

Date: 20150224
Docket: 07/42
Citation: *Eco Zone Engineering v. Town of
Grand Falls-Windsor et al.*, 2015 NLCA 9

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

ECO ZONE ENGINEERING RESPONDENT/APPELLANT

AND:

THE TOWN OF GRAND FALLS-WINDSOR
and THE TOWN OF BISHOP FALLS, carrying
on business under the name of EXPLOITS
REGIONAL SERVICES BOARD
APPLICANT/FIRST RESPONDENT

AND:

NEWFOUNDLAND DESIGN ASSOCIATES
LIMITED and WILLIAM NOSEWORTHY
SECOND RESPONDENT

Coram: Welsh J.A.

Application Heard: February 24, 2015
Decision Rendered: February 24, 2015 (Orally)
Memorandum of Disposition Filed: February 25, 2015

Counsel for the Respondent/Appellant: No Appearance
Counsel for the Applicant/First Respondent: Erin Best
Counsel for the Second Respondent: No Appearance
Counsel on behalf of the Law Society, trustee for the practice of
R. Noseworthy QC: Annette M. Conway

MEMORANDUM OF DISPOSITION

Welsh J.A.:

[1] The towns of Grand Falls-Windsor and Bishop Falls, carrying on business as the Exploits Regional Service Board (the “Board”) applied for an order deeming the within appeal abandoned and striking out the notice of appeal. The order was granted, with costs, at the hearing on February 24, 2015.

[2] Counsel for the Board filed a comprehensive memorandum of fact and law. Although proper service had been effected on a representative of Eco Zone Engineering, no one filed material with the Court or appeared at the hearing. Regarding the Board’s memorandum, I note, in particular, the following:

This Court filed a decision on an appeal involving the same parties in February 2012 (2012 NLCA 7). It is unclear what, if any, issue remains. Indeed, as part of an application to correct an apparent error regarding a date in the 2012 decision, this Court rejected an attempt by Eco Zone to re-argue grounds of appeal that had been disposed of in the earlier decision (2012 NLCA 45).

While leave was given in the 2012 decision to pursue the issue of costs, no action has been taken.

There is no indication that Eco Zone intends to pursue an appeal.

[3] Having considered the materials filed by the Board together with counsel’s oral submissions, in light of the failure of Eco Zone to make any submissions, and considering the significant passage of time, I was satisfied that the appeal should be deemed abandoned.

[4] Accordingly, I granted the Board’s application, with costs, declared the appeal to be deemed abandoned and struck out the notice of appeal.

B. G. Welsh J.A.