Docket: 2024-445(GST)I

BETWEEN:

DUSTIN CADDELL,

Appellant,

and

HIS MAJESTY THE KING,

Respondent;

Docket: 2024-446(GST)I

AND BETWEEN:

BREANNE CADDELL,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Appeals heard together on January 15, 2025,
at Victoria, British Columbia

Before: The Honourable Justice Bruce Russell

Appearances:

Agent for the Appellant:	Dustin Caddell
Counsel for the Respondent:	Jean Murray

JUDGMENT

Each of these two appeals is denied. If costs are sought the parties may file representations (limited to six pages each) regarding same with the Court Registry (and served by email upon each other) within 45 days of this judgment.

Signed this 2nd day of February 2026.

"B. Russell"

Russell J.

Citation: 2026 TCC 27
Date: 20260202
Docket: 2024-445(GST)I

BETWEEN:

DUSTIN CADDELL,

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and

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AND BETWEEN:

BREANNE CADDELL,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

Russell J.

I. Introduction

[1] These two appeals were heard on common evidence. The two appellants, Dustin Caddell and Breanne Caddell, are each other's spouse. On August 4, 2023, the Minister of National Revenue (Minister) reassessed each for GST/HST liability under the *Excise Tax Act* (Act) for self-supply of a new residence. The two substantively identical reassessments are individually appealed.

[2] Each herein statutory reference, if not otherwise noted, is a provision of the Act.

[3] The two appealed reassessments relate to the appellants' respective March 1-31, 2016 reporting periods, reflecting that each was a "builder" per subsection 123(1) who made a "self-supply" per subsection 191(1) of his/her

acquired joint interest of a residential property addressed as 600 Tercel Court, Mill Bay, B.C. (the subject property)

[4] Within an 11-year period the appellants jointly purchased seven residences and sold five of them, including the subject property. The Minister saw this as a pattern of engagement by the appellants in an adventure or concern in the nature of trade.

[5] The Minister determined that the appellants, in each making the said self-supply, did not qualify for application of the subsection 191(5) exemption from the self-supply rules, and thus were required to report their taxable self-supply and remit GST of $22,875 accordingly.

II. Issues:

[6] The issues are:

a) whether each appellant was a "builder" per subsection 123(1);

b) did the appellants make a self-supply of the subject property upon completion of construction, per subsection 191(1); and

c) alternatively, does subsection 191(5) exempt the appellants from the self-supply rules;

d) what is the fair market value of the subject property as of the alleged self-supply date.

III. Parties' Positions:

[7] The appellants assert that neither was a "builder" per subsection 123(1) and thus made no "self-supply" of the subject property per subsection 191(1) and alternatively subsection 191(5) excepts them from having made a self-supply.

[8] The appellants submit also that at the date of the alleged self-supply, the fair market value of the subject property was $775,228.

[9] The respondent asserts that the appellants were each a builder and as such made a self-supply of the subject property, without qualifying for the subsection 191(5) exemption.

[10] The respondent asserts that the fair market value of the subject property was $915,000 when the alleged self-supply was made.

IV. Evidence:

Appellants' property acquisitions and dispositions:

[11] The appellants between 2010 and 2021 purchased seven residences, and sold five, as follow:

1) the appellants on March 12, 2010 bought the bare land at 972 Gillespie Place, Mill Bay, B.C. for $173,000. The appellants constructed a dwelling on the property and occupied it on or about September 9, 2010. On October 31, 2012 they sold the property for $647,000;

2) on October 1, 2012 the appellants purchased 605 Tercel Court, Mill Bay, B.C. for $229,910. It too was bare land. The appellants constructed a home on the property, occupied it and on April 21, 2015 sold it for $699,000;

3) on June 6, 2015 the appellants purchased 600 Tercel Court, Mill Bay, B.C. (the subject property) for $200,000. It too was bare land, across the street from the aforementioned 605 Tercel Court. The appellants constructed a home, occupied it on March 18, 2016, and sold it on July 17, 2017 for $989,000;

