

NOVA SCOTIA COURT OF APPEAL
Cite as: **Hackney v. Dartmouth (City), 1995 NSCA 105**

Chipman, Roscoe and Pugsley, JJ.A.

BETWEEN:

JOHN R. HACKNEY

Appellant

M. Jean Beeler
for the Appellant

- and -

CITY OF DARTMOUTH

Respondent

Suzanne M. Hood, Q.C.
for the Respondent

Appeal Heard:
May 16, 1995

Judgment Delivered:
May 16, 1995

THE COURT:

The appeal is dismissed with costs which are fixed at \$1,000.00, plus disbursements to be taxed, as per oral reasons for judgment of Chipman, J.A.; Roscoe and Pugsley, JJ.A., concurring.

The reasons for judgment of the Court were delivered orally by

CHIPMAN, J.A.:

This is an appeal from a decision of the Nova Scotia Utility and Review

Board affirming the refusal by the Development Officer of the respondent City of an application for approval of a lot consolidation.

Section 7(a) of the City's Subdivision Regulations provides:

- "7. A final plan of subdivision submitted for the approval of the Development Officer shall be accompanied by:
- (a) a request in writing of the owner or owners of the land shown on such final plan, for the approval of the subdivision by the Development Officer;"

The appellant's application for final subdivision approval was accompanied by a plan of the subject lands certified by Kenneth Robb, N.S.L.S. The Development Officer was advised by the City's Engineering Department that the City claimed ownership of a portion of the lands which the appellant sought to consolidate. The difference between the location of the City street line adjoining the appellant's property by Mr. Robb and the location by the City was a matter of about one foot.

The Development Officer refused to approve the application on the ground that as the City claimed ownership of a part of the lands for which approval was sought, the appellant failed to meet the requirements of s. 7(a) of the Regulations.

The appellant appealed the decision of the Development Officer to the Board on the ground that the Development Officer did not have jurisdiction to question the boundary as set out on the appellant's plan certified by the surveyor. The Board dismissed the appeal, holding that the Development Officer was correct in refusing the application where there was a potential owner of the land, who had not joined in the application for approval respecting it.

An appeal from the Board to this Court may be taken on a question of law or jurisdiction. We have reviewed the record and have heard the arguments of counsel for the parties. The appellant has failed to satisfy us that the Board erred in law or in jurisdiction in affirming the decision of the Development Officer.

The appeal is dismissed with costs which are fixed at \$1,000.00, plus disbursements to be taxed.

Chipman, J.A.

Concurred in:

Roscoe, J.A.

Pugsley, J.A.