

CASE NO.**VOL. NO.****PAGE**

Cite as: Hillcrest Development Company v. Nova Scotia (Attorney General),
1997 NSCA 1

HILLCREST DEVELOPMENT
COMPANY LIMITED

- and -

THE ATTORNEY GENERAL
OF NOVA SCOTIA

(Appellant/Applicant)

(Respondent)

C.A. 142962

Halifax, N.S.

FLINN, J.A.
(in Chambers)

APPLICATION HEARD:

December 4, 1997

DECISION DELIVERED:

December 9, 1997

SUBJECT:

**Stay of Execution Pending Appeal - affidavit containing
scandalous and irrelevant material**

SUMMARY:

The appellant had sued the Province for damages for breach of two construction contracts. The Province defended and counter-claimed. The appellant's claim was dismissed; the counter-claim was allowed. The appellant is appealing and applies for a stay of execution pending the hearing of the appeal.

RESULT:

1. Application dismissed. The applicant failed to meet the primary test set out in ***Fulton Insurance Agencies Limited v. Purdy*** (1990), 100 N.S.R. (2d) 341 and there were no exceptional circumstances in order to invoke the secondary test in ***Fulton***.
2. The affidavit of the applicant contained paragraphs that were "scandalous and irrelevant". Certain paragraphs of the affidavit in question were ordered to be expunged from the record.

This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 9 pages.