

URBAN AND RURAL PLANNING ACT, 2000

Section 40-46

<https://www.assembly.nl.ca/legislation/sr/statutes/u08.htm#40>

Appeal #: **15-006-091-020**
Adjudicator: Mary Bishop
Appellant(s): Ian Gosse
Respondent/Authority: Town of Portugal Cove- St. Phillips
Date of Hearing: November 7, 2024
Start/End Time : 9:15am – 9:45am

In Attendance

Appellant: Ian Gosse, Pam Miles
Appellant Representative(s):
Respondent/Authority: Town of Portugal Cove-St. Phillips
Respondent Representative(s): Les Spurrell, Planning and Development Coordinator
Brian Peach, Director of Planning
Ashley Linehan, Planning Technician
Appeal Officer: Synthia Tithi, Department of Municipal and Provincial Affairs
Technical Advisor: Setare Vafaei, Planner II, Department of Municipal and Provincial Affairs

Adjudicator's Role

Part VI of the *Urban and Rural Planning Act, 2000* authorizes adjudicators to hear appeals and establishes the powers of adjudicators.

The role of the Adjudicator is to determine if the Authority acted in accordance with the *Urban and Rural Planning Act, 2000*, and the Town of Portugal Cove-St. Phillips Municipal Plan and Development Regulations when it refused an application to construct a fence at 1 Druken's Lane on July 9, 2024.

Validity of the Appeal

The technical report, prepared on October 21, 2024, and shared with all parties by the Appeal Officer, raised questions about the validity of the Appeal under Section 41 (3) and (4) of the Act:

Section 41(3) and 41(4) of the Act state:

41. (3) *An appeal made under this section shall be filed with an appeal officer not more than 14 days after the person who made the original application receives the decision.*

41. (4) *An appeal shall be made in writing and shall include*

- (a) a summary of the decision being appealed;*
- (b) the grounds for the appeal; and*
- (c) the required fee.*³

According to the submission materials, the Authority informed the Appellant about its decision in a letter sent by email on July 18, 2024. Based on the appeal form, the Appellant learned of the decision on July 22, 2024. The appeal was filed 25 days later on August 16, 2024, which is outside the 14-day appeal period established under Section 41(3) of URPA.

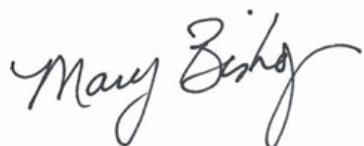
At the start of the hearing, all parties were asked to address the question of jurisdiction as a preliminary matter. The Appellant acknowledged that the appeal had been filed more than fourteen days after the decision had been received. The letter from the Authority to the Appellant clearly stated the right to appeal and the deadline for appeal in accordance with Section 41(3) of the Act.

Adjudicator's Conclusion

After reviewing information provided in the technical report and hearing from both parties, the Adjudicator has determined that the appellant became aware of the Authority's decision on July 22, 2024. The Appellant filed the appeal on August 16, 2024, knowing that the filing was more than 14 days after the decision had been received. As such, I find that the appeal filed by the Appellant does not meet the requirements of Section 41(3) of the Act, and therefore is not valid. As Adjudicator, I have no jurisdiction to hear the appeal and therefore, the appeal is denied.

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Adjudicator may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days after the Adjudicator's decision has been received by the Appellant(s).

DATED at St. John's, Newfoundland and Labrador, this 2nd day of December, 2024.



Mary Bishop, RPP, MCIP, FCIP
Adjudicator
Urban and Rural Planning Act, 2000