

NOVA SCOTIA COURT OF APPEAL

Citation: *Ghosn v. Halifax (Regional Municipality)*, 2016 NSCA 90

Date: 20161214

Docket: CA 453799

Registry: Halifax

Between:

John Ghosn and Esther Ghosn

Appellants

v.

Halifax Regional Municipality, the Nova Scotia Utility and Review Board, and the
Attorney General of Nova Scotia, and

Respondents

Judge: The Honourable Justice Joel Fichaud

Appeal Heard: November 29, 2016, in Halifax, Nova Scotia

Subject: Administrative law – municipal law – Utility and Review Board

Summary: Mr. and Mrs. Ghosn applied for a permit to build a swimming pool in their yard. The yard borders Halifax’s Northwest Arm. The Municipality’s Development Officer refused the permit because the pool would be closer than the minimum setback from the Arm, measured according to the Municipality’s Land-Use By-law.

The Ghosns appealed to the Nova Scotia Utility and Review Board. They said that the pool would comply with the differently-measured setback under the Municipality’s Swimming Pool By-law. The Board held that the Land-Use By-law applied the Municipal Planning Strategy on setbacks from the Northwest Arm, and the Land-Use By-law prevailed over the different standard in the Swimming Pool By-law.

The Board dismissed their appeal.

Mr. and Mrs. Ghosn appealed to the Court of Appeal.

Issues: Did the Board unreasonably resolve the conflict between the Land-Use By-law and the Swimming Pool By-law?

Result: The Court of Appeal dismissed the appeal. The *Halifax Regional Municipality Charter* was the governing legislation for both by-laws. The legislative intent resolves the conflict between two by-laws. The *Halifax Regional Municipality Charter* gave precedence, for planning matters, to the Land-Use By-law and Municipal Planning Strategy over inconsistent standards in other by-laws. The Board's decision was reasonable under the Court's standard of review.

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 20 pages.