

SUPREME COURT OF NOVA SCOTIA

Citation: Viehbeck v. Pook, 2012 NSSC 48

Date: 20120203

Docket: Hfx No. 329805

Registry: Halifax

Between:

Anton Viehbeck and Gabriele Viehbeck

Applicants

v.

John Pook and Jill King-Pook

Respondents

v.

Lionel Margolick of Seabright Partners, LLC, Patricia D. Lindley,
Richard Hattin, The Estate of Robert D. Jones, Clayton Coveyduck
and Joan Coveyduck as Trustees of “The Clayton and Joan Coveyduck
Joint Partner Trust”

Intervenors

LIBRARY HEADING

Judge: The Honourable Justice Michael J. Wood

Heard: January 18, 2012 in Halifax, Nova Scotia

Written Decision: February 3, 2012

Subject: Easements

Summary: The applicants had the benefit of a right-of-way over the lands of the respondents to access a beach for recreational purposes. The respondents objected to the

applicants' use of motor vehicles on the right-of-way.

Issue: Did the grant of the right-of-way entitle the applicants to use vehicles to access the beach?

Result: The grant of the right-of-way was silent on the issue of vehicle use and so the Court had to look at the circumstances surrounding the grant. In light of the historic use of the right-of-way, its physical condition and the relationship of the parties to the deed of grant, the Court concluded that the intention was to permit vehicle use. Application for declaration granted.

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