

**CASE NO.****VOL. NO.****PAGE**

BRUCE BRETT, DAVID ROSS  
and FELICIA ROSS

- and -

HALIFAX REGIONAL MUNICIPALITY,  
MERLIN AVIATION SERVICES  
LIMITED, JOHN HAMPSON and  
3013910 NOVA SCOTIA LIMITED

(Appellants)

(Respondents)

CA 157015

Halifax, N.S.

FLINN, J.A.  
(orally)

[Cite as: **Brett v. Halifax (Regional Municipality), 1999 NSCA 121**]

**APPEAL HEARD:**

October 14, 1999

**JUDGMENT DELIVERED:**

October 14, 1999

**WRITTEN RELEASE OF ORAL:**

October 18, 1999

**SUBJECT:**

**Municipal Taxation - Leasehold Interest in Crown Land Used for Commercial Purposes - The Assessment Act, R.S.N.S. 1989, c. 23, ss. 4 & 5**

**SUMMARY:**

The mortgagee of a leasehold interest in lands foreclosed the leasehold mortgage and the property was sold to a third party at the Sheriff's Sale. The mortgagee made an application in Supreme Court Chambers to resolve a dispute as to whether the Sheriff was required - out of the proceeds of the sale - to withhold and pay to the Municipality property taxes which had been assessed against the mortgagor. The mortgagor had leased the property in question (at the Halifax International Airport) from the Crown, for 20 years, and was required by the Crown to use the property for aviation purposes. The property was used as a hangar. The mortgagee's position was that the leasehold interest was not "assessable property" within the meaning of the **Assessment Act**; and, even if the interest was assessable, it was exempt from tax as Crown lands. The mortgagee appeals the Chambers judge's rejection of his position.

**RESULT:**

Appeal dismissed.

1. The property in question was "assessable property" within the meaning of s. 4 of the **Assessment Act**, and

2. Although the Crown, as owner, is exempt from taxation under s. 5 of the **Assessment Act**, Merlin, as occupant, is not so exempt. Further, as occupant, Merlin is, by virtue of s. 5 of the **Assessment Act**, specifically liable for the tax rated and assessed.

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 2 pages.