

URBAN AND RURAL PLANNING ACT, 2000

Section 40-46

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

Appeal No: **15-006-094-032**
Adjudicator: Mary Bishop
Appellant(s): Robert Lacey/Dawn McGrath
Respondent/Authority: Town of Torbay
Date of Hearing: April 27, 2026
Start/End Time : 10:00am - 11:00am

In Attendance

Appellant: Robert Lacey/Dawn McGrath
Appellant Representative(s): Dawn McGrath
Respondent/Authority: Town of Torbay
Respondent Representative(s): Julia Schwarz, Director of Planning and Development,
Douglas M. Paul, Development Control Officer
Appeal Officer: Sarah Kimball, Departmental Program Coordinator,
Municipal and Community Affairs
Technical Advisor: Tastrophia Pham, Planner III, Department of Municipal and
Community 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.

In the matter of Appeal **No. 15-006-094-032**, the role of the Adjudicator is to determine if the Authority acted in accordance with the *Urban and Rural Planning Act, 2000 (URPA)*, and the Town of Torbay Municipal Plan and Development Regulations, 2017 and the Town of Torbay Property Standards and Maintenance Bylaw when it issued an Order to remove a commercial vehicle (school bus) at 125 North Pond Road, Town of Torbay, on December 10, 2025 pursuant to Resolution RES-299-2025.

Hearing Presentations

Technical Advisor

The role of the planner is to act as a technical advisor to the appeal process and act as an expert witness as outlined in the Appeal Board (Rules of Procedure) Order, 1993. Section 10 states: The Hearing shall proceed in the following manner:

- (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 in effect ...

Matters Relating to a Removal Order - Appeal No. 15-006-094-032

At the hearing, the Technical Advisor presented the technical report, indicated the series of events leading to the issuance of the Removal Order dated December 19, 2025. The Technical Advisor outlined the requirements for considering the validity of the appeal, and the statutory and procedural requirements for the issuance of orders. The validity of the appeal and the procedural requirements for serving the Order are not at issue in this appeal.

The report indicated that the Authority determined that the appellant was in violation of the Torbay Municipal Plan and Development Regulations, and outlined the applicable sections of the URPA, 2000 and the Torbay Development Regulations that were considered in arriving at their determination. With respect to the Order, the Technical Advisor noted several errors related to reference to specific sections of the Regulations.

Appellant's Presentation

The Appellant outlined the grounds for appeal as follows:

1. The complaints concerning emissions are unsubstantiated;
2. The complainant does not reside at the adjoining property; and
3. The Town is exercising selective enforcement in this matter as there are many buses and other commercial vehicles parked on residential properties throughout the town.

The Removal Order advised the Appellants of their right of appeal to the Adjudicator, as required by the Town's Development Regulations. At the Hearing, the Appellant acknowledged that she had received the Order and was informed of her right to appeal.

Authority's Presentation

The Authority, in making their presentation, responded to the Appellant's grounds for the appeal stating that the parking of commercial vehicles in residential areas is not permitted by the Town's Municipal Plan and Development Regulations and, when they receive a complaint, they investigate and respond accordingly. The Director of Planning and Development stated that the Town does not want large commercial vehicles to be parked in residential areas as they contribute to noise, traffic and the visual amenity of neighbourhoods.

Adjudicator's Analysis

The Order issued to the Appellant includes reference to several pieces of legislation and regulations as the basis for the Order. In considering this Appeal, I will deal with each of these:

1. Did the Town have the authority to issue the Removal Order?

Yes, Section 102 of *URPA* provides the Town with the authority to issue orders for development that is not in accordance with the Town's Municipal Plan and Development Regulations. Section 285 of the Towns and Local Service Districts Act gives Towns the authority to issue orders where a person is contravening the Act, the regulations or bylaws.

2. Did the Authority correctly interpret that the parking of a school bus constituted development under the URPA, 2000 and the Torbay Development Regulations?

In its Order, and in its presentation at the Hearing, the Authority goes to great lengths to demonstrate how it arrived at its interpretation that the parking of the bus constituted development in violation of the URPA, 2000 and the Torbay Development Regulations.

The Torbay Development Regulations, in accordance with Section 2(g) of URPA, 2000, define development as:

"development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use, or the intensity of use of land, buildings or premises and the

(i) making of an access onto a highway, road or way,

(ii) erection of an advertisement or sign,

(iii) construction of a building,

(iv) parking of a trailer, or vehicle used for the sale of refreshments or merchandise, or as an office, or for living accommodation,

Building, is defined as

a) A structure, erection, alteration or improvement placed on, over or under land, or attached, anchored or moored to land;

b) Mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar uses;

c) A part of and fixtures on buildings referred to in (a) and (b); and

d) An excavation of/and whether or not that excavation is associated with the intended or actual construction of building or thing referred to in (a) to (c).

As Adjudicator, I reject the Authority's interpretation that the parking of a bus constitutes development. Specifically, the interpretation that clause (iv) (highlighted) applies, as the bus is not a trailer, or a vehicle used for the sale of refreshments, or merchandise, or as an office, or for living accommodation. The bus is used for the purpose for which it was originally intended, which is the transportation of people.

