

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN George Yates **Appellant(s)**

AND Town of Springdale **Respondent**

RESPECTING Order

BOARD MEMBERS Stephen Burbridge, Chair
Bill Carter, Member
Gerald Thompson, Member

DATE OF HEARING April 9, 2019

IN ATTENDANCE

Appellant(s): George Yates
Mr. Robert Regular, Solicitor for George Yates
Authority: Jason Sparks, CAO, Town of Springdale
Shawn Colbourne, solicitor for the Town of Springdale
Dave Edison, Mayor, Town of Springdale
Chris Sargent, Exploits Engineering Consultants Ltd.

Secretary to the Central Newfoundland Regional Appeal Board: Robert Cotter
Technical Advisor to the Central Newfoundland Regional Appeal Board: Christopher Hardy

DECISION

Facts/Background

Town of Springdale (the Authority) issued a demolition order to George Yates (the Appellant) on February 13, 2017 regarding the “condition of the building situated at 57 Bayview Road” (the subject property). The Order outlined the following:

- That §404(1)(f) of the Municipalities Act, 1999, gives the Town the authority to order the removal of a building that is in a “dilapidated state” or is “unfit for human habitation”,
- That by way of a motion carried at a public council meeting on February 13, 2017 that the subject building be demolished and the site returned to its original state,
- That the demolition occur within fourteen (14) days,
- That §404(5) of the Municipalities Act, 1999 gives the Town the authority to undertake the work at the owner’s expense if the owner does not comply with the Order,
- That §419(1) and 420 of the *Municipalities Act, 1999* outline that it is an offense not to comply with an order and the owner may be fined, and
- That the Order could be appealed and how to file an appeal
- Appeal registered by the Secretary of the Regional Appeal Boards April 25, 2017

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Urban and Rural Planning Act, 2000
Town of Springdale Development Regulations
Municipalities Act, 1999

Matters presented to and considered by the Board

The Appellant is appealing the Order on the following grounds:

1. A permit to renovate the subject building expired on February 12, 2017, after the structural assessment was completed,
2. That the structural assessment was flawed as it did not include information pertaining to the interior of the subject building,
3. That the engineering firm that completed the structural assessment is biased against the Appellant,

4. That the Town has a “personal vendetta against George Yates”, and
5. That the Town uses the area as a location for Canada Day Celebrations and therefore the Town likely considers the location safe.

Additionally, the Appellant is appealing the order by way of a legal representative on the following grounds:

6. “The Town erred in law and acted outside their jurisdiction by ordering demolition of the property pursuant to section 404 of the Municipalities Act, 1999;
7. The Demolition Order was not a reasonable nor proportionate remedy to the identified problem;
8. The Town failed to give the Appellant adequate opportunity to repair the premises and/or specify what repairs were required to be made to address the Council's concerns;
9. The Town issued a Demolition Order based upon a Structural Evaluation Report which was made after only an exterior view of the building;
10. The Town issued a Demolition Order based upon a Structural Evaluation Report that had been completed by an interested party; [and]
11. The Demolition Order was undated

1. Did the Town of Springdale have the authority to issue a Demolition Order for the property located at 57 Bayview Road?

The Board finds that the Town of Springdale did have the authority to issue a demolition order. Section 404, subsections (f) and (I), of the Municipalities Act 1999 reads:

A council may make an order that:

(f) where a building is in a dilapidated state, or is, in the opinion of the council, unfit for human habitation, or another use for which it is then being used, or is a public nuisance, the owner or occupier is to pull down, remove, fill in or otherwise destroy the building and restore the site to its original state, or make the disposition or alteration of the building that the order directs.

(I)The owner or occupier of real property remove from that property solid waste, noxious substances and substances or things which may be a hazard to public health and safety or which adversely affects surrounding properties.

2. Did the Town of Springdale exercise its authority appropriately in issuing a Demolition Order for 57 Bayview Road?

The Board finds that the Town of Springdale did exercise its authority appropriately in issuing a Removal Order for the subject property.

3. Has Mr. Yates undertaken any repairs or remedial action that would improve the condition of the building, extend its life, or otherwise reduce the risk to the general public?

Mr. Yates talked at length about the chronology of events that lead to this appeal. By his own admission he has been in conversations with the Town of Springdale for 9 years about the tidiness and general state of disrepair of his property located at 57 Bayview Road. During this period he has secured at least two building permits with the expressed intent to execute repairs to the building.

Mr. Yates failed to demonstrate that he carried out substantial repairs to the building over this period. Rather, the continual deterioration of this structure has been well documented. Most recently this included a cave in of a significant portion of the roof.

The board reviewed a number of pictures of the building. These photos indicated advanced deterioration and serve to further substantiate the findings of the structural assessment conducted by Exploits Engineering consulting Ltd.

4. Is the building dilapidated to the extent where a demolition order was necessary?

Based on photographs, video, and verbal presentations made by the Town of Springdale, it is apparent that the building has deteriorated to the extent where it is both a public hazard and nuisance.

In an effort to assess the safety of the building the Town of Springdale took the additional step of procuring the services of Exploits Engineering Consultants Ltd. to conduct a structural assessment. Based on the findings of the engineer it was concluded that the building has

undergone significant deformation, is at risk of collapse, and constitutes a risk to public safety.

Based on the evidence presented, and in accordance with Section 404(f)(I) of the Municipalities Act 1999, the Board confirms that the Town took all necessary steps before considering and issuing the demolition order.

5. Was the engineering firm that completed the structural assessment biased against the Appellant?

No. Based on the information presented the engineering assessment was carried out by an engineer with no prior knowledge of Mr. Yates or his business interests. Furthermore, the report was based on factual information and observations concerning the property in question.

As such, the board found no evidence that the engineering firm that completed the structural; assessment was biased against the appellant.

Conclusion

In arriving at its decision, the Board reviewed the submissions and comments given by all parties present along with the technical information and planning advice. The hearing lasted 2.5 hours and provided significant opportunity to recount and discuss the matters of this appeal within the Boards jurisdiction.

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 the Town of Springdale did exercise its authority appropriately in issuing a Demolition Order for the property located at 57 Bayview Road.

Therefore, the Board confirms the Authorities decision to issue a Demolition Order for the property located at 57 Bayview Road.

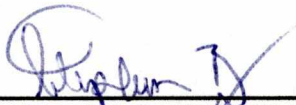
Order

Based on the information presented, the Board **confirms** the Town of Springdale's decision to issue a Demolition Order for the property located at 57 Bayview Road.


The Respondent and the Appellant(s) are bound by this decision of the Central Newfoundland Regional Appeal Board.

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Central Newfoundland Regional Appeal Board 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 Board's decision has been received by the Appellant(s).

DATED at Grand Falls Windsor, Newfoundland and Labrador, this 9 day of April, 2019



Stephen Burbridge, Chair
Central Newfoundland Regional Appeal Board



Bill Carter, Member
Central Newfoundland Regional Appeal Board



Gerald Thompson, Member
Central Newfoundland Regional Appeal Board