

EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Bill Harris **Appellant**

AND Service NL **Respondent**

RESPECTING Refusal

BOARD MEMBERS Vicki Connolly – Chair
Michelle Downey – Member
Mary Thorne-Gosse – Member

DATE OF HEARING June 17, 2015

IN ATTENDANCE

Stan Blackmore – Service NL
Bill Harris – Appellant
Robert Cotter - Secretary to the Eastern Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Eastern Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from Service NL refusing to issue a permit to Bill Harris. On October 15, 2014, Mr. Harris applied to Service NL to replace an off-site promotional sign located on the TransCanada Highway (TCH), west of the Foxtrap Access Road. Service NL refused the subject application under section 2 of the Highway Sign Regulations, 1999.

Service NL notified Mr. Harris that his application was refused in a letter dated November 7, 2014. The letter stated the reason for refusal and noted his right and process to appeal.

In accordance with section 42 of the *Urban and Rural Planning Act, 2000*, Mr. Harris filed an appeal with the Eastern Newfoundland Regional Appeal Board against Service NL's decision to refuse his application. Mr. Harris initiated the appeals process on December 3, 2014 and as required, filed: a summary of the decision being appealed; grounds for the appeal; and the appeal filing fee.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Telegram* on April 25, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority on May 11, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Highway Sign Regulations, 1999

Urban and Rural Planning Act, 2000

Minister's Development Regulations, 2000

Matters presented to and considered by the Board

Does the appellant require a permit from Service NL?

The Board found that the existing sign is located within the 400 metre control lines established by the *Highway Sign Regulations, 1999* (the "*Regulations*"). The Board confirmed that a permit is required from Service NL, in accordance with section 4(1) of the when an existing sign is being replaced with a sign advertising a different business. In this case, the appellant's existing sign is advertising an art gallery. The proposed sign promoted Tents-R-Us.

What type of off-site promotional signs are permitted in the subject area?

The Board reviewed the *Regulations* and determined that off-site promotional signs as listed in the Schedule of the *Regulations*, may be considered.

Did Service NL have the authority to refuse the appellant's application?

Section 10(2) of the *Regulations* states that Service NL has the authority to refer development applications to other government agencies prior to approval. Section 13(2) states:

The authority shall consult with all government departments, municipalities, agencies, officials and persons considered necessary with respect to these considerations as well as the appropriateness of the material or copy proposed.

Service NL confirmed at the hearing that it referred the subject application to the Department of Business, Tourism, Culture and Rural Development. That Department recommended the application be refused since Tents-R-Us did not qualify as a tourism establishment as listed in the Schedule of the *Regulations*.

The appellant argued at the hearing that Tents-R-Us is associated with the tourism industry and therefore should be permitted to be advertised in the subject location. Service NL confirmed at the hearing the decision made was in accordance with the Department's recommendations. The Board found that Service NL must consider recommendations received from other government departments and has the authority to refuse an application in accordance with section 10(1) of the *Regulations*.

Did Service NL follow proper procedure when it refused the appellant's application?

As per section 10 of the *Highway Sign Regulations, 1999*, Service NL is required to consult with other government agencies. The Board accepts that Service NL followed proper procedure when requesting comments from the Department of Business, Tourism, Culture and Rural Development and as a result of those comments, refused the subject application to replace an existing sign. Service NL notified the appellant, in writing, that his application was refused and indicated his right and process to appeal the decision in accordance with section 5 of the *Minister's Development Regulations, 2000*.

Conclusion

In arriving at its decision, the Board reviewed the submissions and evidence presented by all parties along with the technical information and planning advice.

The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation, policy and regulations.

Based on its findings, the Board determined that Service NL had the authority and exercised it appropriately when it refused Mr. Bill Harris' application to replace an existing off-site promotional sign located on the Trans Canada Highway, west of the Foxtrap Access Road.

Order

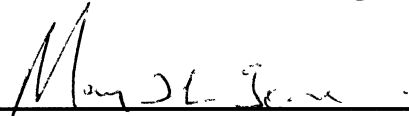
Based on the information presented, the Board orders that the decision made by Service NL on November 7, 2014 to refuse the application submitted by Bill Harris to replace an existing off-site promotional sign on the Trans Canada Highway, west of the Foxtrap Access Road, be confirmed.

Service NL and the appellant are bound by this decision of the Eastern Newfoundland Regional Appeal Board.

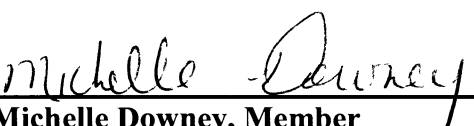
DATED at St. John's, Newfoundland and Labrador, this 19th day of June, 2015.



Vicki Connolly, Chair
Eastern Newfoundland Regional Appeal Board



Mary Thorne-Gosse, Member
Eastern Newfoundland Regional Appeal Board



Michelle Downey, Member
Eastern Newfoundland Regional Appeal Board