4) on July 14, 2017 the appellants purchased 630 Sentinel Drive, Mill Bay, B.C. for $288,750. It too was bare land. They constructed a home, occupied it and then sold on May 27, 2019 for $965,000;

5) on June 21, 2019 the appellants purchased 574 Sentinel Drive, Mill Bay, B.C. for $765,000. The property already had a dwelling constructed on it. The appellants signed a listing contract for the property commencing May 19, 2020, and sold the property on or about June 11, 2020 for $949,000;

6) on February 14, 2020 the appellants purchased 2675 Treit Road, Shawinigan Lake, B.C. for $290,000. It then was bare land. They constructed a home and moved in or about January 2021. On the day these appeals were heard the appellants still resided at this address; and,

7) the appellants also own 2505 Fawn Road, Mill Bay, B.C. This is a rental property. There was already a dwelling constructed on the property when the appellants purchased it. Neither appellant has lived there.

The subject property:

[12] Mr. Caddell testified that the appellants occupied the subject property from August 23, 2015 to November 2, 2017. That is what is stated in Exhibit A-1, tab 1, which is a statement issued November 4, 2021 by Insurance Corporation of British Columbia entitled "British Columbia Address Search" regarding "Caddell, Dustin Darren".

[13] However, this document is at odds with other testimony of Mr. Caddell. It purports to show the periods of occupancy of the various properties acquired by the appellants. In this regard it shows that the appellants must have moved directly from 605 Tercel Court (termination date August 23, 2015) to the subject property (effective date August 23, 2015), i.e. both on the same day. Mr. Caddell had testified to having lived in a rental home in between living at 605 Tercel Court and then the subject property.

[14] Further, in cross-examination Mr. Caddell asserted that he and Ms. Caddell moved into the subject property in October or November 2015. This testimony also differs from Exhibit A-1, tab 2 which is a B.C. Housing "Owner Builder Disclosure Notice". It names Ms. Caddell as the "authorized owner-builder" respecting the subject property, and states that the subject property's "first occupancy date" was March 18, 2016.

[15] The Disclosure Notice defines its term "first occupancy date" to mean, "the date an occupancy permit with respect to the new home was first issued, or if no occupancy permit has been issued with respect to the new home, the date the new home was first occupied."

[16] This points to March 18, 2016 being the date of first occupancy of the subject property, rather than in 2015. Mr. Caddell testified also that BC Housing would have issued a preliminary occupancy permit, however no such thing was put in evidence or otherwise referred to.[1]

[1] Transcript, p.74

[17] Thus, the subject property, when first listed for sale by the appellants in September 2016, had been occupied for at least six months and as many as 11 months.

[18] Mr. Caddell testified that the subject property was constructed under an owner-builder license (the actual term appears to be "owner-builder authorization") and that he was the owner-builder (although as noted it seems Ms. Caddell was the owner-builder). He testified also that BC Housing required the appellants to personally occupy their home for a minimum of one year after constructing it, although no documented evidence of this was provided.

[19] As to why the appellants sold the subject property, Mr. Caddell explained that their primary reason for sale was the layout of the home. He testified that the appellants had designed the house to separate their cats from the bedrooms, causing their toddler daughter's bedroom to be located further from the master bedroom than perhaps desired. This, notwithstanding that the parents had had full input in the design of the house, plus Mr. Caddell was familiar with floorplans and he had visited the site daily during construction.[2]

[20] The appellants initially listed the subject property for sale in September 2016. After 60 days they cancelled that listing because, Mr. Caddell said, Ms. Caddell was suffering from morning sickness which, combined with having a small child running around, made house showings too much for her.

[21] Seven months later, a realtor with an interested client asked the appellants' realtor if the appellants were still interested in selling the home. The appellants said they were, and a day or two later an agreement to sell was reached with the appellants' agent re-listing the subject property as needed to complete the sale.

[22] Throughout his testimony Mr. Caddell consistently asserted that the appellants had intended to live at the subject property. He put in evidence corroborating this intention a receipt for 10-year labour warranty on their heat pump. He asked why they would buy this warranty if they did not intend to stay in the home. He said the warranty was non-transferable, although that is not stated in the warranty documentation he put in evidence (Ex. A-1, tab 5).

