

## Full Text of Ruling Of Judge Robinson in County Assessment Appeal

(continued from last week)  
**IN THE COUNTY COURT OF  
THE COUNTY OF HALTON**

IN THE MATTER of an appeal by the Town of Oakville and by the Town of Burlington against Halton County Equalization Bylaw, 1952.

This week Nelson and Trafalgar's case:-

### NELSON'S CASE:-

The assessors for Nelson took their instructions from the County Assessor, and rated the properties not according to their own judgment whatsoever, but rather on the instructions issued by the County Assessor. They assessed the properties at the South end of the Township at extremely low values, as compared with similar property in Burlington. I need not go into the various inequalities as the assessors for Nelson were in constant attendance at the hearings of this appeal, and must have seen for themselves the great difference between their assessments and those of Burlington on both land and building assessments.

Evidence was given to show that with similar homes in Burlington and Nelson, the Nelson assessments were much lower than Burlington, and this was proven clearly by photographs filed as exhibits by counsel for Burlington. Blanket obsolescence was applied throughout Nelson Township, and of course none was applied in Burlington or Oakville. There were some glaring examples of properties in Nelson which were sold in 1951 for many times the assessed value. One example is the Eaton farm, sold for \$50,000.00, and assessed at only \$3,000.00, and then again the Johnson farm of seventeen acres, which sold for \$35,550 and was assessed at only \$3,500. The

Bridgman farm sold for two thousand dollars per acre and was assessed at two hundred dollars per acre, and the evidence disclosed many similar inequalities, but I need not illustrate further here as the assessors and also municipal representatives of Nelson were present in Court, when the evidence of these discrepancies was given.

In consequence of the above-mentioned inequalities the assessment of Nelson must be substantially increased to bring it in line with other parts of the county for equalization purposes.

The County Assessor gave evidence as part of Nelson's case and admitted that he knew that the Nelson assessment should be substantially increased when he made his report to the County Council at the time of the passing of the Equalization By-law, but he did not advise the Council of this condition in his report made in June, 1952. He stated that he tried to bring Nelson lake front assessments in line with Trafalgar, but did not try to bring them in line with Burlington or Oakville. He admitted that he had instructed the Burlington assessor to give no obsolescence to the part of the Niagara Brand Spray Company plant located inside the limits of Burlington, but to give the part of the plant in Nelson an obsolescence of ten per cent, which was obviously quite unfair. Indian Point assessments are also badly out of line as compared to Burlington. The Eagles property at Indian Point in Nelson sold for \$18,000.00, and is assessed at \$4,325. The English Inns property on the Lake Shore Highway sold at seven times its assessment, even after taking into account the value of the hotel license. A location obsolescence was allowed there of twenty percent on all of the buildings.

Evidence showed that the Bonar-Bemis factory is in a very valuable location for its purposes, and it was discounted by \$23,243.00 for location obsolescence on the instructions of the County Assessor. This is a comparatively new plant and is located on the main line of the Canadian National Railway, ideally situated for shipping their product.

Mr. John Coombe, an assessment expert produced by Nelson stated in his evidence that no blanket obsolescence should be allowed in any part of the County. He also stated, after inspecting many properties, that either Burlington assessments are too high or Nelson assessments are too low, particularly on lake front properties. He also stated that there is a great disparity in frontage rates on lake shore properties west of Burlington in Nelson, as compared with Burlington properties. He admitted quite frankly that these assessments should be substantially increased. He agreed also that there should be no obsolescence allowed in Roseland Survey, as had been done by the Nelson assessor. He agreed that the business properties at the corner of Brant Street and Queen Elizabeth Way should be assessed as commercial properties rather than as residential land. Burlington assessed the service stations on the South side as commercial properties but Nelson assessed the service stations and The Clans restaurant at only residential rates. Mr. Coombe also stated that no land should be assessed for its potential value, but rather for its actual use at the time of the assessment. He also agreed that no obsolescence discounts should have been made by Nelson on any industrial building. He thought that the Burlington garden land is much too highly assessed for its present use.

A comparison of two apartment buildings, of the same size and identical construction showed the Burlington building assessed at \$111,100 and the one in Nelson at \$79,900, or a difference of thirty nine percent in assessment.

Evidence was given by two experts which proved conclusively that the assessments in the Southern part of Nelson were ridiculously low as compared with actual value or with the Burlington land assessment. A great many other instances of extremely low assessment in Nelson were given, but again I do not need to go into these in detail here, but it will be taken into account in my final conclusions as to the extent by which I must increase the Nelson assessment.

