

SUPREME COURT OF NOVA SCOTIA

Citation: *Armour Developments Ltd. v. Manga Hotels (Halifax) Inc.*,
2016 NSSC 274

Date: 20161026

Docket: Hfx No. 430020

Registry: Halifax

Between:

Armour Developments Limited,
a body corporate

Applicant

v.

Manga Hotels (Halifax) Inc.,
a body corporate

Respondent

LIBRARY HEADING

Judge: The Honourable Justice Mona M. Lynch

Heard: July 5, 2016, in Halifax, Nova Scotia

Counsel: John Shanks, for the Applicant
Barry Mason, for the Defendant

Subject: Prescriptive easements

Summary: The plaintiffs and defendants own adjacent properties. The plaintiff claimed a prescriptive right-of-way from a fire exit in their building over the vacant lot at the rear of the defendant's hotel property. The easement was set out in a

lease and warranty deed, but the original grant could not be found. The plaintiffs posted a notice on the door indicating that it was a fire exit to be free from obstruction. Requests by the plaintiff to the owners of the defendant property to remove obstructions resulted in their removal.

Issues: Has the plaintiff established that it has a prescriptive easement under the former *Limitations of Actions Act* or by the common law doctrine of lost modern grant?

Result: Application granted. Plaintiff established continuous, uninterrupted, open and peaceful usage exceeding 20 years. No abandonment found. Use was “as of right”, the defendant acquiesced in the use and there was no express or implied permission.

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