

NOVA SCOTIA COURT OF APPEAL

Citation: *W. Eric Whebby Ltd. v. Doug Bohner Trucking & Excavating Ltd.*,
2007 NSCA 42

Date: 20070412
Docket: 274238
Registry: Halifax

Between:

W. Eric Whebby Limited, a body corporate

Appellant

v.

Doug Bohner Trucking & Excavating Limited, a
body corporate; United Gulf Developments Limited, a body
corporate, Greater Homes Inc., a body corporate, and
Garden Crest Developments Limited, a body corporate

Respondents

- and -

United Gulf Developments Limited, a body
corporate; Greater Homes Inc., a body corporate,
and Garden Crest Developments Limited, a body corporate

Respondents
(Appellants by Cross-Appeal)

Judges: MacDonald, C.J.N.S.; Cromwell and Saunders, JJ.A.

Application Heard: April 11, 2007, in Halifax, Nova Scotia

Held: Application for a new trial denied; appeal adjourned to
June 14, 2007 for argument on the merits.

Counsel:

George W. MacDonald, Q.C. and Christopher Wilson for
the appellant

David Farrar, Q.C. and Sara Scott for the respondents
United Gulf Developments Limited and Greater Homes
Inc.

David Coles, Q.C. for the respondent Garden Crest
Developments Limited

Michael Wood, Q.C. , for the respondent Boehner
Trucking & Excavation Limited not appearing

Decision:

[1] We are not at this point persuaded that the lack of a transcript requires us to order a new trial. We therefore adjourn the hearing to the date previously reserved, June 14, 2007 at 10:00 a.m. for full argument on the merits of the appeal and the cross-appeals. Of course, all remedial options remain open to us, including ordering a new trial if persuaded that the justice of the case requires it after having had the benefit of full argument on the merits.

[2] Subject to counsel's suggestions, we propose the following filing dates:

Appellant's Factum by Whebby	May 1
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Respondents' factums, including submissions on the cross-appeals by Bohner, United Gulf/ Greater Homes and Garden Crest	May 14
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Responses to cross- appeals (Whebby, United Gulf/Greater Homes, Garden Crest, Bohner)	May 21
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MacDonald, C.J.N.S.

Cromwell, J.A.

Saunders, J.A.