

**CASE NO.**

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**THE MUNICIPALITY OF THE  
DISTRICT OF CHESTER**

**CERTAIN RATEPAYERS OF THE  
MUNICIPALITY OF THE DISTRICT OF CHESTER**

(Appellant)  
**CA158652**

- and -  
Halifax, N.S.

(Respondent)  
**FREEMAN, J.A.**

[Cite as: Certain Ratepayers of Chester District (Municipality) v. Chester District (Municipality) , 2000 NSCA 19]

**APPEAL HEARD:** January 25, 2000

**JUDGMENT DELIVERED:** January 28, 2000

**SUBJECT:** Municipal Law; Incorporation of Towns; **Municipal Boundaries and Representation Act** R.S.N.S. 1989 c. 298; **Municipal Government Act**, S.N.S. 1998, c. 18.

**SUMMARY:** Some 140 ratepayers of the Municipality of the District of Chester petitioned pursuant to s. 7 of the **Municipal Boundaries and Representation Act** for Polling District 3 in the Municipality to be incorporated as a town. The application was filed one day after the **Municipal Government Act** received royal assent, although it did not come into effect until April 1, 1999, about four months later. The new **Act** provided for petitioners for incorporation to be electors rather than ratepayers. The Nova Scotia Utility and Review Board found the application was validly made under the old **Act**, although matters of procedure would be governed by the new one. It limited evidence on the statutory preliminary application to procedural aspects of the main hearing, and provided for studies required under the old **Act**.

**ISSUES:** The appellant municipality asserted the Board erred in restricting evidence on the preliminary application, in determining the retrospectivity or retroactivity of the new **Act**, in accepting the petition as worded, in not calling for studies of alternative boundaries for the proposed town and in not calling for a plebiscite.

**RESULT:** The appeal was dismissed with costs. The Board did not err in exercising its discretion in governing its process nor in determining the effect of the new **Act** on the old. The court's non-interventionist approach in discretionary interlocutory matters applied to proceedings before the Board.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 6 pages.**