

SUPREME COURT OF NOVA SCOTIA

Citation: *Shea v. Bowser*, 2014 NSSC 211

Date: 20140707

Docket: Hfx No. 348548

Registry: Halifax

Between:

James David Shea and Linda Shea

Applicants

v.

Loyal F. Bowser and Wendy Lynn Bowser

Respondents

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Judge: The Honourable Justice Peter Rosinski

Heard: June 5 and 6, 2014 in Halifax, Nova Scotia

Decision: July 7, 2014

Subject: The determination of the physical location of a right-of-way expressly granted to the Sheas across the land of the Bowsers.

Summary: As a result of the decision of the Court of Appeal in this matter, 2013 NSCA 18, this Court heard evidence and submissions regarding the disputed location of the right-of-way in question. The Sheas presented the expert opinion evidence of Thomas Giovannetti, P.Eng and certified Nova Scotia Land Surveyor. In part by aerial photographs from the years 1964, 1974, and 2003, the physical location of the right-of-way could be tracked over time.

Result: The Court concluded that it was in the interests of justice to declare that the present physical location of the right-of-way, which location had in part been changed in 2001 by the Bowsers, without the consent of the Sheas, is also the location in law of the right-of-way. Each party to bear its own costs; however the costs of the expert opinion report, and the expert's attendance in court, will be equally shared by the parties.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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