

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Santec Construction Managers Ltd, v. Windsor (Town), 2005NSSC132

**Date:** 20050624

**Docket:** S.H. 173161

**Registry:** Halifax

**Between:**

Santec Construction Managers Limited,  
a body corporate

Plaintiff

and

Town of Windsor

Defendant

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice C. Richard Coughlan

**Heard:** October 18, 19, 20, 21 and 25, 2004, January 4, 5, 6 and 21, 2005 and February 4, 2005, at Halifax, Nova Scotia

**Final Written Submissions:** February 14, 18 and 25, 2005

**Decision:** June 24, 2005

**Subject:** Contract - Tendering Process - Compliant Bids - Duty to Treat Tenderers Fairly and Equally

**Summary:** The Town of Windsor decided to build a Water Treatment Plant. It retained CBCL Limited as its consultant on the project. Tenders were called. Santec submitted the lowest bid. CBCL had previous experience with Santec that it viewed unfavourably. While not saying Santec was not qualified to do the job, CBCL reported to the Town the increased level of supervision Santec required would

increase the cost of the Project to the Town. The Town awarded the contract to Winbridge Construction Limited, the second lowest bidder.

**Issue:** Was Winbridge's bid compliant?

Did the Town fulfil its obligation to treat Santec fairly in awarding the contract?

**Result:** The Tender required tenderers to give information in bids including the names of subcontractors to be employed. Winbridge, in its tender bid, used the expression "own estimate" for the civil site work, formwork and contract finishes. Winbridge did not give the names of subcontractors to be used in those areas. Winbridge intended to use subcontractors. By not giving the required information, Winbridge's bid was non-compliant. In awarding the contract to Winbridge, the Town breached its obligation to award the Tender to a compliant bidder.

Santec was not treated fairly in the tendering process. Before Santec's bid was analyzed, it is clear CBCL had concerns about awarding the contract to Santec. The manner in which the Santec and Winbridge bids were reviewed makes it clear the contract was not going to be awarded to Santec. Any shortcomings or lack of information in the Winbridge bid was excused or not a concern to CBCL.

Santec is entitled to damages for breach of contract.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
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