

SUPREME COURT OF NOVA SCOTIA

Citation: Rogier v. Halifax (Regional Municipality),2009 NSSC 14

Date: 20090116

Docket: Hfx No. 302339

Registry: Halifax

Between: Francesca Rogier

v.

The Halifax Regional Municipality, the Field Operations Supervisor, Animal Services, Halifax
Regional Police and an Animal Control Officer for Halifax Regional Municipality

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Judge: The Honourable Justice Duncan R. Beveridge

Heard: January 5, 2009 in Halifax, Nova Scotia

Written Decision: January 16, 2009

Subject: Interpretation of municipal by-laws and administrative law.

Summary: Municipal officers seized and then ordered the applicant's dog to be destroyed pursuant to a by-law that said he could do so on the basis of having a reason to believe the dog had attacked another animal without giving her any opportunity to be heard by the decision maker.

Issue: Was the scope of the by-law within the powers of the municipality to enact, and if so, did the enforcement officer owe a duty of fairness to the dog owner.

Result: The section of the by-law authorizing an animal control officer to destroy a dog based on his having a reason to believe it had attacked another animal was *ultra vires* and the decision purportedly made by the officer in reliance on the section was quashed. Further the officer owed a duty of fairness which was not accorded to the applicant and hence the decision was also quashed on that basis.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***