

COPY

IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20050915
Docket: L042658
Registry: Vancouver

In the Matter of the *Assessment Act*, R.S.B.C. 1996, c. 20, s. 65

**And in the Matter of an Appeal to the Property Assessment
Appeal Board of British Columbia**

Between:

**Broadway Properties Ltd., Botham Holdings Ltd.
Robco Properties Ltd., 2000 Holdings Ltd.
Ronald S. Roadburg and Refrigerative Supply Limited**

Appellants

And:

Assessor of Area #09 - Vancouver

Respondent

Before: The Honourable Mr. Justice Kelleher

**Oral Ruling
Re application to hear questions 1 and 5
In Chambers
September 15, 2005**

Counsel for Appellants

J.C. Fiddick

Counsel for Respondent

G.P. Holeksa

Place of Hearing:

Vancouver, B.C.

[1] **THE COURT:** These proceedings concern an appeal by way of a stated case pursuant to s. 65 of the *Assessment Act* of a decision of the Property Assessment Appeal Board. This decision addresses an objection to my hearing two of the questions before me.

[2] The appellant seeks the court's opinion on five questions of law. Questions 1 and 5 are objected to:

1. Did the board err in law by offending natural justice when they failed to allow the parties to the appeal the opportunity to question the qualifications or objectiveness of the board?
5. Did the board err in law by failing in its duty to ensure that a qualified, honest and impartial board member chair the appeal?

[3] The questions are similar. Question 1 implies that the board lacks, or the panel at least, qualifications or objectiveness and the board did not permit the appellant to make an objection to this effect. Question 5 amounts to an allegation that the appeal was heard by someone who was not qualified, honest and impartial.

[4] These questions raise issues of natural justice. They are usually seen in applications under the *Judicial Review Procedure Act*.

[5] I am satisfied that the questions raise matters that are not part of the stated case and therefore not before me.

[6] In *Delsom Estates Ltd. v. Assessor of Area #11*, Vancouver Registry A991176, a decision of Mr. Justice Hood dated February 17, 2000, His Lordship said:

The statutory and case law is that the Court may only look at that part of the total evidence before the Board which pertains to or deals with each question of law brought to the Court.

[7] The evidence before the board, and therefore the record, does not contain any material upon which questions 1 and 5 can be answered. Any information about this is beyond the stated case.

Shulich, J.