

URBAN AND RURAL PLANNING ACT, 2000**Section 40-46**

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

Appeal #: 15-006-083-010
Adjudicator: Christopher Forbes
Appellant: Andrew Handcock (G&R Contracting Ltd.)
Respondent/Authority: Town of Eastport
Date of Hearing: November 29, 2024
Start/End Time: 11:15 – 11:30 a.m.

In Attendance

Appellant: Andrew Handcock
Respondent/Authority's Representative: Robert Bradley, Solicitor for the Town of Eastport
Respondent/Authority: Chantal Lynch, Town Clerk/Manager
David Decker, Councillor
Kim Powell, Mayor
Appeal Officer: Synthia Tithy
Municipal and Provincial Affairs
Technical Advisor: Setare Vafaei, Planner II
Municipal and Provincial Affairs

Adjudicator's Role

Part VI of the *Urban and Rural Planning Act, 2000* (the “Act”) 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 Eastport *Municipal Plan and Development Regulations* when it refused the development septic disposal site application at 132-134 Main Street, Eastport, on April 12, 2023.

The adjudicator, representatives from the Authority and counsel for the Authority appeared at the hearing via the Teams platform, while the appellant and Appeal Officer called into the hearing via that platform from the same location in Clarenville.

Preliminary Matters

At the outset of the hearing, counsel for the Respondent Authority indicated that the Authority was willing to re-consider its decision to refuse the subject development application. The hearing was briefly adjourned to permit the Appellant an opportunity to consider this offer, after which the Appellant confirmed he was agreeable.

The hearing was thus adjourned.

Decision of the Adjudicator

As Adjudicator, I am bound by section 44 of the Act, which states:

44. (1) In deciding an appeal, an adjudicator may do one or more of the following:
 - (a) confirm, reverse or vary the decision that is the subject of the appeal;
 - (b) impose conditions that the adjudicator considers appropriate in the circumstances; and
 - (c) direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have the adjudicator's decision implemented.
- (2) Notwithstanding subsection (1), a decision of an adjudicator shall not overrule a discretionary decision of a council, regional authority or authorized administrator.
- (3) An adjudicator shall not make a decision that does not comply with
 - (a) this Act;
 - (b) a plan and development regulations registered under section 24 that apply to the matter being appealed; and
 - (c) a scheme, where adopted under section 29.
- (4) An adjudicator shall, in writing, notify the person or group of persons who brought the appeal and the council, regional authority or authorized administrator of the adjudicator's decision.

Order

The Adjudicator orders that the decision to refuse the application of the Appellant for the development of a septic disposal site at 132-134 Main Street, Eastport, be reversed and that such application be re-considered *de novo* by the Respondent Authority.

The Adjudicator further orders that the Authority pay to the Appellant the amount of \$230.00, representing the fee paid by the Appellant to file the appeal herein.

The Authority and the Appellant are bound by this decision.

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.

DATED at St. John's, Newfoundland and Labrador, this 3rd day of January, 2025.



Christopher Forbes
Adjudicator
Urban and Rural Planning Act, 2000