

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Silver Sands Realty Ltd. v. Nova Scotia (Attorney General),
2006 NSSC 388

Date: 20061130
Docket: SH 261348
Registry: Halifax

Between:

Silver Sands Realty Ltd., a body corporate

Applicant

- and -

The Attorney General for the Province of Nova Scotia,
The Registrar General of Land Titles and Service Nova
Scotia and Municipal Relations

Respondents

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Judge: The Honourable Justice Suzanne M. Hood

Heard: November 28, 2006 (Special Chambers) in Halifax, Nova Scotia

Written Decision: January 12, 2007 (*Oral decision rendered November 30, 2006*)

Subject: *Res judicata*; water courses; *Environment Act*; *Land Registration Act*

Summary: Plaintiff subdivided lands including Cow Bay Lake; Registrar General of Land Titles issued Stop Orders; plaintiff seeks to have orders rescinded or mandamus granted; defendants say action is *res judicata* because of Order-in-Council in 1919 pursuant to *Water Act*, S.N.S. 1919, c. 5.

Issue: Does *res judicata* apply?

Result:

- 1) Order-in-Council is one to which *res judicata* can apply;
- 2) Same question was not decided by Order-in-Council;
 - a) Order-in-Council dealt with Cow Bay River;
 - b) Alternatively, Order-in-Council did not decide Cow Bay Lake was a water course;
- 3) Order-in-Council was a decision *in personam* and not *in rem*;
- 4) Alternatively, in exercise of judicial discretion, application should be dismissed.

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