V. Analysis:

[2] Ibid., p. 18

Issue 1: were the appellants each a "builder" per subsection 123(1)?

[23] The subsection 123(1) definition of "builder" is reproduced in the Appendix.

[24] In summary a subsection 123(1) "builder" is a person who constructs a home on land that the person owns, and provided that the construction is done, "in the course of a business or an adventure or concern in the nature of trade".

[25] Thus, someone who builds a home purely as a personal residence is not a subsection 123(1) "builder".

[26] Here, the "builder" issue is whether the appellants built the subject property "in the course of a business or an adventure or concern in the nature of trade."

[27] In determining whether a person was engaged in a concern or adventure in the nature of trade, the 1986 decision of *Happy Valley Farms Limited v. R.*, 86 DTC 6421 (FCTD) per Rouleau, J. identified six factors to be considered: (1) nature of the property sold, (2) length of the period of ownership, (3) frequency or number of similar transactions, (4) work expended on or in connection with the property, (5) other circumstances responsible for the sale of the property, and (6) motive.

[28] The first of these six factors is "nature of the property sold". Here, the subject property was a detached, single-family home in Mill Bay with three bedrooms, three baths and a double garage. Consequently, it could be a residence for the appellants and their young family, or inventory for sale purposes. I view this factor as neutral.

[29] Regarding the second factor, "length of the period of ownership", on June 12, 2015 the appellants closed their purchase of the subject property as bare land. They had a dwelling constructed and BC Housing documented their "first occupancy date" as March 18, 2016, although as noted, Mr. Caddell testified that they first occupied the premises in October or November of 2015.

[30] On July 17, 2017 the appellants entered into an agreement to sell the subject property for $989,000 (with October 30, 2017 closing).

[31] Thus, the length of period of ownership of the subject property was approximately two years.

[32] All said, the appellants owned the subject property for approximately 24 months with an occupiable home there for at least 18 months. They listed the

subject property as early as six months after constructing the dwelling assuming March 2016 occupancy. Mr. Caddell spoke of BC Housing requiring them to reside there for one year under the terms of Ms. Caddell's owner-builder license issued by B.C. Housing.[3] I was provided no documentation regarding this. In any event I view the factor of length of period of ownership as indicative of an adventure or concern in the nature of trade.

[33] The next factor is "frequency or number of similar transactions". The appellants engaged in a clear pattern of similar transactions, purchasing seven properties and selling five of them in the more than11 years from March 12, 2010 (972 Gillespie Place purchase settlement) to August 28, 2021 (574 Sentinel Drive sale settlement). I also view this factor as indicative of an adventure or concern the nature of trade.

[34] The next factor is "work expended on or in connection with" the subject property. Expending effort to bring a property into a more marketable condition during the period of ownership indicates the possibility that one is dealing in the property. Here the appellants purchased the subject property as bare land and constructed a home on it. But Mr. Caddell's testimony is that they built the home for their own occupation. Thus, this seems a neutral factor.

[35] Moving to the fifth factor, being "other circumstances responsible for the sale of the property", Mr. Caddell said their "primary reason" for listing the subject property was the layout of the house, and that as new parents they had "completely underestimated the importance of having our children's bedrooms right next to our bedroom."[4]

[36] Exhibit A-1, tab 8 is a copy of the main floor plan for the subject property, showing the master bedroom on one side of the main floor, and separated from the two other - smaller - bedrooms, both being on the other side of the main floor. Located centrally on the main floor was the kitchen and nook and a "great room" plus a bathroom and hallway.

