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**ANCHOR VENTURES INC.**

**v.**

**ASSESSOR OF AREA 4 - NANAIMO-COWICHAN**

Supreme Court of British Columbia (A872003) Vancouver Registry

Before MADAM JUSTICE PROUDFOOT

Vancouver, October 20, 1987

D. R. Wilson for the appellant  
C. Considine for the respondent

**Reasons for Judgment**

October 21, 1987

This matter comes before me by way of Stated Case by the Board pursuant, to Section 74, Subsection 2 of the *Assessment Act*, R.S.B.C. 1979 Chapter 21.

The Assessor seeks the opinion of the Supreme Court on certain questions of law. Anchor opposes the application arguing the Court has no jurisdiction, that Section 74 Subsection 5 of the *Assessment Act* has not been complied with. Section 74 Subsection 5 reads:

"(5) Where as case is stated, the secretary of the board shall promptly file the case, together with a certified copy of the evidence dealing with the question of law taken during the appeal, in the Supreme Court Registry, and it shall be brought on for hearing before the Judge in Chambers within one month from the date on which the stated case is filed."

The Stated Case was filed July 27, 1978 [sic] and Notice of Motion was September 1, 1987 returnable October 20, 1987 and the Notice of Motion was served September 21, 1987.

Anchor's argument is because this matter was not set for hearing within the one month from the date on which the Stated Case was filed, the Court has no jurisdiction. I indicated at the hearing of the preliminary objection taken by Counsel for Anchor that I had some interest and some sympathy for his argument. I have however since further considered the case of *Calona Wines Limited v. Assessor of Area 19 -- Kelowna* (1985) Stated Case 211 Page 1203 where Meredith J has considered the section in question and clearly says the Court has jurisdiction. It seems to me that in the interests of judicial uniformity I should follow that decision. There is also some additional support for the proposition that the Court has jurisdiction to be found in the *Genstar Limited vs. District of Mission and Assessor Area 13 -- Dewdney Alouette* (1982) Stated Case 171 Page 981, and the case of *Re Assessment Commissioner of British Columbia and British Columbia Forest Products Ltd.* (1981) 120 D.L.R. (3rd) Page 356.

For the above reasons the preliminary objection must fail.

Costs in the cause.