

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Higgins v. Nova Scotia (Attorney General)*, 2013 NSCA 106

**Date:** 20130924

**Docket:** CA 415194

**Registry:** Halifax

**Between:**

Forrest C. Higgins Jr.

Appellant

v.

The Attorney General of Nova Scotia representing Her Majesty  
the Queen in right of the Province of Nova Scotia and D.D.V. Gold Limited,  
a body corporate and The Mining Association of Nova Scotia and  
The Nova Scotia Federation of Agriculture

Respondents

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**Judge:** The Honourable Justice Hamilton

**Appeal Heard:** September 13, 2013

**Subject:** **Administrative law; Granting of vesting order by the Minister under s. 70 of Mineral Resources Act, S.N.S. 1990, c. 18.**

**Summary:** DDV Gold Limited unsuccessfully tried to buy Mr. Higgins' land in connection with developing an open pit gold mine in the Province. Pursuant to s. 70 of the **Mineral Resources Act**, S.N.S. 1990, c. 18, DDV then applied to the Minister for a vesting order transferring fee simple ownership of this land to it. The Minister granted the vesting order. The process he followed before making his decision included notifying Mr. Higgins of the application, inviting him to respond in writing with information he would like the Minister to take into account with respect to the application and later meeting with him to discuss his objections. Mr. Higgins suggested the mine could proceed without his land.

Following his meeting with Mr. Higgins, the Minister asked DDV for a copy of the formal offers it made to purchase the land and if it could proceed with its proposed mine without this land. DDV indicated the acquisition of this land was critical to the development of the mine. Notice of the application was also published and the Minister reviewed the many letters he received in response, both for and against the vesting order. Mr. Higgins unsuccessfully appealed the Minister's decision to the Supreme Court of Nova Scotia on the basis the procedure followed by the Minister was procedurally unfair. He then appealed to this Court.

**Issue:** Did the judge err in determining that the procedure followed by the Minister was fair or by improperly considering inappropriate factors?

**Result:** Appeal dismissed. The judge did not err in finding the Minister's procedure was fair. The judge understood the material that was before the Minister and the process he followed in reaching his policy decision. He applied the correct standard of review and guiding legal principles, including those set out in **Baker v. Canada (Minister of Citizenship and Immigration)**, [1999] 2 S.C.R. 817. He did not consider inappropriate factors.

**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 8 pages.**