

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Armour Group Ltd. v. Halifax (Regional Municipality),
2008 NSSC 81

Date: 20080331

Docket: S.H. No. 288775

Registry: Halifax

Between: The Armour Group Limited

Plaintiff

v.

Halifax Regional Municipality, a body corporate

Defendant

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Judge: The Honourable Justice Walter R.E. Goodfellow

Heard: March 17, 2008 in Halifax, Nova Scotia

Written Decision: March 31, 2008

Subject: Declaratory Judgment - *Mandamus*

Summary: Armour Group, owner of several properties designated as Heritage Properties, acquired Violet Clarke Building, 1872 Upper Water Street and in the 1970's side entrance designated as 1870 Upper Water Street. Armour Group owns Historic Properties and for a period of time their office was located in 1870 Upper Water Street. Armour have applied for a demolition permit for the Violet Clarke Building and initially various employees of HRM acknowledged that the property, 1870 Upper Water Street was wrongfully designated as an Historic Property. HRM, however, altered their position and point to certain file material including an unsigned, undated notice relating to 1870 Upper Water Street and a registration of a further notice etc.

- Issue:**
- 1) Was the Violet Clarke property designated a Heritage Property pursuant to the *Heritage Property Act* and so registered?
 - 2) If the answer to one is negative, should a *mandamus* order be issued?

Result: Concluded evidence overwhelmingly establishes any attempted designation by the City of Halifax was in error and the attempt at registration of the erroneous designation failed to comply with the statutory requirement of indexing and was a nullity. Armour entitled to declaratory judgment with leave, if necessary, to pursue *mandamus*. Counsel to be heard on costs.

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