

URBAN AND RURAL PLANNING ACT, 2000

Section 40-46

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

Appeal #: 15-006-094-010

Adjudicator: Clifford Johnston

Appellant: Paul Marsh (DMP Contracting)

Respondent / Authority: Town of Paradise

Date of Hearing: April 23, 2026

Start/End Time: 9:00am-10:30am

In Attendance

Appellant: Paul Marsh (DMP Contracting)

Respondent/Authority: Kim Blanchard, MCIP Director of Planning & Protective Services, Town of Paradise

Interested Parties: Arun Nadarajan and Vidhyalakshmi Srinivasan

Appeal Officer: Sarah Kimball, Departmental Program Coordinator, Department of Municipal and Community Affairs

Technical Advisor: Rutvi Patel, Planner III, Department of Municipal and Community Affairs

Adjudicator's Role

The role of the Adjudicator is to determine if the Authority, the Town of Paradise, acted in accordance with the Urban and Rural Planning Act, 2000 and the Town of Paradise Municipal Plan and Development Regulations when it refused approval on June 10, 2025 for the development of a subsidiary apartment in a single detached dwelling at Civic No. 109 Sgt. Donald Lucas Drive, Paradise.

Hearing Presentations

The following is a synopsis/summary of the verbal representations made to the Adjudicator at the appeal hearing. Written materials received from the Appellant and interested parties are on file with the Departmental Program Coordinator, Department of Municipal and Community Affairs.

Planner's Presentation

The role of the planner is to act as a technical advisor to the appeal process and act as an expert witness.

Under the Rules of Procedure:

(a) there shall be a technical advisor to the Board who shall provide data relative to the Municipal Plan or other Scheme in effect and an interpretation on whether or not the proposal under appeal conforms, is contrary to, or could be discretionarily approved pursuant to the Municipal Plan, Scheme or Regulations.

The Planner from Municipal and Community Affairs shall provide the framework with respect to the appeals process under the Urban and Rural Planning Act, 2000 and provide an overview of how an application was received from a developer and processed by Council as prescribed in their roles and responsibilities.

The Adjudicator heard from the Planner that this appeal relates to an application from Paul Marsh of DMP Contracting who made an application on behalf of his clients to construct a subsidiary apartment within the single detached dwelling being constructed at Civic No. 109 Sgt. Donald Lucas Drive, Paradise.

The Planner advised that the subject property is presently zoned as Residential Low Density (RLD) under the Town's Development Regulations. The RLD Zone allows subsidiary apartments as a Discretionary Use.

As part of the Technical Report, the Planner outlined the chronology of the Appellant's submission of the application for the proposed subsidiary apartment and the chronology of the Town's processing of the application for the subsidiary apartment.

The Planner's Technical Report for this appeal is on file with the Departmental Program Coordinator, Department of Municipal and Community Affairs.

The Appellant's Presentation and Grounds

*DMP Contracting made application on March 14, 2025 for the development of a single detached dwelling with a subsidiary apartment at the subject property. The Town subsequently issued a building permit for the construction of a single detached dwelling with a subsidiary apartment at the subject property on March 21, 2025.

* On April 27, 2025 the Town informed DMP Contracting that the building permit issued for the construction of a single detached dwelling with a subsidiary apartment at the subject property was granted in error. Consequently the Town issued a revised building permit for a single detached dwelling only with no subsidiary apartment.

*Work on the single detached dwelling and subsidiary apartment had substantially progressed while the original building permit was in place.

*There are already a number of single detached dwellings with subsidiary apartments in the area of the property which is the subject of the appeal.

*The subject property is sufficiently large to accommodate off-street parking for both the single detached dwelling and the proposed subsidiary apartment.

*There is a clear need for affordable housing in Paradise which can be at least partially provided through subsidiary apartments in single detached dwellings.

Authority's Presentation:

*The zoning of the subject property is RLD which allows subsidiary apartments as a Discretionary Use. Under the applicable provisions of the Town's Development Regulations, an application for a Discretionary Use must first be advertised for public review and comment before it is referred to the Town Council for consideration of approval. The decision whether to approve or reject an application for a Discretionary Use is at the sole discretion of the Town Council.

*The Town acknowledges that it made an error in issuing a building permit to the Appellant on March 21, 2025 for the construction of a single detached dwelling with a subsidiary apartment. The Adjudicator acknowledges that Section 3.18 of the Town of Paradise Development Regulations ("Revoke Development Approval and Permit") provides that Council may revoke a Development Approval and/or Building Permit for failure by the Applicant or developer to comply with the Development Regulations or where it was issued in error or was issued contrary to the applicable regulations, or was issued on the basis of incorrect information.

