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**TRIZEC EQUITIES LTD.**

**v.**

**ASSESSOR OF AREA 09 - VANCOUVER**

Supreme Court of British Columbia (A852553) Vancouver Registry

Before the HONOURABLE MR. JUSTICE GIBBS

Vancouver, January 7, 1986

J.R. Lakes for the Petitioner  
J. Greenwood for the Respondent

**Reasons for Judgment (Oral)**

January 7, 1986

This appeal is by way of Stated Case under section 74(2) of the *Assessment Act*. The section provides that a Board may be required, by any of the persons specified "to submit a case for the opinion of the Supreme Court on a question of law only." There follows a time limitation of 21 days from receipt of the decision within which the requirement to state a case may be requested of the Board.

Here the Board's original decision was received by the party wishing to challenge it on September 6, 1985. Subsequent to the original decision the Board made an order dated September 17, 1985, adjusting one of the dollar numbers in the original decision. The requirement to state a case is dated September 30, 1985, and that is more than 21 days after receipt of the original decision, but less than 21 days after issue of the adjusting order.

The question is whether the requirement to state a case was out of time. If it is, it follows that the case stated in response to the requirement cannot be heard by the court because of failure to comply with the statute. That is to say, the court is without jurisdiction.

An analysis of the three questions posed in the Stated Case for the opinion of the court shows clearly that all three are based upon the original Board decision of September 6, 1985. None are directed at or arise out of the correcting adjustment made by the Board on September 17, 1985. That being so, it follows that the decision which affected the Assessor or Commissioner who requested the Stated Case was that made by the Board on September 6, 1985. The request to the Board to state a case was not, therefore made within the statutory time limit of 21 days.

No authority was cited under which the court has the power to enlarge or abridge the timing requirement. Accordingly it is not within the power of the court to make valid that which, under the statute, is invalid.

In the result, I hold that the court has no jurisdiction to hear the Stated Case.