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TRIZEC EQUITIES LTD.

v.

ASSESSOR OF AREA 10 - BURNABY-NEW WESTMINSTER

British Columbia Court of Appeal (CA 000675) Vancouver Registry

Before: MR. JUSTICE W.A. ESSON (in chambers)

June 29, 1983

J.R. Lakes for the Appellant, Trizec Equities Ltd.
J.E.D. Savage for the Respondent, Assessor of Area 10 – Burnaby-New Westminister

Reasons for Judgment of Mr. Justice Esson

June 29, 1983

An Assessment Appeal Board stated a case to the Supreme Court under Part 8 of the *Assessment Act* R.S.B.C. 1979 c. 21, on five questions of law. Madam Justice McLachlin, in written reasons, has answered the questions adversely to the contentions of the taxpayer which, as is now required by s. 74 (7) of the *Assessment Act*, applies for leave to appeal to this Court.

The case arises out of a very unusual set of circumstances. In general, the answers given result from applying well-settled rules of law to the particular facts. Mr. Lakes' major contention is that there is an issue of great general importance, that being the question whether the assessor in carrying out his statutory duty under s. 9 of the Act to bring all errors or omissions in the roll to the Court of Revision for correction, must comply with the appeal procedures under s. 40. That, in view of the provisions of s. 44, is a difficult contention. The other issues all touch in some way on questions of the jurisdiction of the Court of Revision.

In the end, they are all essentially academic because, if the assessment is in error, that can be remedied by the Assessment Appeal Board: *Assessment Commissioner of British Columbia v. Western Forest Industries Ltd., Trizec Equities Limited and Bramalea Limited* (1980) 25 B.C.L.R. 189, 205 (B.C.C.A.).

In general, leave to appeal will not be granted, even where the ground of appeal has apparent merit, if the granting of leave could not be of any real benefit to the applicant. See *Re White Rock Utilities Limited* (1979) 21 B.C.L.R. 241 and *In The Matter of The Utilities Commission Act and An Application by West Kootenay Power and Light Company* (CA821123, unreported Seaton J.A., October 1, 1982). Those cases were decided under the *Energy Act*, 1973 S.B.C., c. 29 and its successor, *The Utilities Commission Act*, 1980 S.B.C., c. 60, but I see no reason why the same general consideration should not apply here. This is a case where the grounds of appeal have little merit and the granting of leave would be of no real benefit to the applicant.

Leave is refused.