

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES
CROWN SIDE

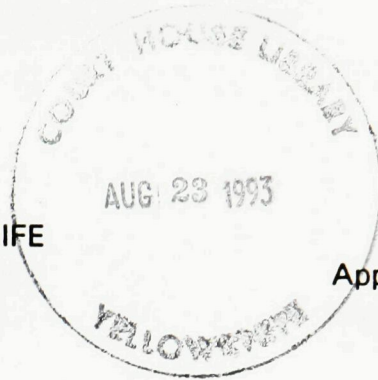
IN THE MATTER OF the
Judicature Act;

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., BROMLEY & SON LTD., NWT COMMUNITY SERVICES CORP., GOGA CHO ENTERPRISES LTD., RAVEN RESOURCES LTD., and THE ASSESSMENT APPEAL TRIBUNAL

Respondents

Application for *certiorari* to quash certain decisions of the Assessment Appeal Tribunal on grounds of a reasonable apprehension of bias, granted.

Heard at Yellowknife on December 15th 1992 and June 9th 1993

Judgment filed: August 10th 1993

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

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

No one *contra*.

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IN THE SUPREME COURT OF THE STATE OF NEW YORK

IN THE MATTER OF THE

JUDICIAL ACT

BETWEEN

THE CITY OF YELLOWKNIFE

vs

Respondent

FOR RANGA DEVELOPMENTS LTD. USE HOLDINGS LTD. ADAR BUILDING LTD. RAYMOND DOREY, CARIBBEAN BATTERY HOLDINGS LTD. PAID PAID ENTERPRISES LTD. BEISE PAID LTD. ALBA LTD. GODA CHUTTER ENTERPRISES LTD. IN VENTURES LTD. AND THE APPEAL APPEAL TRIBUNAL

Respondent

Application for leave to appeal from the decision of the Assessment Appeal Tribunal

made on December 10th 1992 and was filed August 10th 1997

August 10th 1997

PRESENT FOR JUDGMENT OF THE HONOURABLE MR. JUSTICE M. M. VERRILLI



Counsel for Applicant - Earl D. Johnson, Q.C.

to the court

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES
CROWN SIDE

IN THE MATTER OF the
Judicature Act;

BETWEEN:

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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., BROMLEY & SON LTD., NWT COMMUNITY SERVICES CORP., GOGA CHO ENTERPRISES LTD., RAVEN RESOURCES LTD., and THE ASSESSMENT APPEAL TRIBUNAL

Respondents

REASONS FOR JUDGMENT

The motion made on June 9th 1993 on behalf of The City of Yellowknife is unopposed, none of the respondents appearing although duly served.

The motion renews the City's adjourned application for relief in the nature of *certiorari* to quash certain decisions of the respondent Assessment Appeal Tribunal. The application was adjourned *sine die* last January to enable the City to adduce evidence of its authority to bring these proceedings. The adjournment also permitted the City to give notice, as directed by the Court, to two members of the respondent Tribunal whose participation in the impugned decisions is alleged by the City to create a reasonable apprehension of bias on the part of the Tribunal in reference to those decisions, entitling the City to its remedy.

3 Neither Tribunal member has chosen to challenge the City's allegations,
notwithstanding due notice and a clear opportunity to do so.

4 On the affidavit material filed I find as a fact that both Tony Chang and Len
Jason, the two Tribunal members above referred to, were each major shareholders of at
least one corporate body registered as the owner in fee simple of land subject to the
Tribunal's assessment under the **Property Assessment and Taxation Act, R.S.N.W.T.**
1988, c. P-10, within the municipal limits of the City for the assessment period in
question and at the time of the Tribunal's hearings in 1992. Tony Chang, furthermore,
was himself the registered owner in fee simple of such a parcel of land, namely Lot 14,
Block 85, Yellowknife.

5 The assessed value of the lands so owned by Mr. Chang and by the
corporations of which he and Mr. Jason were shareholders was substantially reduced as
a result of the Tribunal's decision, thereby reducing the impact of taxation in respect of
those lands.

6 These facts were not known to the City prior to the Tribunal's delivery of
the impugned decisions.

7 It is said, on behalf of the Tribunal, that the Department of Municipal and
Community Affairs of the Government of the Northwest Territories, whose officials
appeared before the Tribunal on behalf of the City at the hearings leading to the Tribunal's
impugned decisions, had in fact selected the members of the Tribunal who conducted the
hearings, and should therefore have known of any conflict of interest which might have
created a reasonable apprehension of bias in respect of any of the Tribunal's members for
purposes of those hearings.

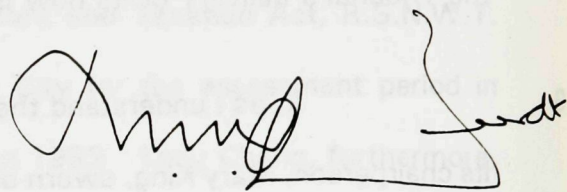
I do not accept that submission. It has not been shown that officials of the Department were authorised to make their selection of the Tribunal's members on behalf of the City. There is nothing to show that they sought or obtained any such authority from the City, or that the City was made aware by the Department of the conflicts of interest to which I have referred, on the part of either Mr. Chang or Mr. Jason, prior to the Tribunal's delivery of its now impugned decisions.

If, as I understand the Tribunal's submission (as set forth in the affidavit of its chairperson, Mary King, sworn on December 14th 1992), the Department has not only acted as the agent of the municipality during such hearings but has also in effect selected the members of the Tribunal before whom it has appeared in that capacity, that practice deserves to be carefully reappraised since it quite obviously raises serious questions as to the ability of the Tribunal to reach decisions free of any reasonable apprehension of bias against persons appearing before the Tribunal in opposition to the Department or those it represents.

It is not a question of actual bias. That has not been alleged or established. What is at issue is the existence of facts giving rise to a reasonable apprehension of bias against the City and its legitimate interests. That, in itself, is fully sufficient to render the Tribunal's decisions voidable if not void, in the present proceedings: **Committee for Justice and Liberty v. The National Energy Board**, [1978] 1 S.C.R. 369, 68 D.L.R. (3d) 716, 9 N.R. 115. And see **Robinson v. Committee Garderie Plein Soleil et al.** (1993), 8 Admin. L.R. (2d) 304 (N.W.T. S.C.); **Barsoum v. Pape**, [1988] N.W.T.R. 368, 34 Admin. L.R. 100 (S.C.); and **Gal-Cab Invt. Ltd. v. Liquor Licensing Bd.** (1987) N.W.T.R. 100, 34 D.L.R. (4th) 363 (C.A.).

11 An order shall issue setting aside the Tribunal's decisions as detailed in the material filed, on the basis that there is a reasonable apprehension of bias on the part of the Tribunal on the grounds above mentioned.

12 Costs may be spoken to, if necessary.



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

Yellowknife, Northwest Territories
August 10th 1993

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

No one *contra*.

IN THE SUPREME COURT OF
NORTH CAROLINA

IN THE MATTER OF THE
ESTATE OF

JOHN W. BELL

JOHN W. BELL, Plaintiff,
vs.
JOHN W. BELL, Defendant.

FILED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT OF NORTH CAROLINA



IN THE SUPREME COURT OF THE
NORTHWEST TERRITORIES

IN THE MATTER OF the
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BETWEEN:

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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., NALIMAF
LTD., BROMLEY & SON LTD., NWT COMMUNITY
SERVICES CORP., GOGA CHO ENTERPRISES LTD.
RAVEN RESOURCES LTD., and THE ASSESSMENT
APPEAL TRIBUNAL

Respondent

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

