

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Pink v Davis*, 2011 NSSC 237

**Date:** 20110615

**Docket:** Hfx No 342580

**Registry:** Halifax

**Between:**

*Joan E. Pink*

Applicant

v.

*June Davis and Allan Davis,  
Municipality of the Region of Queens*

-and-

*Nova Scotia Building Advisory Committee*

Respondents

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**Judge:** The Honourable Justice Gregory M. Warner

**Heard:** June 15, 2011 at Halifax, Nova Scotia

**Written Decision:** June 16, 2011

**Subject:** Judicial Review – Jurisdiction and Natural Justice

**Summary:** The respondents, neighbours of the applicant, appealed to the Nova Scotia Building Advisory Committee from a decision the Municipality granting a permit for the applicant's residence pursuant to s. 15 of the Building Code Act. The Committee overturned the municipality's ruling. The applicant was not

notified of the appeal, and first learned of the Committee's decision after the fact.

The applicant applied to the Supreme Court of Nova Scotia for Judicial Review and appealed the Committee's decision. The applicant and municipality asserted that the Committee had no jurisdiction to hear the neighbours' appeal, and, if so, that it breached its duty of procedural fairness in failing to notify and afford an opportunity to be heard to the applicant.

**Issue:** Issue #1: Jurisdiction of the Committee  
Issue #2: Procedural Fairness  
Issue #3: Costs

**Result:** Issue #1: The Committee had no jurisdiction to hear the neighbours' appeal under s. 15 of the Act as they were not owners of the building under consideration by the municipal building inspector.

Issue #2: The Committee failed in its duty of procedural fairness by failing to give notice and an opportunity to be heard to the applicant who was the owner of the building for which the permit in dispute was issued.

Issue #3: Both the applicant and municipality was entitled to costs. The respondents are liable for costs. Because of the exceptional circumstances of this case, the Committee is also liable for costs. Costs of \$3,000.00 plus disbursements were awarded to each of the applicant and municipality payable half by each of the respondents and Committee.

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