[3] Transcript, p. 16
[4] Transcript, pp. 18, 19

[37] Mr. Caddell testified that with two bedrooms on the other side of the main floor from the master bedroom, their toddler daughter would wake up during the night and "it was a constant battle…dealing with this".[5]

[38] Respondent's counsel asked, "why did you initially decide to have the master bedroom so far away from the other bedrooms?" He replied:

> We - I guess it was just thought [sic] for the future. Seemed like a good plan. And as well as we had, you'll notice there's a door in the hallway off the kitchen which was a pocket door, and we put that door in because we had cats. We wanted to separate — because our — for the allergies of our daughter, we wanted to separate the main part of the house from the bedrooms and the kids' upstairs playroom. So we put a pocket door in the hallway so we could keep the cats kind of our side [sic] of the house. So basically we designed this house around our cats.[6]

[39] After 60 days of listing, the appellants cancelled the listing on November 21, 2016. Mr. Caldwell said this cancellation was due to "really bad morning sickness" of Ms. Caddell, who was expecting their second child while having a toddler in the house and preparing for showings for potential buyers.[7]

[40] Further, although not listed, Mr. Caddell acknowledged that the appellants remained open to offers.[8] On July 17, 2017, they received and accepted an unsolicited offer and entered into a sales agreement for $989,000 with an October 30, 2017 closing. The buyer's real estate agent had contacted the appellants' former agent to enquire if the appellants were still willing to sell. The answer was yes.

[41] It appears that this factor - other circumstances responsible for sale of the property - weighs against a finding that the appellants were engaged in an adventure or concern in the nature of trade. However, I think it prudent it to assign a lower weight to this factor. That the appellants were familiar with floor plans and that Mr. Caddell visited the home almost daily while under construction raises the question of why they had not earlier recognized this bedroom placement issue.

[42] Turning to the sixth and last factor, "motive", to constitute a concern or adventure in the nature of trade a taxpayer must have a legitimate intention of

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[5] Ibid.
[6] Transcript, p. 71
[7] Ibid., pp. 18, 19
[8] Ibid., p. 77

gaining a profit from the transactions. The intention of the taxpayer both at the time of acquiring the property and at the time of disposition bears relevance. See *Friesen v. R.*, 1995 CanLII 62 (SCC), para. 16 and *Simonetta v. R.*, 2023 TCC 54, paras. 71-76.

[43] The facts here show that the appellants purchased and sold two properties before purchasing and selling the subject property. They had purchased both prior properties as bare land, constructed homes on them, moved in, and then sold them for profit. Clearly, when the appellants acquired the subject property - 600 Tercel Court - they were aware that they could purchase bare land, construct a home on it and then sell for profit.

[44] As also noted above, the appellants listed the subject property for sale in September 2016, within a year of occupancy.

[45] The appellants' conduct following the sale of the subject property additionally supports this view. Relatively promptly following disposition of the subject property the appellants purchased four additional properties - of which two were resold, one kept as a rental property and one kept as residence for the appellants and family.

[46] In total, as noted above, within 11 years the appellants purchased seven properties and sold five, of which both seven and five the subject property was the third.

[47] Although Mr. Caddell testified that his intention was to live in the subject property with his family after its construction, in hindsight it is difficult to accept this. While the appellants may have intended to reside at the subject property temporarily, believing that they would have faced penalties if they did not do so for at least a year, it seems that their primary motivation was profit. They signed a sales agreement well before having lived there a year.

[48] Actions speak louder than words. The totality of the appellants' actions is indicative of adventure or concern in the nature of trade. Mr. Caddell's assertion that the appellants' primary reason for sale was that they had designed the subject property around their cats and did not realize that the location of the bedrooms would not work for them with small children is somewhat hard to swallow, particularly in the context of their several purchases and sales.

[49] Moving to a new home because a child's bedroom is too far from the parent's bedroom in a not overly-large three bedroom house does not seem an issue that could

not have been anticipated, with young children in the picture, or dealt with upon it arising, perhaps by moving a crib or small bed for the toddler temporarily into or just outside the parents' room, or simply accepting that it takes somewhat more steps than one might prefer in navigating from one bedroom to another at night. Thus, I conclude that here the "motive" factor is suggestive of a concern or adventure in the nature of trade.

[50] In conclusion, as to whether the appellants were each a builder, I find that overall the appellants were engaged in a concern or adventure in the nature of trade. Accordingly, and also considering the other factors addressed above, I find that the appellants were builders as defined in subsection 123(1).

Issue 2: Did the appellants make a self-supply of the subject property per subsection 191(1)?

