



# Community Law Currents

Volume 10 : Dalhousie Legal Aid Service : Winter 2009

## What's Inside

AEC Appeal	1
Fifth Annual 'Legal Who?'	2
Out of the Cold Shelter	2
Legal Links Phone Service	3

### **Affordable Energy Coalition (AEC) Appeal** Ethan McMonagle and Claire McNeil

On December 1, 2008, *Boulter v. Nova Scotia Power Incorporated* was presented to the Nova Scotia Court of Appeal. The hearing centered on the question of whether or not s. 67(1) of *Public Utilities Act* violated s. 15(1) of *Canadian Charter of Rights and Freedoms* by discriminating against low-income individuals and families. On February 13, 2009, the Court released its decision. Unfortunately, the Court sided in favour of the Nova Scotia government in dismissing the appeal.

Writing for a unanimous Court, Justice Fichaud concluded that poverty is not an analogous ground of discrimination under s. 15(1) of the *Charter* since it is not an immutable aspect of people's lives. The Court ruled that section 67(1) of the Public Utilities Act, which restricts the Nova Scotia Utility and Review Board from providing a program to accommodate low income consumers who cannot afford to pay their power bills, does not violate section 15 of the Charter. The decision means low-income Nova Scotians must now look to the provincial government to step in to insure electricity costs are affordable.

The Nova Scotia Attorney General, who intervened in the Appeal, argued successfully that the NSUARB lacks the power to order a rate assistance program, and that the current legislation does not violate the Charter equality rights of the Appellants.

The Appellants included 5 individual consumers as well as the Affordable Energy Coalition, including more than 30 community groups throughout Nova Scotia, who have identified the affordability of electricity as a crisis facing Nova Scotians.

“People are making unacceptable choices between heating their homes or eating, or heating and buying necessities like prescription medication – instead of standing in the way of programs to help consumers, the government should be acting on its commitments to reduce poverty in Nova Scotia through programs like the universal service program” suggests Wayne MacNaughton.

“The Court's equality rights decision is disappointing in its failure to really come to terms with the substantive inequality in access to electricity that is experienced by people in poverty especially and

*(Continued on page 3)*



## Fifth Annual 'Legal Who?' Masquerade Ball

The 5th Annual 'Legal Who?' Masquerade Ball & Silent Auction was held at the Halifax Club on February 7, 2009. This event is one of the most highly anticipated social events in the legal community, and it is also an important annual fundraiser for Dalhousie Legal Aid Service (DLAS).

Party goers enjoyed cocktails while being entertained by a classical trio, then danced the night away to Weldon's own student band, *Mother Sandwich* featuring bass player Jordan Kirkness, a senior law student partaking in the winter session of the clinic.

Tickets included a complimentary mask, while more elaborate masks were available for purchase. Tapas were served, as well as martini's and other libations.

As in past years there was a fully stocked and



highly popular silent auction. This year's auction featured fabulous items including high-end hotel accommodations, local fine dining, dance packages, gift baskets and gorgeous local artwork, just to name a few.

This exciting event has raised close to \$25,000 over the past 5 years in support of DLAS with this year's event adding approximately \$6,000 to the pot. Such fundraisers help DLAS meet the increasing demand for our services and a continued quality experience for senior law students.

## Out of the Cold Winter Shelter

Kimberly Dewar

Local community members banded together this past winter to rally support for an emergency winter shelter; urgently needed for some of Halifax's most vulnerable citizens.

The Out of the Cold Shelter Organizing Committee came together in response to the Department of Community Services' autumn announcement that the Pendleton Place shelter would close. This shelter served a population not otherwise provided for, and the loss of this service left vulnerable people out on the streets on cold winter nights.

