

NOVA SCOTIA COURT OF APPEAL

Citation: *Northern Construction Enterprises Inc. v. Halifax (Regional Municipality)*, 2015 NSCA 44

Date: 20150512

Docket: CA 428571

Registry: Halifax

Between:

Northern Construction Enterprises Inc.

Appellant

v.

The Halifax Regional Municipality,
Dwight Ira Isenor and Stacey Lee Rudderham

Respondents

Judge:

The Honourable Chief Justice Michael MacDonald

Appeal Heard:

February 11, 2015, in Halifax, Nova Scotia

Subject:

Municipal law, illegality of municipal by-laws; statutory interpretation; definition of a quarry

Summary:

The Appellant proposes to develop an aggregate quarry near the Halifax Stanfield International Airport. The Respondent Halifax Regional Municipality assumed planning jurisdiction over this project and refused to approve it. The Appellant asserts that the HRM has no jurisdiction over the matter because of the Province's decision to retain exclusive jurisdiction over the location of quarries. The HRM counters that the Province's jurisdiction is limited to the basic extraction of rock and that, therefore, many of the proposed operations, such as crushing and screening the rock fall within its expressed jurisdiction over "developments adjacent to...quarries". The Appellant asked the Nova Scotia Supreme Court to declare the HRM's by-law (purporting to regulate this proposed operation) to be invalid as trespassing into

provincial jurisdiction. The Supreme Court refused, prompting the present appeal.

Issue: Is the impugned by-law an invalid exercise of municipal authority?

Result: Appeal allowed. Applying the appropriate principles of statutory interpretation, the Province's retained jurisdiction included more than mere extraction. Instead all of the Appellant's proposed operations fell exclusively within provincial authority.

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 21 pages.