Taxation Act**, which confers a right of appeal from an assessment made by the Tribunal under the Act. That section is however inapplicable in the present proceedings, which are of course not an appeal but are instead an application for prerogative relief in the nature of *certiorari* under the **Judicature Act**, R.S.N.W.T. 1988, c. J-1. In any event, neither of these Acts requires the passage of a resolution or by-law to enable a municipality to commence proceedings. That requirement, if it exists in law, is to be found in the **Cities, Towns and Villages Act**, R.S.N.W.T. 1988, c. C-8, which includes the following:

9. Except as otherwise provided in this Act, the powers and duties of a municipal corporation shall be exercised and performed by the council.

10.(1) Every council shall exercise its powers and perform its duties by resolution or by by-law.

3 For the reasons given in **Aklavik (Hamlet) v. Allen** (1992), 10 M.P.L.R. (2d) 267 (N.W.T. S.C.), it is enough if the proceedings are brought in the name of the municipal corporation rather than in that of the municipal council. That case arose under the **Local Authorities Elections Act**, R.S.N.W.T. 1988, c. L-10, which provides in subsection 89(1) for an election petition to be brought by a "voter or the local authority". It was held that a resolution by the municipal council was quite sufficient to authorise the municipal corporation to bring the petition under that subsection.

4 In the present instance there is no particular legislative requirement necessitating a resolution of the municipal council granting authority to bring these proceedings as was the case in **Aklavik (Hamlet) v. Allen**.

The language of section 9 and subsection 10(1) of the **Cities, Towns and Villages Act** leaves no room, in my respectful view, for the exercise of the **powers** and performance of the **duties** of a municipal corporation other than under the authority of a by-law or a resolution of the municipal council. For present purposes, I assume that those powers and duties include the bringing of this application. The scope of those provisions of that Act was not argued. Moreover, the only evidence on the point consists of a reported telephone conversation, in which it is said that someone employed by the City informed the deponent to an affidavit filed on behalf of the respondent Tribunal that no resolution had been passed by the City authorising the present application to the Court, and nothing has been placed in evidence to the contrary on behalf of the City. Nor did counsel for the City contest the point other than summarily in his submissions to the Court.

Taking into consideration the potentially serious implications of the City's allegations of actual or reasonably apprehended bias on the part of two members of the Tribunal, in view of the provisions of the **Conflict of Interest Act**, R.S.N.W.T. 1988, c. C-16, and the importance for Yellowknife municipal taxpayers in general of the questions before the Tribunal, it appears to me to be essential to ensure that all doubts as to the City's standing to proceed in the present matter should be resolved. The City shall therefore have two weeks from the date of filing of these reasons within which to file an affidavit evidencing the by-law or resolution of its council authorising these proceedings, if any.

Counsel for the Tribunal relies on **Maple Ridge (District) v. Dewdney/Alouette Assessor, Area No. 13** (1991), 6 M.P.L.R. (2d) 243 (B.C.C.A.) in support of his

submission that it is not open to the City council to pass a resolution in effect ratifying the decision to bring this application before the Court. That case turned upon the specific requirements of s.74(2) of the **Assessment Act**, R.S.B.C. 1979, c. 21, which clearly provided that the appeal in that case was contingent upon a pre-existing resolution of the municipal council. There being no such resolution in that case, the appeal failed for lack of legal standing on the part of the municipality.

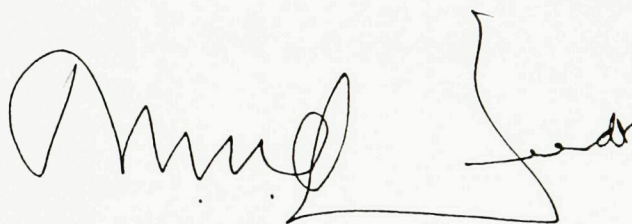
8            In the matter at hand no such pre-condition is prescribed in the legislation. And since it would be open to the City to re-commence the present application afresh if it were to be dismissed for lack of legal standing, I see no merit in the submission that this should be done if, as I assume, the necessary resolution has been or can now be passed to remove all doubt on that point. The object of section 9 and subsection 10(1) of the **Cities, Towns and Villages Act** will in my view be adequately served if an appropriate resolution is now passed, if that was not done earlier, to place beyond question the authority under which the City appears as the applicant in the present proceedings.

9            Having regard to the implications of the **Conflict of Interest Act** already mentioned, I also direct the City to serve notice of the present matter upon the two members of the Tribunal whose qualifications as such are impugned by the City in the matter before the Court, and to provide them with copies of any process or affidavit before the Court in which they are named or in which any allegation is made against them. I will point out that the affidavit material presently filed, alleging them to be major shareholders in certain corporations, is less than precise, complete or satisfactory. In particular, the expression "major shareholder", which is both conclusive and imprecise,

requires an explanatory factual basis, preferably one which will enable the Court to consider the facts with reference to relevant documentary sources and the **Conflict of Interest Act**.

This notice shall be served within two weeks from the date of filing of these reasons for judgment, with proof of service to be promptly filed thereafter. It shall state that the persons so served shall be at liberty to apply to the Court to be made respondents in these proceedings and, in that event, to file affidavit material and otherwise participate in the proceedings as they may be advised, any such application to be made on or before March 10th 1993.

This application is therefore now adjourned *sine die* to be brought on again upon five days notice or as the Court shall further direct with a view to its final determination, more particularly on the issues of the City's legal standing and of actual or apprehended bias on the part of the two members of the Tribunal. Since I see no merit in the remaining issue advanced on behalf of the City, as to error on the face of the record, it will not be necessary to speak further to that issue.

A handwritten signature in black ink, appearing to read 'M.M. de Weerd', written in a cursive style.

M.M. de Weerd  
J.S.C.

Yellowknife, Northwest Territories  
January 28th 1993

Counsel for the Applicant: Earl D. Johnson, Q.C.

Counsel for the Respondent  
Assessment Appeal Tribunal: Douglas G. McNiven, Esq.

Counsel for the Respondent  
Bald Eagle Enterprises Ltd.: John U. Bayly, Q.C.

Counsel for the Respondent  
Polar Panda Developments Ltd.: Garth Malakoe, Esq.



IN THE SUPREME COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES

THE CITY OF LOS ANGELES

vs.

THE CALIFORNIA STATE BAR ASSOCIATION

Case No. 13-00000000

IN RE: THE ESTATE OF JAMES EARL RAY

and

THE CALIFORNIA STATE BAR ASSOCIATION  
vs.  
THE CITY OF LOS ANGELES



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IN THE SUPREME COURT OF THE  
NORTHWEST TERRITORIES

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IN THE MATTER OF the  
Judicature Act;

BETWEEN:

THE CITY OF YELLOWKNIFE

- and -

Applicant

POLAR PANDA DEVELOPMENTS LTD., LIZEL HOLDINGS LTD., POLAR PAINTING LTD., RAYMOND DECORBY, GABRIELLE DECORBY, YELLOWKNIFE INN LTD., BALD EAGLE ENTERPRISES LTD., 861958 NWT LTD., NALIMAR LTD., BROMELY & SON LTD., NWT COMMUNITY SERVICES CORP., GOGA CHO ENTERPRISES LTD., RAVEN RESOURCES LTD., and THE ASSESSMENT APPEAL TRIBUNAL

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