

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Polycorp Properties Inc. v Halifax (Regional Municipality)*, 2011 NSSC 241

**Date:** 20110620

**Docket:** Hfx No 327941

Hfx No 335820

**Registry:** Halifax

**Between:**

*Polycorp Properties Incorporated*

Applicant

-and-

*Halifax Regional Municipality*

Respondent

and

*Registrar General Land Titles (Province of Nova Scotia)*

Intervenor

**And Between:**

*Halifax Regional Municipality*

Applicant

-and-

*Registrar General Land Titles (Province of Nova Scotia),  
Causeway Bay 20 Co. Ltd., DDP Brunswick Limited,  
DDP Ocean Towers Limited and  
Polycorp Properties Incorporated*

Respondents

-and-

*Ruth Bailey*

Intervenor

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**Judge:**

The Honourable Justice Gregory M. Warner

**Heard:**

May 16, 17 and 18, 2011 at Halifax, Nova Scotia

**Written Decision:** June 20, 2011

**Subject:** Municipal Planning and Development Law

**Summary:** Polycorp Properties made an Application in Chambers in April 2010 for a declaration that a vacant property be governed by the *Land Use Bylaw* and not by an unrecorded agreement or authorization with a prior owner. HRM submits that an agreement, signed in 1970, is a development agreement and restricted the future use and development of the land to open recreation space in connection with the Ocean Towers apartments. The Registrar General Land Titles petitioned for intervenor status.

HRM made a further application, heard in conjunction with the first application, that the *de facto* consolidation of two lots to create the property was void and that the Registrar general Land Titles should amend the parcel registration to include the references to the Agreement. HRM included as respondents the previous property owners. The solicitor who consolidated the properties petitioned for intervenor status.

**Issue:** Issue #1: Declaration that a Property shall be governed by the *Land Use Bylaw* not by an unrecorded agreement or authorization

Issue #2: Declaration that the consolidation of two lots should be voided and that the records on the parcel registration should be amended.

**Result:** Issue #1: The 1970 agreement, authorized under s. 538A of the City Charter did not create restrictions on the future development and use of the property. HRM must process Polycorp's application to develop a 62-unit condominium project based on the R3 zoning, without any restrictions based on the unregistered agreement.

Issue #2: HRM does not have standing to make the application to object to the consolidation of the two lots or correct the records at the registry. If HRM had standing, the Court would have confirmed the consolidation despite a failure to comply with s. 268A of the *Municipal Government Act* in 2005, and would not have 'corrected' the parcel registration.

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