The Organizing Committee has been working steadily throughout the winter months without any government funding to secure a location and volunteers for the shelter. They encountered some setbacks along the way, but ultimately were successful in opening and running the current Out of the Cold Winter Shelter. The shelter is now operating nightly out of Fort Massey Church, 5303 Tobin Street (on the corner of Tobin and Queen Streets). The shelter runs from 9pm to 7am, and offers a bed to people who cannot access other shelters in Halifax. It is a warm, safe and welcoming shelter with 15 mats for men, women,

*(Continued on page 3)*

## Winter Shelter

(Continued from page 2)

youth (16 and over), and couples. The shelter will be open until April 30, 2009. If you wish to contact the Organizing Committee please call: *Metro Non-Profit Housing Association* at 423-5479, or the *Out of the Cold Shelter* on location at 225-0770 (from 9pm to 7am only).

## Legal Links Telephone Service Project Launch

Jordan Kirkness

Dalhousie Legal Aid Service launched its new Legal Links Project this past February 2009. The goal of this project is to provide brief consultation to persons in need of assistance with legal issues related to the following:

- **Public/Metro Housing**
- **Income Assistance**
- **CPP Disability Appeals**
- **Debt & Disability Issues**
- **Human Rights**
- **Police Complaints**
- **NS Power Cut-offs**

If you would like to contact the service, please call DLAS at 423-8105, briefly explain your legal issue, and ask to be connected to one of 6 senior law

students looking after the Legal Links Telephone Service Project.

Students aspire to return calls within 48 hours with advice, referrals, or potentially to schedule a meeting to discuss your circumstances further at our DLAS office.



## AEC Appeal: (Continued from page 1)

disproportionately, single-mothers, people with disabilities, African Nova Scotians, children and the aged.” said Vincent Calderhead one of the Appellants’ counsel in the case.

Nova Scotia Power Inc. took no position in the Appeal, stating for the record that they would implement any order of the Board, including a rate assistance program.

The demand for a universal service program came in response to an application by the NSPI for a residential rate increase in 2006 when the Board allowed a rate increase but scaled it back to an average of 3.8%. More recently the Board approved a 9.3% increase effective January 1, 2009 as well as yearly automatic rate setting, known as the Fuel Adjustment Mechanism or FAM. The Board has ordered rate increases in 2002, 2005, 2006, 2007 and 2009 in response to applications by NSPI, but declined to provide programs to ensure rates remain affordable for low income consumers. Nova Scotia Power Inc. has a virtual monopoly on the sale of electricity in the province and approximately 30% of consumers also use electricity to heat their homes. NSPI announced this week that they will be seeking approval to spend \$100 million dollars for infrastructure improvements over the next several years from the NSUARB.

**What we do:** Dalhousie Legal Aid Service is a legal aid office providing access to legal representation to individuals and groups who would otherwise not be able to afford a lawyer

**Currently we represent low income clients in a number of ways, as we:**

- Provide advice and advocacy to clients regarding income assistance, social assistance and economic rights.
- Represent tenants in Residential Tenancies or housing matters.
- Provide advice to people with debt problems such as student loans and Nova Scotia Power cut-offs.
- Deal with family law problems such as custody, access, support and child protection.
- Represent young people in criminal matters on referral from Nova Scotia Legal Aid.
- Provide legal information and advice to community organizations and groups like tenants' organizations, transition houses, and anti-poverty groups.
- Serve as a teaching clinic for third year law students who want to learn the practical side of the law.

**What we don't do:**

Personal injuries, civil claims for damages, criminal matters for adults, property or immigration.

**Who we are:**

Our Executive Director is Donna Franey. Our Community Legal Workers are Cole Webber and Fiona Traynor. Our staff lawyers are: Shawna Hoyte, Susanne Litke, Claire McNeil, Heather McNeill and Susan Young. Our Office Manager is Reena Cipryk and our support staff includes Lynette Colley, Melinda Shaw, Susan Jones, and Cathy Leiper. And up to 44 third year students have the experience of working



Dalhousie Legal Aid  
Service  
A Community Service of  
Dalhousie University since

2209 Gottingen Street  
Halifax, NS B3K 3B5  
Phone: 902.423.8105  
Fax: 902.422.8067  
Website: <http://law.dal.ca/Institutes/>

