

REPORT

of

COLONEL D. M. BRODIE  
COMMISSIONER

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Appointed pursuant to Part I of the Inquiries Act,  
Chap. 99 R.S.C. 1927.

A Commission appointed by Order in Council P.C. 2564 dated the 13th of April, 1945, to inquire into the representations made to The Minister of Veterans Affairs and to inquire if the Director, The Veterans' Land Act and his officials exercised reasonable care and judgment in the purchase of parts Lots 3 and 4, Concession 5, Township of Sandwich West, in the County of Essex Ontario, containing 79.10 acres more or less (known as the "Oliver Property").

DATED at WINDSOR this 15th day of FEBRUARY, A.D. 1946.

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Pursuant to a Commission issued on the 13th day of April, 1945, appointing me a Commissioner under the provisions of the Veterans' Land Act to enquire into the purchase of a certain parcel of land by the Director on or about the Twenty-ninth day of September, 1944, namely, Parts Lots 3 and 4, Concession 5, Township of Sandwich West in the County of Essex, Ontario, containing 79.10 acres, more or less, for the purposes of subdivision into suburban home sites for veterans, to be established under the provisions of the Veterans' Land Act.

I. To enquire into the purchase price paid for the above described land, representations having been made to the Honorable Minister of Veterans' Affairs that the purchase price paid for the said lands was excessive.

II. To enquire if the Director, The Veterans' Land Act, and his officials exercised reasonable care and judgment in the purchase of Parts Lots 3 and 4, Concession 5, Township of Sandwich West in the County of Essex, Ontario, containing 79.10 acres, more or less.

III. To report to the Governor in Council the result of the investigation together with the evidence taken before me.

The hearing opened at Windsor, Ontario, on Tuesday, the 7th day of August, 1945 at 10.00 a.m.

Present: Walter Thomson, Esq., K.C., for the Department of Veterans' Affairs,

J.A. Kennedy, Esq., for the Windsor Real Estate Board.

Mr. Kennedy opened the case for the complainants, reading a number of letters forwarded to the Minister from the Real Estate Board, the Hon. Paul Martin and correspondence between Mr. Kennedy and Mr. Thomson. They are all on record and filed as exhibits.

The primary duty of the Commission was to enquire into the purchase price of the land in question and to ascertain whether said price paid by the Department on the advice of the Director was excessive. Apparently some members of the Real Estate Board believed the price to be

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excessive and thus followed their complaint to the Minister. In fairness to the members of the Real Estate Board, Mr. Kennedy, its counsel, stated during the proceedings that there was no suggestion or allegation of any improper motives or dishonesty on the part of the officers of the Department in the purchase of this parcel of land.

General definitions of "Excessive" are to be found in the various dictionaries and Mr. Thomson in his written argument cites several meanings derived from Webster's International Dictionary such as "Exceptional", "Extreme", "Intemperate", "Unreasonable", "Extravagant", "Exorbitant", etc.

The price paid by the Department to the owner, Mr. Oliver, was \$20,000.00 for 79.10 acres, approximately \$250.00 per acre.

The comparables submitted in evidence by both parties are of little value to me in determining the value of this property. There are so many factors to be taken into consideration that even immediate adjoining properties may differ in price. For example: Location, access, water, light, school, church, nature of soil, distance from city or market and transportation facilities are all conditions, and particularly the use for which the purchase is made, must all be taken into consideration. A suitable site may be desired but the owner may not be readily willing to sell and in such cases there are instances where a greater price has been paid in excess of the real money value of the property.

The land in question apparently appealed to the Board as being highly desirable for settlement under and by virtue of the Soldiers' Settlement and Veterans' Land Act. It is evident that it possessed many of the factors necessary for those veterans desiring to establish a permanent home adjacent to the City. The land subdivided into one acre lots affords many advantages not to be obtained in cities or towns.

The nature and quality of the soil on the Oliver property was objected to by the complainants. The soil is apparently clay soil, and not so productive for market gardening as some other locations named by several of the witnesses. Much stress was laid on market gardening and the productivity of adjoining land. Undoubtedly some members of the Windsor Real Estate Board are well qualified to know the acreage capable of being cultivated for market gardening in Essex County and their advice could be readily accepted.

It is my opinion that in purchasing land under the Act, that this specialized form of farming was not the only qualification desired by the Board. So long as the land was capable of producing a sufficiency of table vegetables for the use of the occupant, the rich quality of the soil was a secondary factor.

It was not the intention of the Board to purchase land that was suitable only for market gardening. There were other conditions and suitability that would overcome the quality of the soil and which would be more conducive to the happiness and comfort of those locating there under the Act.

Apparently the owner of the land in question was not overly anxious to dispose of his farm. In fact, he was not quite so anxious to sell as others who were offering holdings to the Board. When approached, he valued his acreage at \$325.00 per acre and it was subsequently sold at approximately \$250.00 per acre.

The location in question having been selected as a desirable one, there is no evidence before me that the land could have been purchased at a lower price. There generally exists a conflict of opinion as to the value of property and even valuers have occasionally been wide of the mark. Therefore, I am unable to say that the price paid in this instance was excessive as claimed by the complainants. I am of the opinion that the price was not excessive as claimed.

Dealing with the second issue as to whether the Director of The Veterans' Land Act and his officials exercised reasonable care and judgment in the purchase of Parts Lots 3 and 4, Concession 5, Township of Sandwich West in the County of Essex: A manual was provided by the Department of Veterans' Affairs, issued for the purpose of guiding and instructing appraisers of which the witness, Peter Love, was one and he is the person who appraised the Oliver property. The manual is filed as Exhibit 28. This witness, Love, in addition to his duty as an appraiser, is a farmer actively engaged in farming. It would appear that he followed the instructions laid down in this book entitled, "Instructions to Appraiser". He had previous experience in valuating lands and was not embarking upon a vocation foreign to him. His evidence disclosed that he conceived what he believed to be a very desirable location for settlement and that the Oliver property filled all the requirements as laid out in the book of instructions.

There is no undue haste appearing in the evidence of the purchase, and apparently no meeting of minds in the first instance. The purchase and sale was carried out in the usual manner and there does not appear to have been any want of reasonable care and judgment on the part of the Director or his officials.

All through the hearing there appeared to me to be a misconception of the real purpose for which parcels of land were being acquired. Complainants frequently adhered to the term of "market gardens" as if that were the sole reason of purchase and that lands outside the pale of what is known to them as market garden land, was a glut on the market and the value consequently much lower. Had it been the desire of the Department to purchase land for returned veterans and establish them as market gardeners, then the assumption of the complainants would be justified. I do not find this to be the policy of the Department but rather the Department's policy is to furnish permanent homes for returned men and their families with equal facilities obtaining in cities or towns.

The objection taken because of its close proximity to a cemetery has little bearing upon the value of the land. In the City of Windsor, some of the best residential property surrounds a cemetery, to wit: Willistead Park and Giles Boulevard. This condition is also found in the neighbouring City of Detroit. The cemetery adjoining the Oliver farm is exceptionally well kept and in marked contrast to some public parks appearing in cities and towns.

I desire to express my appreciation to Mr. Thomson and Mr. Kennedy for their assistance and co-operation.

All of which is most respectfully submitted.

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D. M. BRODIE,  
COMMISSIONER.