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**ASSESSMENT COMMISSIONER**

v.

**EDWIN CLARK and FRANCIS CLARK**

**ASSESSMENT COMMISSIONER**

v.

**MARCEY ADEMS**

Supreme Court of British Columbia (A782450 A782451)

Before: MADAM JUSTICE P.M. PROUDFOOT

Vancouver, January 11, 1979

R.B. Hutchison for the appellant  
Frances Clark appeared in person

**Reasons for Judgment**

February 1, 1979

This is an appeal by way of stated case (as provided by s. 67 (2) of the *Assessment Act*) from a decision of the Assessment Appeal Board which heard this case as an appeal from a Court of Revision. The appellant asks the Court to consider the following question:

"Did the Assessment Appeal Board err in finding that the breeding and raising of dogs should come within the term 'stock raising' within the meaning of Section 1 of the standards prescribed by the Assessment Commissioner for the classification of land as a farm."

There are two parcels of land involved in this case; but the cases stated by the Assessment Appeal Board are identical and the issues are the same, so it is convenient to dispose of the matters together.

In both cases the parcels are located in Richmond, are of about 5 acres and are divided into two classifications for the purpose of assessment. The larger portion - about 3 acres - is classified in each case as a farm. The balance of each parcel in each case - about 2 acres - is used for a dog breeding business. In each case the 2 acre portion has been denied farm classification by the assessor. The owners of both parcels wish to obtain farm classification for their entire properties (including the portion used in the dog breeding business); this naturally would give them a tax advantage. They are arguing, therefore, that dog breeding is a use of the land appropriate to bring it within the "standards prescribed by the Assessment Commissioner for the classification of land as a farm".

These regulations (hereinafter called "the standards") are enacted by order-in-council pursuant to the *Assessment Act*, S.B.C. 1974, c. 6. The standards are the sole legislative guidelines which assist the assessor in determining whether or not land is to receive the benefit of farm classification.

The respondents have introduced a great deal of evidence which is intended to establish that dog breeding is an agricultural activity. They point to the fact that dog breeding is regulated by the Federal Department of Agriculture. They point also to the fact that dog breeding is considered an agricultural activity on an agricultural land reserve, as established pursuant to another Provincial statute, *Land Commission Act*, S.B.C. 1973, c. 46 and that their dog breeding kennels are required by municipal by-law to be built on land zoned for agricultural use. In the face of legislation from all three levels of government seemingly establishing the activity of dog breeding as in some sense "agricultural" the Assessment Commissioner resists the "farm" designation of this land.

The respondents' argument concentrates on enumerating all the various purposes for which dog breeding has been classified as agricultural. Their argument, therefore, is by analogy. Nevertheless, I do not think that this is the deciding factor; although it does create a common sense impression that the term "agricultural" may be quite appropriately applied to dog breeding.

In order to decide this case it is necessary to analyse the words of the standards; the relevant section of which reads:

"STANDARDS PRESCRIBED BY THE ASSESSMENT COMMISSIONER FOR THE  
CLASSIFICATION OF LAND AS A FARM  
(Pursuant to section 26 (2) of the *Assessment Act*)

1. In these standards, '*primary agricultural products*' means items derived from agricultural, horticultural, aquicultural, poultry raising, *stock raising*, dairying, or beekeeping operations, but does not include those manufactured derivatives produced from agricultural raw materials."

(emphasis added)

It is conceded that all other requirements for classification as a farm have been met.

Counsel for the appellant argues that the production of dogs cannot be considered to be production of "primary agricultural products" because a common sense approach to the term "agricultural" is that only those products which are intended for human consumption either as food or as the raw materials for clothing can be considered agricultural products.

The numerous definitions of agricultural do not necessarily support this argument. The *Shorter Oxford Dictionary* defines "agriculture" as "the science and art of cultivating the soil, including the gathering in of the crops and the rearing of livestock, farming (in the widest sense)". The same dictionary defines "livestock" as "domestic animals generally, any animal kept or dealt in for use or profit". Another definition of "livestock" includes: "any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land or the carrying on in relation to land of any agricultural activity:" *Agricultural Holdings Act* U.K. 1948, s. 94 (1).

Yet another interesting definition is found in *In re Winnipeg Silver Fox Company Assessment Appeal* [1941] 1 W.W.R. 48 (Man. K.B.) in which Dysart, J. said at p. 50:

"The foregoing is predicated upon the use of the land for 'stock-raising'. Is fox-farming included in the meaning of that term? Ordinarily, stock-raising has to do with horses, cattle, sheep, swine, and perhaps goats. Such animals as dogs and poultry, and perhaps rabbits, are usually not included. Foxes are included in the term 'farm stock' as used in this Act-see sec. 991 . clause (c). Until recent years the raising of foxes was left to nature in the wilds but has in the last few decades developed into an important industry in this province and country. The purposes of raising foxes are in general much like the raising

of sheep, swine or other animals that are bred for the purposes of revenue. In my opinion fox-farming should be considered as stock-raising for the purpose of this Act."

This dictum of Dysart, J. that dogs are not usually included in the term stock raising is the strongest authority on which the appellant can rely to show that dog breeding in British Columbia should not be considered stock raising within the meaning of the standards. However, in that case the learned Judge did not address his mind to whether *dogs* should be considered "stock", but rather to *foxes*.

The fact that dogs are not usually included in the term "farm stock" is quite true and, indeed, is the very reason that the instant case is brought before me. I am satisfied it is necessary to go to the very words of the standards rather than to rely on these words said in passing by Dysart, J.

The criteria set out in the standards define "primary agricultural products" in relation to the activities which go into their production, not in relation to the nature of the end product. To determine if a particular item is a "primary agricultural product" one looks to see if it is derived from agricultural, horticultural, aquicultural, poultry raising, stock raising, dairying, or beekeeping operations, and that is the test. The test says nothing about the edibility or wearability of the product so produced. Indeed, it would be surprising if it did, as we can readily think of counter examples to a definition which depends on the nature of the end product.

Horses, for example, are undoubtedly the product of "stock raising", and fall well within the term "primary agricultural products" for the purposes of the standards. But the main purposes of breeding horses is neither the production of food or raw materials for clothing, but rather to produce animals for pleasure, show and sport.

In the field of horticulture we can see that nurseries and florists are not producing products for human consumption or clothing, but again there is no doubt that flowers and shrubs would be considered "primary agricultural products" for the purposes of the standards.

If the legislation had intended that "primary agricultural products" should have been defined in relation to the nature of the end product then the definition would have been set out that way, but it is very clear that it is the type of activity which defines "primary agricultural products" and not some inherent nature of those products.

Dog breeding is, according to these principles, indistinguishable from, for example, horse raising, and I can see no reason therefore why dog breeding operations should be excluded from classification as a farm.

The answer to the question in the stated case is "no". Therefore the appeal is dismissed with costs.