As to whether a bus meets the definition of Building, I reject the Authority's interpretation that the bus can be considered building as it has not been altered or adapted for anything other than its intended purpose. To interpret the parking of a bus on a vacant lot as development is in the view of the Adjudicator, a stretch of the intent of the URPA, 2000.

3. Is the parking of a commercial vehicle permitted in the Residential Land Use Zone of the Torbay Development Regulations?

The Order includes reference to the parking of commercial vehicles in the Residential Medium Density land use zone in the Torbay Development Regulations and cites the following:

Section 9. of" Schedule C, Use Zone Table for Residential Medium Density (RMD) Zone related to home business (relevant excerpts):

(e) Activities associated with the use are not hazardous and do not cause noticeable noise, odour, dust, fumes, or inconvenience to occupants of adjoining residences.

and;

(i) No regular parking of commercial vehicles except for one vehicle with a gross weight of no greater than one tonne will be permitted on the lot or on the road reservation adjacent to the lot.

No evidence was presented at the Hearing to indicate that the parking of the bus on the property in question was related in any way to a Home Business use. The Director of Planning and Development stated that the conditions that apply to Home Business uses included in the Order were not applicable in the matter under appeal. The Technical Report noted errors in the sections referenced.

The Residential Medium Density Use Zone in Schedule C of the Torbay Development Regulations does not address the parking of commercial vehicles, except where it is in association with Home Business uses.

The Appellant argued that she is being treated unfairly and asserted that there are many examples in the town of commercial vehicles (including buses) parked on residential properties. The bus is used daily during the school year and parked at the bus company yard in another municipality during the summer months. The Authority acknowledged that commercial vehicles are parked on residential properties in the town, but the enforcement of the Development Regulations pertaining to them is addressed only in response to complaints. No evidence was presented at the Hearing to demonstrate whether the Authority has adopted this approach as part of its enforcement policies.

I find that the Authority, in dealing with what is, in this case, essentially a parking issue, has erred in applying the provisions of the URPA, 2000 and the Torbay Development Regulations by considering it development.

4. Did the Town appropriately apply its Property Standards and Maintenance Bylaw in issuing the Order?

Yes. The Authority quotes Section 6.5 of the Bylaw that states:

(6.5) No person shall park, or cause to be parked, a vehicle on residential property beyond the building line unless such vehicle is parked in an approved driveway or parking space.

While no evidence was presented at the Hearing on whether the bus was parked beyond the building line, it is clear that as the lot has not been approved for development and there is no building on the property, that there is no building line, and no driveway has been approved.

The Technical Report noted clauses from the Town's Noise and Nuisance Bylaw that could apply to address the matter. While this Bylaw is mentioned in pieces of

correspondence included in the Authority's submission, no reference to this bylaw is included in the Order.

Decisions of the Adjudicator

As Adjudicator, I am bound by Section 44 of the URPA, 2000, 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.

Dealing with matters concerning the parking of commercial vehicles in residential areas could more effectively and directly, be addressed through the implementation of a Commercial Vehicle Parking Bylaw. The Municipal Plan and Development Regulations could also be amended to include clearly articulated policy and regulatory provisions for the use of land for the purposes of parking of commercial and other forms of vehicles, including buses.

As Adjudicator, I accept that the Authority has the discretion to decide it does not wish to permit commercial vehicles to park in residential areas for reasons provided at the Hearing. Section 6.5 of the Property Standards and Maintenance Bylaw applies to all vehicles, and as such, I find that the parking of the bus at 125 North Pond Road does violate section 6.5 of the bylaw.

The Order contains errors in interpretation and application of sections of the Development Regulations, as noted above and in the Technical Report.

Appeal 15-006-094-032 concerning the issuance of a Removal Order dated December 19, 2025. The Adjudicator finds that:

1. The Authority did not act in accordance with the *Urban and Rural Planning Act, 2000*, and the Town of Torbay Development Regulations 2012-2022 when it interpreted the parking of the school bus at 125 North Pond Road to constitute development.
2. The Authority did act in accordance with the Torbay Property Standards and Maintenance Bylaw, 2025 in issuing the Order to remove the bus parked at 125 North Pond Road.

Order

The Adjudicator orders that the decision of the Authority requiring the removal of a school bus parked at 125 North Pond Road, Torbay on the basis that the parking of the bus is in contravention of Section 6.5 of the Torbay Property Standards and Maintenance Bylaw, 2025, be confirmed.

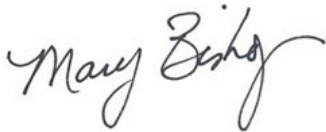
The Adjudicator further orders that the decision of the Authority requiring the removal of the school bus parked at 125 North Pond Road, Torbay, based on a determination that said parking constitutes development as defined under the Urban and Rural Planning Act, 2000 and the Torbay Development Regulations, be reversed and struck from the Order.

The Authority is directed to make changes to the Order consistent with this decision, and to re-issue the Order to the Appellant.

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(s).

DATED at St. John's, Newfoundland and Labrador, this 30th of May, 2026.



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