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PETRO-CANADA INC.

v.

ASSESSOR OF AREA 5 - PORT ALBERNI

Supreme Court of British Columbia (A871972) Vancouver Registry

Before: MR. JUSTICE MURRAY (In Chambers)

Vancouver, November 27, 1987

P.D. Feldberg for the Appellant
G.E. McDannold for the Respondent

Reasons for Judgment

February 23, 1988

This is an application under the *Assessment Act*. It is a Stated Case from the decision of the Board and the argument was a very narrow one. It involved the interpretation of "improvements" in section 1 of the Act.

The facts here are relatively simple. The case involves a barge at Port Alberni. On the barge are fuel tanks, superstructure, office facilities and a warehouse.

The Board held in its reasons that the barge was an integrated structure.

The relevant provisions of the Act included in the definition of improvements are as follows:

1 (a) buildings, fixtures, structures and similar things erected on or affixed to land or to anything referred to in paragraph (k), and without limiting the generality of this, "improvements" includes

1 (k) rafts, floats, docks, other floating structures and devices, and vessels used principally for purposes other than transportation, that are anchored or secured, whether or not the land or property to which they are anchored or secured belongs to their owner,

but, notwithstanding the foregoing, "improvements" does not, except for buildings and storage tanks, include

1 (n) anything referred to in paragraph (a), (b) or (f) as, if erected or affixed by a tenant, would, as between landlord and tenant, be removable by the tenant as personal property.

In my view the Board was correct in its interpretation of the way that section should be read. In particular, the Board's reasons on pages 3 and 4 of its decision set out its interpretation of those sections and I agree with the interpretation of the Assessment Appeal Board. I can find no error in law although the barge was found to be an integrated structure by the Board.

This is so even though later the Board dismissed the appeal on a different basis.

Accordingly, the application is dismissed with costs.