

NOVA SCOTIA COURT OF APPEAL

Citation: Gillis v. New Glasgow (Town), 2009 NSCA 66

Date: 20090617

Docket: CA 298313

Registry: Halifax

Between:

Allan M. Gillis and AMG Development Inc.

Appellants

v.

Town of New Glasgow

Respondent

Judge: The Honourable Justice Roscoe

Appeal Heard: May 14, 2009

Subject: Summary judgement, Contracts: variation, estoppel by representation

Summary: A developer and a municipality entered into a development agreement in April 2004 and amended it in July 2005 at which time the property was conveyed to the developer. The developer later sued the municipality claiming a breach of the original agreement. The chambers judge granted the municipality's summary judgment application after finding that the developer was estopped from claiming a breach of the original agreement. The developer appealed.

Issues: Whether the chambers judge erred in finding a variation of the original contract and that the appellants were estopped from claiming a breach of the original agreement and whether there were other arguable issues for trial.

Result: Appeal dismissed. The Court was not persuaded that the chambers judge applied wrong principles of law in granting the summary judgment, or that a patent injustice would result. There was no genuine issue for trial. If the action were allowed to proceed to trial, it would surely fail

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 12 pages.