

1990

S.H. No. 73638

IN THE SUPREME COURT OF NOVA SCOTIA
TRIAL DIVISION

BETWEEN:

DENY ESHELBY and DON RUBIN, both of Dartmouth
in the County of Halifax, Province of Nova
Scotia

PLAINTIFFS

- and -

HALIFAX COUNTY CONDOMINIUM CORPORATION NO. 89,
a body corporate and ROBERT F. EPPS, in his
personal capacity and as a representative of
the Board of Directors of Halifax County
Condominium Corporation No. 89

DEFENDANTS

HEARD: at Halifax, Nova Scotia, before the
Honourable Mr Justice Gruchy, in Chambers,
Trial Division, on October 9, 1990

DECISION: October 9, 1990 (Orally)

COUNSEL: Peter D. Darling, Esq., for the plaintiffs
Patrick D. Cassidy, Esq., for the defendants

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DEFENDANTS

GRUCHY, J. (Orally):

This matter now concerns only one question and that is the degree of access by the plaintiffs Deny Eshelby and Don Rubin to the minutes of directors meetings of the defendant corporation. Section 18(1) of the Condominium Act R.S.N.S. 1989, c. 85 provides:

"The corporation shall keep adequate records, and any member of the corporation may inspect the records on reasonable notice and at any reasonable time."

Further s. 18(4) of that Act reads:

"Each member of the corporation, and each person having an encumbrance against a unit and common interest, has the right to the performance of any duty of the corporation specified by this Act, the declaration and the by-laws."

Those subsections are followed by Article XII of the defendant corporation's by-laws which states in part:

"The Board shall cause to be kept the following records:

...

(c) minutes of the Board;"

and that Article concludes:

"All records except the minutes of meetings of Directors shall be available for inspection at reasonable hours by all owners and mortgagees."

Section 23(2) of the Condominium Act also provides:

"The by-laws shall be reasonable and consistent with this Act and the declaration."

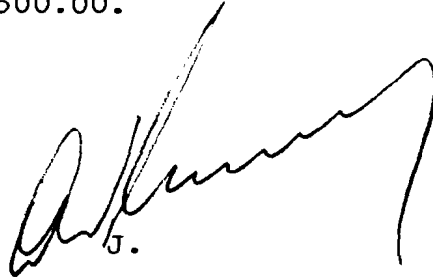
It seems to me that in this case the by-laws are not consistent with the Act. By ordinary language a record of the corporation would include records of the minutes of the meetings of the Board. Even if we were to apply strictly legal language, it is well known that records of a corporation would include minutes of the meetings of the Board. But by ordinary language as well, the same result is achieved.

I am prepared to order that the minutes of the meetings of the Board of Directors should be made available to members of the corporation in accordance with s. 18 of the Condominium Act.

It appears to me that an appropriate system of minute keeping by boards can be devised whereby personal

matters, matters which would be considered confidential as between the tenant and the condominium corporation and can be put into effect. Careful minute keeping can be achieved whereby the minutes will be accurate and, yet, not necessarily disclose the precise personal details that may well come before a Board of Directors.

I award costs of \$500.00.

A handwritten signature in black ink, appearing to be "A. J. [unclear]", with a small "J." written below the signature.

Halifax, Nova Scotia

October 9, 1990