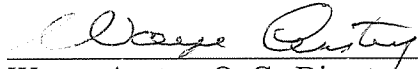


Halifax Regional Council
June 17, 2003

TO: Mayor Kelly and Members of Regional Council

SUBMITTED BY:



Wayne Anstey, Q. C., Director of Legal Services

DATE: June 11, 2003

SUBJECT: Homburg v. HRM

INFORMATION REPORT

Background:

Some years ago Homburg Canada Incorporated complained to HRM that in its view there were a large number of properties in the north end of Dartmouth which were unsightly and as a result the business interests of Homburg respecting properties it owned in the same area were being adversely affected. Homburg alleged that HRM had for years neglected to enforce the dangerous and unsightly laws.

In response, HRM established a pilot enforcement program for the area and agreed to keep Homburg advised of progress. The response of HRM did not satisfy Homburg so it commenced an action alleging that HRM's failure to enforce the dangerous and unsightly premises laws constituted negligence entitling Homburg to sue, and that a contract existed between Homburg and HRM respecting the remedial program which HRM had breached.

Discussion:

In response to the action HRM made an application to the Supreme Court to strike those aspects of Homburg's claim relating to negligence. The negligence issue in essence was whether a citizen can compel HRM to enforce the law. The Supreme Court of Nova Scotia found that a municipality did not owe a legal duty to enforce the law and struck that part of Homburg's claim. Homburg appealed to the Court of Appeal and the appeal was dismissed.

These decisions confirm that a municipality has a discretion respecting the enforcement of its laws and cannot be compelled by a complainant to act in any particular manner respecting enforcement.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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