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**JEANNE EDDINGTON**

**v.**

**BRITISH COLUMBIA ASSESSMENT AUTHORITY,  
ATTORNEY GENERAL OF BRITISH COLUMBIA and  
COURT OF REVISION FOR SURREY and WHITE ROCK**

Supreme Court of British Columbia (action no. missing)

Before: MR. JUSTICE LEGG (in chambers)

Vancouver, April 23, 1982

Bruce Laughton for the Petitioner  
Julian Greenwood for the Respondents

**Reasons for Judgment**

April 29, 1982

This application is to determine whether an individual person has the right to appeal an entire assessment roll to a Court of Revision.

When the petitioner took such an appeal against the entire assessment rolls for Surrey and White Rock on February 2, 1982, the Court of Revision refused to hear such an appeal. It decided that the petitioner had no right of appeal against the entire assessment roll.

The petitioner was not satisfied with that decision. She claimed in these proceedings that the decision of the Court of Revision should be set aside because it was erroneous in law.

The right of a person to take an appeal to a Court of Revision is set out in s. 40 of the *Assessment Act*, R.S.B.C. 1979, c. 21.

"40. (1) Where a person is of the opinion that an error or omission exists in the completed assessment roll in that

(a) the name of a person has been wrongfully inserted in, or omitted from, the assessment roll;

(b) land or improvements, or both land and improvements, within a municipality or rural area have been wrongfully entered on, or omitted from the assessment roll;

(c) land or improvements, or both land and improvements, have been valued at too high or too low an amount;

(d) land has been improperly classified;

(e) an exemption has been improperly allowed or disallowed; or

(f) the commissioner has failed to approve an application for classification of land as a farm under section 28 (1), or has revoked a classification of land as a farm under the regulations.

he may personally, or by a written notice signed by him, or by a solicitor, or by an agent authorized by him in writing to appear on his behalf, come before, or notify, the Court of Revision and make his complaint of the error or omission, and may in general terms state his ground of complaint, and the court shall deal with the complaint, and either confirm, or alter, the assessment.

(2) The council of a municipality may, by its clerk, solicitor, or agent authorized by it, or the Minister of Finance, or the commissioner, or the assessor, make complaint against the assessment roll or any individual entry in the assessment roll on any ground whatever, and the Court of Revision shall deal with the complaint, and either confirm or alter the assessment.

(3) Notice in writing of every complaint shall be delivered to the assessor not later than January 20 of the year for which the roll has been completed."

The petitioner is the chairperson of the West Newton Property Owners Association, incorporated pursuant to the *Society Act*. She resides in Surrey. The Court of Revision heard her appeal on behalf of the Association or on behalf of the 200 property owners represented by the Association. But the Court refused to hear her appeal against "the assessment roll under section 40 (1) (c) of the *Assessment Act*."

Mr. Laughton on behalf of the petitioner submitted that the wording of s. 40 (1) shows that an appeal against an entire assessment roll may be taken by any person based upon any of the matters contained in subclauses (a) to (f) inclusive of s. 40 (1). He said that such an appeal against the entire roll is not limited to municipal councils and others mentioned in s. 40 (2) and that the provisions of s. 41 (2) of the *Assessment Act* (supra) meet any policy objection that notice would be required to be given to all persons whose names are on the assessment roll in the event of such an appeal.

Section 41 of the *Assessment Act* reads:

"41. (1) Where it appears by the notice of complaint under section 40 that the complaint concerns real property owned by some person other than the complainant, the assessor shall promptly mail a notice to the owner of the property at the address appearing on the assessment roll, giving particulars of the complaint and requiring him to attend before the Court of Revision at a time and place stated in the notice, and then the complaint shall be heard and dealt with in the same manner as other complaints.

(2) Where the complaint is against the assessment roll, the requirements of subsection (1) do not apply."

The right to appeal to a Court of Revision is a statutory right [see *Canadian Pacific Railway v. City of Vancouver*, [1964] 48 W.W.R. (N.S.) 98 at 100 (B.C.C.A.)].

The petitioner is not a person or official referred to in s. 40 (2). Therefore any right of appeal of the petitioner must be found in s. 40 (1).

