

SUPREME COURT OF NOVA SCOTIA

Citation: Willis v. Halifax (Regional Municipality), 2009 NSSC 244

Date: 20090814

Docket: Hfx. No. 264670

Registry: Halifax

Between:

Allison Willis

Plaintiff

- and -

Halifax Regional Municipality

Defendant

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Judge: The Honourable Justice Gerald R.P. Moir

Heard: May 4 and 5, 2009 in Halifax, Nova Scotia

Subject: Nuisance, sewage treatment plant odours; Negligence, design and operation of sewage treatment plant, odours

Summary: Between 1990 and 2008 the sewage treatment plant at North Preston emitted odours frequently. Sometimes they were wretched. Mr. Willis' home and farm neighbored the plant, and he was frequently disturbed, as were his family and guests, by the odours.

Issue: Whether the plant was a nuisance? If so, whether defences of statutory authority and statutory immunity had been made out? Damages? Negligence?

Result: In the circumstances, and considering particularly the recognized factors of type and severity of harm, character of locale, and utility of defendant's conduct, the plant interfered with Mr. Willis' use substantially and unreasonably. Statutory authority and, in light of the wording in s.515(2) of the *Municipal Government Act*, statutory immunity require proof that production of the odours resulted from the only treatment method that was practically feasible. This was not the case. Damages were assessed at \$55,000. There was no evidence of negligence.

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