[51] The text of subsection 191(1) is reproduced in the Appendix.

[52] The subsection 191(1) "self-supply" rule taxes in respect of new homes upon being occupied. If a "builder" occupies a new home as a place of residence after its construction is substantially completed, the builder is deemed to have made a sale and collected tax thereon, for the builder to remit to the Minister.

[53] Subsection 191(1) specifies the following four steps, in the case of a builder who occupies a new home as place of residence:

a) the construction or substantial renovation of a single unit residential complex or a residential condominium unit was substantially completed [191(1)(a)];

b) the builder was an individual [191(1)(b)(iii)];

c) the builder occupied the complex as a place of residence [191(1)(b)(iii)];

d) the builder was the first individual to occupy the complex as a place of residence after substantial completion of the construction or renovation [191(1)(c)].

[54] As for the first requirement, that there was substantial completion of the construction, the phrase "substantially completed" is undefined.

[55] In *Lim v. Canada* [2000] GSTC 1 (TCC), para. 16, the Tax Court observed, "there must be a certain common-sense assessment of what, on the facts of the particular case, a reasonable person would regard as substantial completion."

[56] Substantial completion occurred before the appellants first occupied the subject property dwelling, as assumed by the Minister (each Reply, para. 13(t)). There was no evidence suggesting otherwise. As noted above, the first occupancy date, as recognized by BC Housing, was March 18, 2016 (Exhibit A-1, tab 2).

[57] The second element of a self-supply is, was the builder an individual. In subsection 123(1), the term "individual" means "a natural person". I concluded above that the two appellants, both natural persons and hence individuals, were each a "builder" in respect of the subject property that they jointly owned.

[58] The final two of the four requirements noted above are, did the two builders occupy the subject property and were they, i.e. the appellants, the first to do so. The answer on both counts is clearly yes, as reflected in the unchallenged facts set out above.

[59] I conclude that the subsection 191(1) requirements are met by the two appellants. Each being a builder, each made a self-supply of their jointly owned subject property.

Issue 3: Does the subsection 191(5) exception to the self-supply rules apply to the appellants?

[60] The text of subsection 191(5) is set out in the Appendix. Subsection 191(5) provides "an exception for personal use" as to application of the self-supply rules.

[61] The subsection 191(5) exception recognizes that builders can be ordinary persons, having paid GST/HST on the land and construction costs, and without seeking reimbursement of input tax credits.

[62] To apply, this exception requires that the following steps be met:

1) the builder was an individual [para. 191(5)(a)];

2) the complex was used primarily as a place of residence for the individual, an individual related to the individual, or a former spouse or common law partner of the individual [para. 191(5)(b)];

3) such use of the complex occurred after its construction or renovation was substantially completed [para. 191(5)(b)];

4) the complex was not used primarily for any other purpose between the time that its construction or renovation was substantially completed, and the time that it was used primarily as a place of residence for the individual… [para.191(5)(b) and (c)];

5) the builder did not claim an input tax credit in respect of the acquisition of or an improvement to the complex [para.191(5)(d)].

[63] Regarding step 1, both appellants are natural persons, thus individuals.

[64] Step 2 is whether the complex was used primarily as a place of residence for the individual, or a former spouse or common- law partner of the individual? This question goes to the crux of the dispute between the parties. The appellants submit that they used the subject property primarily as a place of residence for themselves. The respondent submits that they used the subject property primarily as inventory.

[65] The appellants cite *Coates v. R.*, 2011 T CC74 for the proposition that any future plans they may have had to sell the property are irrelevant. In *Coates*, the taxpayer built three houses, moved into them, and then sold them between 2000 and 2006. He then built a fourth house and moved into it. He was assessed GST/HST as a self-supplying builder. The Tax Court concluded that the taxpayer was a builder to whom the subsection 191(5) exception applied.