Section 40 of the *Assessment Act* is concerned with all appeals to Courts of Revision. A comparison of the wording of subsection 1 of that section with subsection 2 shows that by subsection 2 the Legislature has limited appeals against the entire assessment roll to the council of a municipality represented by a municipal clerk, solicitor or agent, to the Minister of Finance, to the assessment commissioner, or to the assessor.

I compare the words in subsection (2):

" . . . may make complaint against the assessment roll or any individual entry in the assessment roll on any ground whatever. . ."

with the words in subsection (1) which qualify the complaint there referred to. The complaint in subsection (1) is limited to "an error or omission" existing "in the completed assessment roll" with respect to any matter mentioned in clauses (a) to (f) inclusive. This comparison persuades me that if the Legislature had intended that a person other than the persons mentioned in subsection (2) was to have a right of appeal against the entire assessment roll, wording to that effect would have appeared in subsection (1).

But counsel for the petitioner submitted that subsection (1) should be read with s. 28 (3) of the *Interpretation Act*, R.S.B.C. 1979, c. 206 in mind. That section provides in effect that unless a contrary intention appears in an enactment, words in the singular include the plural. He says the words "error or omission" in subsection (1) must be read in the plural. Accordingly, a person may appeal an entire assessment roll and complain that it contains errors or omissions in respect of the matters mentioned in clauses (a) to (f).

In my respectful opinion that argument does not meet the point that there is no specific reference in subsection (1) to an entire assessment roll as there is in subsection (2). In my opinion this argument does not take into account the tenor of s. 40 as a whole.

Counsel for the petitioner submitted that on the basis of an early decision in Saskatchewan (*Re Outlook Town-Site Co. and Kennedy*, [1913] W.L.R. 308) that an individual has possessed the right to appeal against the entire roll from an early date but that the municipality was not granted this right until 1919.

I am unable to agree that *Re Outlook Town-Site* (supra) supports that proposition. The decision in that case was concerned with an individual assessment appeal based upon the assessment being too high and upon the assessment being inequitable. The District Court Judge held that the property under appeal was not assessed too high. He further held that it was not open to the appellant to contend that the assessment was inequitable unless the appellant appealed the assessments of other property owners whose assessments were contended to be too low.

The passage from the learned Judge's judgment at p. 311 relied upon by counsel does not show that the appellant was entitled to appeal against the entire roll. The judgment suggests that the ground of inequity might have been open:

" . . . if an appeal had been taken by the appellants upon the ground that the assessment of all the other properties, or perhaps even some of the other properties, of the town, was too low, the council would have been bound to raise the assessment, . . ."

When the Legislature of this Province provided a municipality with a right of appeal for the first time in 1919 by s. 216 (3) of the *Municipal Act*, R.S.B.C. 1919, c. 63, the right was to appeal "against the said roll or any individual entry therein, and upon any ground whatever".

That provision was essentially in the same terms as s. 40 (2) of the *Assessment Act*, R.S.B.C. 1979 (supra). Further, s. 216 (1) (2) of the *Municipal Act* 1919 (supra) made provision for an appeal by an individual on essentially the same grounds as those set out in s. 40 (1) of the *Assessment Act*. In my opinion this history shows that the Legislature intended when it first provided a municipality with a right of appeal, to grant to only the municipality the right to appeal against the entire roll. It subsequently expanded the group of persons entitled to appeal the entire assessment roll to include the Minister of Finance, the assessment commissioner and the assessor.

Doubtless the Legislature has considered that there are practical reasons for limiting the appeal against the entire assessment roll to a municipality and to the officials referred to in s. 40 (2). Occasions may have arisen, or may arise in the future, when those responsible for the administration of the assessment of real property must seek from Courts of Revision directions to correct errors or omissions in an entire assessment roll. Real property values in a municipality or part of a municipality may have decreased generally towards the conclusion of an assessment year without the assessment authority having the opportunity of changing the assessments on the entire roll. But the right to seek to appeal omissions or errors on an entire assessment roll has in my opinion thus far been limited to municipalities, assessment commissioners, the Minister of Finance and assessors. In my opinion until the Legislature sees fit to grant such a right of appeal to private individuals no such right of appeal may be asserted before a Court of Revision.

I have concluded that the Court of Revision was correct in refusing to hear any such appeal by the petitioner. The application by the petitioner must be dismissed with costs.