

NOVA SCOTIA COURT OF APPEAL

Cite as: Save the Waterfront Society v. Nova Scotia (Utility and Review Board),
1999 NSCA 178

Chipman, Pugsley and Flinn, JJ.A.

BETWEEN:

THE SAVE THE WATERFRONT SOCIETY	)	E.B. Sorensen, Agent
	)	for the appellant
Appellant)	
)	
- and -	)	David G. Coles
	)	for the respondent,
	)	Waterfront Development
THE NOVA SCOTIA UTILITY AND REVIEW	)	Corporation
BOARD)	
)	
Respondent	)	Peter J.E. McDonough, Q.C.
	)	for the respondent,
	)	Southwest Properties
	)	Limited
)	
)	
	)	D. Kevin Latimer
	)	for the respondent,
	)	Halifax Regional
	)	Municipality
)	
)	
	)	Appeal Heard:
	)	June 7, 1999
)	
)	
	)	Judgment Delivered:
	)	June 7, 1999
)	

THE COURT: Appeal dismissed with costs of \$2,500 to be paid to each respondent,
per oral reasons for judgment of Chipman, J.A.; Pugsley and Flinn,
JJ.A. concurring.

The reasons for judgment of the Court were delivered orally by:

CHIPMAN, J.A.:

[1] This appeal, confined to questions of law and jurisdiction, is from a decision of the Nova Scotia Utility and Review Board confirming the decision of Council of Halifax Regional Municipality approving the entry of the Municipality into a development agreement with Waterfront Development Corporation and Southwest Properties Limited to develop Bishops Landing on property known as the South Battery located on Lower Water Street in Halifax.

[2] The appellant does not allege error on the part of the Board in carrying out its major function which was to determine whether Council's decision was reasonably consistent with the municipal planning strategy of the Halifax Regional Municipality. See s. 78 of the **Planning Act**, R.S.C. 346.

[3] Rather the appeal is confined to a number of points of form.

[4] We are unanimously of the opinion that the appeal is without merit.

(1) To the submission that the Board did not give adequate reasons, we say that it specifically dealt at length with the major points raised before it. It listed all points raised and as to all such points found that there were no issues on which the Board could say that Council's decision was not reasonably consistent with the intent of the municipal planning strategy. In our opinion, the Board complied with its duty to give reasons as provided in s. 27 of the **Utility and Review Board Act**, S.N.S. 1992,

c. 11.

- (2) The failure of the respondent, Halifax Regional Municipality, to deliver submissions to the Board in a timely way caused the appellant no prejudice as it frankly conceded in argument before us.
- (3) Whether Halifax Regional Municipality met the requirements of s. 49 of the **Planning Act** was beyond the scope of review by the Board of the Council's decision under s. 78 of that **Act**. We therefore have no jurisdiction to entertain this issue.

[5] The appeal is dismissed with costs of \$2,500 to each respondent to be paid by the appellant.

Chipman, J.A.

Concurred in:

Pugsley, J.A.

Flinn, J.A.