

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Nova Scotia (Public Safety) v. Cochrane, 2008 NSSC 60

**Date:** 20080222

**Docket:** SK 290552

**Registry:** Kentville

**Between:**

The Director of Public Safety

Plaintiff

v.

Michael Cochrane, Laura Cochrane, Mica Cochrane and  
West Point Homes Limited

Defendant

**Judge:**

The Honourable Justice Gregory M. Warner

**Heard:**

February 21<sup>st</sup> and 22<sup>nd</sup>, 2008 at Kentville, Nova Scotia

**Written Decision:**

February 29, 2008 (Oral Decision rendered on February 22, 2008)

**Subject:**

*Safer Communities and Neighbourhoods Act*

**Summary:**

This *Act* is new and unique legislation permitting the Director to apply for an Order enjoining persons from using a property for a “specified use” that adversely affects the health, safety or security of the neighbourhood. As a result of numerous complaints against the Respondents alleging that the mobile home of the Respondents in a mobile home park was being used for drug trafficking, the Director investigated and as a result of surveillance and two police searches which resulted in *CDSA* charges, and the refusal of the Respondents to move, the Director applied for an Order.

**Issues:**

1. Is the legislation constitutionally valid?
2. What was the burden of proof on the Director?
3. Did the evidence discharge the burden?
4. What was the appropriate remedy?

**Results:**

1. The legislation, pith and substance, is in respect to the use of property and therefore valid provincial legislation under Section 92(13) of the *Constitution Act*, 1867.
2. The burden of “giving rise to a reasonable inference” that the specified use is occurring, requires, in the context of this legislation and civil proceedings, proof on a balance of probabilities.
3. The evidence received by Affidavit (subjected to cross-examination) and *viva voce* established on a balance of probabilities that the “specified use” occurred and had an adverse effect on the safety and security of the neighbourhood.
4. An Order enjoining continuance of the specified activity was issued. The Order also required the Director to close the property for 90 days if the mobile home was not moved or vacated by March 31<sup>st</sup>, 2008. No costs were ordered.

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