

NOVA SCOTIA COURT OF APPEAL

Citation: *3021386 Nova Scotia Ltd. v. Barrington (Municipality)*,
2015 NSCA 30

Date: 20150325
Docket: CA 424407
Registry: Halifax

Between:

3021386 Nova Scotia Ltd, a corporation

Appellant

v.

Municipality of the District of Barrington, a corporation

Respondent

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- Judge:** The Honourable Justice M. Jill Hamilton
- Appeal Heard:** January 20, 2015, in Halifax, Nova Scotia
- Subject:** Property law; Grant of Implied Easement; Fresh Evidence
- Summary:** The appellant, after buying a parcel of land from the respondent including a senior high school building, claimed a grant of an implied easement to draw water from a well located on the remaining land of the respondent. The judge dismissed the application. The appellant appeals.
- Issues:**
- (1) Should fresh evidence be admitted?
 - (2) Did the judge err by applying the wrong test when determining what the appellant had to prove to obtain a grant of an implied easement?
 - (3) Did the judge err in finding the use of the Soccer Field Well as a water supply for the senior high school building was not apparent at the time of conveyance?
- Result:** Appeal dismissed. The proposed fresh evidence should not be

admitted as the appellant did not exercise due diligence and the evidence could not reasonably have affected the judge's final decision. The judge did not apply the wrong test. The judge did not err in finding the use of the Soccer Field Well as a water supply for the senior high school building was not apparent at the time of conveyance.

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 15 pages.