

**SUPREME COURT OF NOVA SCOTIA**

Citation: Halifax (Regional Municipality) v. Mrkonjic, 2010 NSSC 434

Date: 20101130  
Docket: Hfx. No. 328679  
Registry: Halifax

**Between:**

**Her Majesty the Queen**

-and-

**Joseph Mrkonjic and Barbara Mrkonjic**

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**Judge:** The Honourable Justice Robert W. Wright

**Heard:** November 10, 2010 in Halifax, Nova Scotia

**Written**

**Decision:** November 30, 2010

**Subject:** Interpretation of *Land Use By-law for Sackville* - requirement for development permit.

**Summary:** The respondents are owners and occupiers of a private residence located in a R-1 Zone, from which they operate the business of selling seaweed fertilizer/extract to outside customers. They were given notice by HRM that such business use of their property required a development permit under the Land Use By-law for Sackville. The respondents refused to apply for such a permit and then were charged with a summary offence under the *Municipal Government Act*.

The case was tried in Provincial Court and the trial judge ruled that the respondents were exempt from the requirement of obtaining a permit because the business which they operated did not fall within the by-law definition of the term “business use”. He therefore entered an acquittal and the case now comes before this court by way of a summary conviction appeal.

**Issue:** Did the trial judge err in his interpretation of the relevant provisions of the by-law and in thereby deciding that the respondent's business was exempt from the permit requirement.?

**Held:** Appeal allowed. Where the business activity of the respondents constituted a "development" within the meaning of the by-law, it followed that a development permit was required. The by-law definition of "business use" and related provisions served to set out the parameters under which the development permit could be issued for the operation of a business in a R-1 Zone. The respondents were not entitled to an exemption from the permit requirement and the trial judge erred in so finding. Accordingly, a conviction was entered by this court and the matter remitted to Provincial Court for sentencing.

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DECISION. QUOTES MUST BE FROM THE DECISION, NOT THE COVER  
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