



respondent, Cajun Holding & Development Company Limited, regarding its properties on Windmill Road and Cove Road in Dartmouth, Nova Scotia, on the 16th day of January, 1990. The deadline for filing 1990 Notices of Appeal from the Notices of Assessment was February 6, 1990, 21 days after the date of service in accordance with s. 63 of the **Assessment Act** R.S.N.S. 1989, c. 214. Mr. E. Jansinski on behalf of the respondent filed Notices of Appeal on November 5, 1990 approximately 293 days after the date of service of the Notice of Assessment.

The appellant, the Director of Assessment, applied to the Regional Assessment Appeal Court for the Dartmouth Region for an order determining that the respondent's appeal was late and that the Court had no jurisdiction to hear the appeal on the merits. By decision dated November 27, 1990, the Regional Assessment Appeal Court determined that the respondent should be granted a hearing of its appeal on the merits at a time pre-arranged by the Recorder of the Regional Assessment Appeal Court.

The Director of Assessment appealed the decision of the Regional Assessment Appeal Court on the 5th day of December, 1990. The Nova Scotia Municipal Board held a preliminary hearing on October 22, 1991, to deal with the preliminary issue as to whether or not the Board had jurisdiction to hear an appeal from the Regional Assessment Appeal Court concerning a late appeal. The Board rendered its decision on February 11, 1992, and determined that the appeal by the Director of Assessment was premature and that therefore the Board did not have jurisdiction to hear the appeal at that time from a decision of the Regional Assessment Appeal Court.

The appellant was granted leave to appeal the decision of the Board on the ground that the Board erred in law when it determined that it did not have jurisdiction to hear this appeal as it was premature.

On the hearing of this appeal the respondent was not represented by counsel but made representations as to why he was late in filing the appeal and that his appeal should proceed on the merits. This Court has now filed a decision in **Director of Assessment v. Springwell Properties Limited and The City of Dartmouth**. The Board declined to hear the Director's appeal in that case

on the ground that it lacked jurisdiction as the appeal was premature. This Court has ruled that the Board erred in so ruling. The reasons given on that appeal apply in this case. The appeal is allowed, the order of the Board is set aside and the matter is remitted to the Municipal Board for a determination of whether the respondent has lost its right of appeal. There will be no order as to costs.

J.A.

Concurred in:

Roscoe, J.A.

Freeman, J.A.