[66] In considering the matter, the Court explained that when assessing whether a taxpayer meets the subsection 191(5) test, the court must make a factual determination as to whether the property was used as a family home after it was substantially completed - with a secondary intention to resell a constructed property after residing in it being irrelevant.[9]

[67] The logic is that because someone who constructs a home purely and wholly for use as a personal residence is not a builder in the first place, and because one must be a builder to benefit from the subsection 191(5) exception, a secondary intention to resell constructed property after residing in it is not fatal.[10]

[9] *Coates v. R.*, 2011 TCC 74, para. 14
[10] Ibid., paras, 14, 15

[68] The respondent cites the Federal Court of Appeal (FCA) in *Lacina v. R*, [1997] F.C.J. No. 998, in support of the position that the appellants' primary use of the subject property was inventory. In *Lacina*, the taxpayer built and sold three houses between January 1, 1991 and March 31, 1993. The taxpayer or his spouse lived in each of the three houses for a short period prior to sale.

[69] In considering whether the trial judge had erred in finding that the taxpayer did not meet the test for a subsection 191(5) exemption the FCA notes that, "the self-supply rules are designed to prevent a builder from gaining any advantage from occupying a residential complex, which is part of their inventory, for a short period of time before selling it."[11]

[70] The FCA concluded that the trial judge was correct in finding that the taxpayer had not occupied two of the houses primarily as places of residence. It noted the "unmistakable pattern of operation" and commented that the taxpayer's residence in the houses "did not possess the enduring quality required to support a finding that he occupied either of them 'primarily as a place of residence'".[12]

[71] Returning to *Coates*, I observe that the ratio decidendi of that decision is not as wide-sweeping as the appellants submit. In my view the Court's reference to a "secondary intention to resell" is not intended to be inclusive of a primary intention to sell for profit. Rather, I believe the Court was contemplating taxpayers who intend to live at a home primarily as a place of residence but recognize that they may (or even will) need to sell the home at some future point.[13]

[72] An example of this could be a taxpayer who builds a home to live at while they are stationed somewhere for work but know that they will not be stationed at that location indefinitely. I do not view the Court's comments as indicating that subsection 191(5) allows taxpayers to construct homes with a primary aim of selling them as long as they are willing to temporarily sojourn there beforehand.

[73] As well I note that the *Coates* decision is dealing a change in use of the taxpayer's residence, "when [he] ran out of money and needed to sell the home to meet his family's living expenses."[14]

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[11] Ibid., para. 17
[12] Ibid., para 18
[13] Ibid., paras. 14, 15, 16 in particular
[14] *Coates*, para. 17

[74] Also of note is the Tax Court decision of Beaubier J. in *Strumecki v. R.*, [1996] G.S.T.C. 23, in which the appellant taxpayer built and sold four houses between 1990 and 1993. The taxpayer and his wife provided rather non-persuasive explanations as to why they had to move out of each of the properties, which explanations the Court did not accept.

[75] In finding that the subsection 191(5) exception did not apply, the Court in *Strumecki* observed that each house was used primarily for the purpose of profit through sale. In essence, it found that in each instance the initial intention of the taxpayer was to sell; residency was merely a secondary purpose. This is consistent with *Coates*, in terms of identifying the true primary purpose.

[76] In the matter before me, I am unable to accept the appellant's assertion that non-proximity of the toddler child's bedroom vis-a-vis the appellant's master bedroom was the actual reason for selling the subject property. This is all the more so given Mr. Caddell's acknowledged familiarity with the floor plans and his daily visits to the subject property as it was being constructed.

[77] Thus, I do not accept that residency, rather than inventory, was the primary use prompting acquisition of the subject property.

[78] I conclude therefore that the subsection 191(5) exception is not applicable in respect of the appellants. That is, the primary use of the subject property was inventory rather than residency.

Issue 4: What was the fair market value of the subject property at the time of the self supply?

[79] On this point I heard evidence from both Mr. Caddell as appellant, and Ms. Mandeep Kandola for the respondent.

[80] Having found that the appellants made a self supply under subsection 191(1), I now turn to determination of the fair market value of the subject property at the time of the self-supply. This value determines the quantum of GST/HST that the appellants were obliged to collect and remit.

