

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *PATCO Developments Ltd. v. 3195972 Nova Scotia Ltd.*, 2016 NSSC 9

**Date:** 20160107

**Docket:** Bwt No. 419754

**Registry:** Bridgewater

**Between:**

PATCO Developments Limited

Plaintiff

v.

3195972 Nova Scotia Limited

Defendant

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

**Heard:** July 13, 14, 15, August 28, 2015 in Bridgewater, Nova Scotia

**Subject:** Easements – Creation of easements – Creation in equity

**Summary:** 3047066 Nova Scotia Limited entered into an agreement to purchase real property from 3217132 Nova Scotia Ltd. The agreement provided 3217132 was to complete, as its cost, the road, water and sewer within the terms of the development agreement with the Town of Bridgewater. 3047066 purchased the land and built an apartment building on it. The deed did not contain an express grant of easement for water and sewer. 3217132 constructed the water and sewer infrastructure which connected the apartment building to the town's water and sewer system and the system was used to supply water and sewer to the apartment building.  
ARCP Atlantic Road Construction and Paving Ltd. (ARCP) did

work on 3217132's remaining property for which it was not paid. After meeting with 3217132's president the officers of ARCP decided to purchase 3217132's remaining lands through another company of which they were directors, the respondent 3195972 Nova Scotia Ltd. (3195971).

From the date of the agreement between 3047066 and 3217132 in 2009 until conveyance to 3195972 in 2013 no bill was submitted to the applicant or its predecessor in title 3047066 for the use of the water and sewer system installed by 3217132.

After acquiring the remaining lands of 3217132, 3195972 demanded the applicant pay to it \$320,000 and taxes, before interest and failing payment and acceptable arrangements entered into for the future maintenance and alterations the services would be terminated.

The appellant brought the application

**Issues:** Does the applicant have an easement over lands of the respondent?

**Result:** The applicant has an equitable easement over lands of the respondent.

An equity arose between 3047066 and 3217132. The respondent 3195972 had knowledge of the easement before it purchased the property.

Considering the facts the applicant has an equitable easement by proprietary estoppel as well as common intention.

Neither the *Statute of Elizabeth* nor the *Assignments and Preferences Act* prevent the applicant from receiving any equitable remedy to which it is entitled.

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