*Subsequently a Discretionary Use application from the Appellant for a subsidiary apartment at the subject property was advertised by the Town for public review and comment. The Town received 13 objections from the public for the proposed subsidiary apartment. On June 10, 2025, the Town Council made a decision to refuse the application for the subsidiary apartment.

*The Town wished to note to the Adjudicator that the Town views only Mr. Paul Marsh (DMP Contracting) as the official Appellant for this appeal.

Interested Parties

Arun Nadarajan and Vidhyalakshmi Srinivasan attended and spoke as interested parties. They are now the current owners of the residential development at Civic No. 109 Sgt. Lucas Drive. The following is a summary of their verbal representations to the Adjudicator during the appeal hearing.

*The current homeowners indicated that reliance was placed on the Town of Paradise on the validity of the original building permit for the single detached dwelling with a subsidiary apartment and had the application not been initially approved by the Town, they would have looked for an alternate location for the construction of a single detached dwelling with a subsidiary apartment. Their financial planning for their home included a revenue stream from the proposed subsidiary apartment. That revenue stream is now not available to them.

*While the original building permit was in place, substantial construction for the single detached home and subsidiary apartment took place with significant financial expenditures on their part.

*Only objections/concerns from property owners and residents located in the immediate vicinity of their property which is the subject of this appeal, should have been considered by the Town Council in the Council's review of their application for the subsidiary apartment.

*They were not provided with an opportunity to formally meet with the Town Council before Council made its decision on June 10, 2025 to reject their application for a subsidiary apartment at the subject property.

Adjudicator's Analysis

In my role as the appointed Adjudicator for this appeal, I have reviewed the Urban and Rural Planning Act, 2000, the Town of Paradise Municipal Plan and Development Regulations, the Technical Report prepared by the Planner and the verbal and written representations received from the Appellant, the Town of Paradise and the interested party and have determined the following:

Question/Answer .

Q. What is the zoning of the subject property?

R. The property is zoned as Residential Low Density (RLD) under the Town of Paradise Development Regulations.

Q. Is a subsidiary apartment allowed in the RLD Zone?

R. Yes. A subsidiary apartment may be allowed as a Discretionary Use in the RLD Zone.

Q. Was the application for the proposed subsidiary apartment processed as a Discretionary Use application by the Town?

R. Yes. After discovering its error in first issuing a building permit for a single detached dwelling with a subsidiary apartment at the subject property, the Town rescinded the permit for the subsidiary apartment and then processed an application for a subsidiary apartment at the subject property as a Discretionary Use. From the evidence presented to the Adjudicator, the Town followed all the required steps under the Town's Development Regulations in processing the Discretionary Use application for the proposed subsidiary apartment.

Q. Did the Town Council have the authority to refuse the Discretionary Use application for the proposed subsidiary apartment?

R. Yes. Regulation 3.6 of the Town's Development Regulations establishes the Town Council's discretionary powers to conditionally approve or refuse an application.

It should also be noted that in deciding an appeal, that an Adjudicator shall not overrule a discretionary decision of a Council, Regional Authority, or Authorized Administrator, as per Section 44 (2) of the Urban and Rural Planning Act, 2000.

Decisions of adjudicator

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.

After reviewing the information presented, the Adjudicator concludes that the Town of Paradise Municipal Council had the discretionary authority to refuse the application from DMP Contracting to develop a subsidiary apartment at the residential development located at Civic No. 10 Sgt. Lucas Drive, Paradise and employed this discretionary authority in a proper manner. **Thereby, the appeal is denied.**

ORDER

The Adjudicator orders that the decision of the Town of Paradise Municipal Council made on June 10, 2025 to refuse an application from DMP Contracting to construct a subsidiary apartment in a single-detached dwelling at Civic No. 109 Sgt. Donald Lucas Drive, Paradise, be confirmed. The appeal is thereby denied.

The Authority and the Appellant(s) 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 and the Authority, in this case, the Town of Paradise.

DATED at St. John's, Newfoundland and Labrador, this 11th day of May, 2026.

A handwritten signature in cursive script, reading "Clifford Johnston", is written over a horizontal line.

Clifford Johnston, Adjudicator

Urban and Rural Planning Act, 2000