Before leaving the Nelson assessments I think I should discuss the Homel property, as described in the evidence of Mr. Purnell, which was sold in 1949 for \$43,000.00 and again in 1951 for \$47,000.00, and it is now assessed at only \$7,550.00. In regard to the assessments in Nelson Township I think that their representatives and officials realize that the assessment in their municipality is far from being equitable, and its expert, Mr. Coombe agreed in his evidence, and also his counsel on this appeal stated that several adjustments should be made, and that they are now making an attempt to correct the situation in the next assessment. I think it is only fair for me to say here that in my opinion the Nelson assessors tried to do a good honest job, but

they were guided entirely by the instructions given them by the County Assessor. These instructions, however, were not in accordance with the Assessment Act where the County assessment system is in force.

### TRAFALGAR'S CASE

The first witness for Trafalgar was the assessor, E. M. Dunham. He had no previous experience as an assessor, but followed the same rules as Nelson in regard to location discounts. He also followed the instructions of the County Assessor and attended several meetings with him and other assessors.

He allowed blanket location discounts from five percent to twenty percent on buildings from the Easterly boundary, of Oakville to the Easterly limits of the Township in the Southern portion, and extending to the Upper Middle Road, being the first concession North of the Queen Elizabeth Way, East of the Sixteen Mile Creek. He allowed as much as forty percent discount on buildings West of the Sixteen Mile Creek. Blanket location discounts in more remote parts of the Township, being North of Dundas Highway, were allowed up to fifty-five percent on buildings. The highest location discount allowed on residential property in the Township of Trafalgar was forty percent and the lowest was five percent.

The blanket discount commenced in the district East of Oakville at Gloucester Road on the North Side of the Lake Shore Highway, and at the Eight Line on the South side of the highway. This discount was allowed at five percent. From Morrison Road to the Ninth Line the discounts allowed were ten percent. From the Ninth Line to the Easterly limits of the Township they were increased to fifteen percent. Farms in the whole area were allowed a discount of twenty percent on all buildings. The properties between the Seventh Line and the Sixteen Mile Creek, from the Queen Elizabeth Way to the Upper Middle Road the discount was from twenty percent to twenty five percent. The properties on the West side of the Seventh Line in this district received a discount of fifteen percent.

Some of the properties on the Queen Elizabeth Way west of Oakville enjoy location discounts up to forty per cent, particularly on country estates. These high discounts cannot be justified. Their owner wish to have their homes where they would have a substantial acreage, and assessments on their lands are divided between the part used for residence and the part used for farming, at varying rates per acre. No blanket obsolescence should be applied on any of these buildings, or any other residence on the Queen Elizabeth Way.

I will now deal with the properties on the Lake Shore Highway between the highway and the lake. In most cases the owners have all the land between the highway and the lake. In these cases the land assessment should be in line with the Burden estate property in Oakville, which is two thousand dollars per acre. It would not be practicable to assess them on a per foot frontage basis because of their great depth to the lake. Any of these properties which have swamp or waste should receive some obsolescence on that account. The assessments on these lands heretofore have varied from four hundred dollars an acre to twelve hundred and fifty dollars an acre. No building discounts should be allowed on these. So far as land is concerned property used as farm land with no lake frontage should not be assessed at the said land rate.

As to the properties on the North side of the Lake Shore Highway, the land assessments must be substantially increased from one end to the other. Small parcels should be assessed on a frontage basis. On the large parcels they should be increased to one thousand dollars per acre for the front portion, and the balance at a considerable reduction, according to the type of land and the use made of it. No blanket discount should be allowed on any of these, and each property must be considered on its own merits. The use of the land at the time of assessment should be the guiding factor.

Garden land and that used for nursery stock between the Queen Elizabeth Way and the Lake Shore Highway is assessed far too low at two hundred dollars per acre. This should be assessed at least at five hundred dollars per acre, according to the assessments on similar land in the towns. No fruit or garden land between the Queen Elizabeth Way and the lake should be assessed at less than five hundred dollars per acre. It was shown in this appeal that one parcel of about ninety acres, assessed at two hundred dollars per acre was sold for two thousand dollars an acre.

Several parcels of land between the Queen Elizabeth Way and the Canadian National Railway tracks have been recently sold for the purpose of the new Ford development. Some of these lands are not being used in the construction of the industry. Until they are so

(continued on Page 8)



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