[81] The date at which the fair market value of the subject property is to be determined is the later of the day that construction was substantially completed and the date that the property was occupied by the builder. On the evidence, discussed above, I believe the date is March 18, 2016. In any event there would be little

difference as between the date when the construction was substantially completed and date of first occupancy.

[82] Mr. Caddell presented a list of Mill Bay properties sold in 2015 and 2016. Because these properties were of different sizes, he compared them to their British Columbia assessed values and measured, as a percentage, the amount by which the sale of the properties exceeded or did not meet these values. The average sale was 5.4% below the assessed value, so he took the assessed value for the subject property, $820,000, and reduced it by that percentage, resulting in a fair market value of $775,000.

[83] Mr. Caddell also provided the listings for both 605 Tercel Court and the subject property (600 Tercel Court). He noted that the listing for 605 Tercel Court advertises incredible views and ocean views from the master bedroom and bathroom whereas the listing for the subject property does not.

[84] Lastly, Mr. Caddell provided a home insurance document showing that the subject property was insured for $622,000 ($422,000 for the value of the home plus $200,000 for the value of the land) between October 30, 2017 and July 20, 2018. I note that this value is markedly different from Mr. Caddell's own valuation of the property ($775,228), and I doubt its relevance given that the period of insurance would have been after he had sold the subject property.

[85] I turn to the evidence of Ms. Kandola on behalf of the respondent. She completed a B. Comm. degree with a 2012 post-graduate certificate in real property and a 2022 project management certificate. She holds the designation of AACI, P.App. She is a real estate appraiser employed by the Canada Revenue Agency.

[86] Before working at CRA, Ms. Kandola worked as an appraisal assistant, then an appraiser, with BC Assessment.

[87] Ms. Kandola provided the Court with a 14-page appraisal of the subject property. In appraising the property she carried out various steps, including (1) that she looked up the property to see if there were historical or recent sales; (2) researched the property using resources including Land Titles and BC Assessment to see if there were photos for finding comparable properties; (3) used MLS to look for comparable properties; and (4) personally visited the subject property when conducting her appraisal, although she did not go inside the house.

[88] Following this methodology, Ms. Kandola composed a list of comparable properties that were in the same neighborhood, of a similar age and of a similar lot size. Using these comparable properties and applying various adjustments to their prices to account for various differences in such things as market trends and property features, she ultimately concluded that the fair market value for the property on March 18, 2016 was $915,000.

[89] In her testimony Ms. Kandola also explained that she would not conduct a fair market value appraisal for an individual property with BC Assessment values because the BC assessment values are from mass appraisals that differ from individual appraisals in both scale and quality control. In contrast, the appraisal conducted by Ms. Kandola made use of a standard form used by all Appraisal Institute of Canada appraisers for "form reports" of single family dwellings.

[90] Under cross-examination, Ms. Kandola stated that the conclusion in her report that 605 Tercel Court and the subject property had similar ocean views was based on her external observations of the property. She confirmed that she did not go inside the subject property when conducting her appraisal.

[91] As for conclusion regarding the valuation issue, I accept Ms. Kandola's appraisal as most accurately representing the subject property's true fair market value. Her background reflects is she is both educated and experienced in her work of appraisals. This is her career and she used a standard form when conducting the appraisal. With all due respect to Mr. Caddell he provided no evidence as to his knowledge regarding conduct of appraisals.

[92] I note also that the appellants listed the subject property for $969,000 on September 18, 2016 (6 months after the valuation date) and sold it for $989,000 on July 17, 2017 - 16 months after the valuation date. This is quite similar to the valuation reached by Ms. Kandola in her appraisal of the fair market value of the property as of March 18, 2016 being $915,000. The valuation of $775,228.00 reached by Mr. Caddell is an outlier. I am skeptical of an appreciation in value of roughly $200,000 within such short timeframes - although recognizing it is not technically impossible.

VI. Conclusion:

[93] Each of these two appeals will be denied. If costs are sought the parties may file representations regarding same with the Court Registry (and served by email upon each other) within 45 days of the date of the judgment herein.

Signed this 2nd day of February 2026.

"B. Russell"

Russell J.

