

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** Chisholm v. Inverness County (Municipality), 2004 NSCA 144

**Date:** 20041202

**Docket:** 225908

**Registry:** Halifax

**Between:** Anna (MacIntyre) Chisholm

Appellant

v.

Municipality of the County of Inverness

Respondent

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**Judge:** The Honourable Justice David R. Chipman

**Appeal Heard:** December 2<sup>nd</sup>, 2004

**Written Judgment:** December 3<sup>rd</sup>, 2004

**Subject:** *Courts - Jurisdiction - Rules of Natural Justice*  
*Municipal Government Act, S.N.S. 1998, c. 18, s. 347*

**Summary:** This was an appeal from a decision in Chambers allowing the application of the respondent Municipality for a declaration that properties of the appellant were dangerous or unsightly. The appellant filed a notice of appeal challenging these findings but subsequently confined the appeal to a three-fold contention that the Chambers judge had denied her, an unrepresented litigant, natural justice in that: (i) he failed to advise her that she had a procedural right to a *voir dire* prior to the admission of evidence of the building inspector and fire inspector; (ii) that he permitted the respondent to split its case; and, (iii) he failed to give the appellant sufficient time to retain and instruct counsel and heard certain solicitor/client privileged information from the

appellant's former solicitor when he explained the circumstances of his discharge.

**Issue:** Did the Chambers judge conduct the application in a manner that denied natural justice (procedural fairness) to the appellant?

**Result:** In dismissing the appeal the Nova Scotia Court of Appeal held that the hearing was conducted by the Chambers judge in accordance with the principles of natural justice. As to the first point, the witnesses in question were not testifying as experts and no *voir dire*s as to their qualifications were necessary. As to the second, the Chambers judge was correct in permitting the respondent to call evidence to rebut material tendered by the appellant at the last minute and without proper notice. As to the third, it was clear that the appellant had ample opportunity to retain and instruct counsel as the Chambers judge so found. No material solicitor/client privilege was divulged and such information as was divulged was as a result of the appellant's waiver of the privilege respecting it.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 4 pages.**