Appendix

Section 123(1) - Builder

builder of a residential complex or of an addition to a multiple unit residential complex means a person who

(a) at a time when the person has an interest in the real property on which the complex is situated, carries on or engages another person to carry on for the person

(i) in the case of an addition to a multiple unit residential complex, the construction of the addition to the multiple unit residential complex, and

(ii) [Repealed, 2014, c. 39, s. 92]

(iii) in any other case, the construction or substantial renovation of the complex,

(b) acquires an interest in the complex at a time when

(i) in the case of an addition to a multiple unit residential complex, the addition is under construction, and

(ii) in any other case, the complex is under construction or substantial renovation,

(c) in the case of a mobile home or floating home, makes a supply of the home before the home has been used or occupied by any individual as a place of residence,

(d) acquires an interest in the complex

(i) in the case of a condominium complex or residential condominium unit, at a time when the complex is not registered as a condominium, or

(ii) in any case, before it has been occupied by an individual as a place of residence or lodging,

for the primary purpose of

(iii) making one or more supplies of the complex or parts thereof or interests therein by way of sale, or

(iv) making one or more supplies of the complex or parts thereof by way of lease, licence or similar arrangement to persons other than to individuals who are acquiring the complex or parts otherwise than in the course of a business or an adventure or concern in the nature of trade, or

(e) in any case, is deemed under subsection 190(1) to be a builder of the complex,

but does not include

(f) an individual described in paragraph (a), (b) or (d) who

(i) carries on the construction or substantial renovation,

(ii) engages another person to carry on the construction or substantial renovation for the individual, or

(iii) acquires the complex or interest in it,

otherwise than in the course of a business or an adventure or concern in the nature of trade,

(g) an individual described in paragraph (c) who makes a supply of the mobile home or floating home otherwise than in the course of a business or an adventure or concern in the nature of trade, or

(h) a person described in any of paragraphs (a) to (c) whose only interest in the complex is a right to purchase the complex or an interest in it from a builder of the complex; (constructer)

191(1) - Self-supply of single unit residential complex or residential condominium unit

(1) For the purposes of this Part, where

(a) the construction or substantial renovation of a residential complex that is a single unit residential complex or a residential condominium unit is substantially completed,

(b) the builder of the complex

(i) gives possession or use of the complex to a particular person under a lease, licence or similar arrangement (other than an arrangement, under or arising as a consequence of an agreement of purchase and sale of the complex, for the possession or occupancy

of the complex until ownership of the complex is transferred to the purchaser under the agreement) entered into for the purpose of its occupancy by an individual as a place of residence,

(ii) gives possession or use of the complex to a particular person under an agreement for

(A) the supply by way of sale of the building or part thereof in which the residential unit forming part of the complex is located, and

(B) the supply by way of lease of the land forming part of the complex or the supply of such a lease by way of assignment,

other than an agreement for the supply of a mobile home and a site for the home in a residential trailer park, or

(iii) where the builder is an individual, occupies the complex as a place of residence, and

(c) the builder, the particular person, or an individual who has entered into a lease, licence or similar arrangement in respect of the complex with the particular person, is the first individual to occupy the complex as a place of residence after substantial completion of the construction or renovation,

the builder shall be deemed

(d) to have made and received, at the later of the time the construction or substantial renovation is substantially completed and the time possession or use of the complex is so given to the particular person or the complex is so occupied by the builder, a taxable supply by way of sale of the complex, and

(e) to have paid as a recipient and to have collected as a supplier, at the later of those times, tax in respect of the supply calculated on the fair market value of the complex at the later of those times.

191(5) - Exception for personal use

(5) Subsections (1) to (4) do not apply to a builder of a residential complex or an addition to a residential complex where

(a) the builder is an individual;

(b) at any time after the construction or renovation of the complex or addition is substantially completed, the complex is used primarily as a place of residence for the individual, an individual related to the individual or a former spouse or common-law partner of the individual;

(c) the complex is not used primarily for any other purpose between the time the construction or renovation is substantially completed and that time; and

(d) the individual has not claimed an input tax credit in respect of the acquisition of or an improvement to the complex.

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