URBAN AND RURAL PLANNING ACT, 2000

Section 40-46

Appeal # : 15-006-094-021

Adjudicator: Lorilee A. Sharpe

Appellant: Greg Sheaves

Respondent / Authority: Town of Rose Blanche-Harbour Le Cou

Date of Hearing: October 16, 2026

In Attendance

Appellant: Greg Sheaves

Respondent/Authority: Town of Rose Blanche-Harbour Le Cou

Respondent Representative(s) Tammy Farrell, Town Clerk and Town Manager
Phillip Fiander, Town Councilor
Gordon Edwards, Town Councilor

Appeal Officer: Robert Cotter, Departmental Program Coordinator, Municipal and Provincial Affairs

Technical Advisor: Setare Vafaei

Adjudicators Role

The role of the Adjudicator is to determine if the Authority acted in accordance with the *Urban and Rural Planning Act, 2000*, the Towns and Local Services Districts Act, and Town of Rose Blanche-Harbour Le Cou Municipal Plan and Development Regulations when it issued an Order in relation to the old Rose Blanche fish plant property at 10 & 14 Fish Plant Road, Rose Blanche.

Hearing Presentations

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 Provincial 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 order issued by the Authority under section 285(1)(b) of the Towns and Local Service Districts Act for the Appellant to clean up his property at 10 & 14 Fish Plant Road. The planner also advised that the Town of Rose Blanche-Harbour Le Cou does not have an established Municipal Planning Area under the *Urban and Rural Planning Act, 2000.*

The Appellant's Presentation and Grounds

The Appellant gave evidence and made submissions on his own behalf at the appeal hearing. He stated that he had purchased the property from the Authority at a municipal tax arrears sale. It is his position that the Town should have disclosed to him, prior to his purchase, that the property contained asbestos. He stated that he has offered the property to the Authority but they will not "take it back" from him. The Appellant also took issue with the Town's assessed value of the property being $630,000.00 when he had purchased it for only $2800.00, resulting in municipal tax being too high. The Appellant advised that hurricane Fiona caused damage to his property and local persons took cinder blocks from the property which contributed to the structural fail. He indicated that he is impeded from improving/constructing on the property due to the likelihood of building materials being stolen from the site. The Appellant submitted that it is not feasible to do the work required due in part to the increased dumping fees, increases in cost of wages for labourers and increased fuel costs in addition to the asbestos abatement required as well as the fact that he was not provided any compensation for his losses due to hurricane Fiona. The Appellant says he has contributed to the Town by not charging local persons for parking or boat storage and having removed flammable materials from the property that were present on the property when he purchased it. He also stated that there is a water dam on the property which is used by the Town. The Appellant presented three grounds of appeal:

1) That the condition of the property should have been disclosed to him by the Authority when he purchased it and the polluter pay principal should apply;
2) That it is not financially feasible to do the work he has been required to do; and
3) That the municipal assessed value of the property and associated taxes are too high.

Authority's Presentation

The Authority presented evidence that the property was sold as a tax arrears sale and was advertised at that time as an "as is where is" sale. They also stated that the Town is the owner of the water dam infrastructure and that the Appellant's municipal taxes were already adjusted to provide a credit for the Appellant on his tax arrears in relation to the water dam. The Authority stated that the property owner is responsible to appeal their property's municipal assessment valuation and to apply to the Provincial Government for any emergency measures funds that may be available to compensate property owners impacted by hurricane Fiona. The Authority also stated that it is the responsibility of property owners to secure their property and install cameras

and other forms of security of necessary. The Authority is not interested in acquiring the property.

Adjudicators Analysis

The property contains a former fish plant structure and was acquired by the Appellant through a public auction for tax arrears in 2008.

Section 2(1)(c) of the *Towns and Local Service Districts Act* defines arrears sale as:

> *c) "arrears sale" means the sale of real property by a town to recover unpaid real property taxes, water and sewer fees or local improvement fees in relation to the real property;*

The procedure for Town arrears sales is set out in sections 150 to 158 of the *Towns and Local Service Districts Act SNL 2023 Ch. T-6.2*. While the Town signs the Deed of conveyance, the properties are never vested in the Town on an arrears sale but rather go directly from the previous owners to the successful bidder. The vesting provision at section 158 states:

> ***158.*** *(1) Where real property has been sold by arrears sale, the town council shall give to the purchaser a valid conveyance in the name of the town signed by the mayor and the town clerk or a person appointed by the town council and sealed by the town.*
>
> *(2) The conveyance referred to in subsection (1) shall*
>
> > *(a) be conclusive evidence that the provisions of this Act with reference to the arrears sale of the real property described in that conveyance have been fully complied with, and everything necessary for the legal perfection of that sale has been performed; and*
> >
> > *(b) have the effect of vesting the real property in the purchaser, the purchaser's executors, administrators or assigns absolutely free from encumbrances except a claim of the Crown and an easement.*

Following the Appellant's purchase of the property, on May 1, 2025, high winds caused two sections of the structure to collapse. One section completely blocked access to the LaPoile ferry dock and the Harbour Authority slipway, while the other section collapsed into the ocean. The Authority issued a letter to the Appellant on May 16, 2025 requiring the Appellant to clean up the property within ten (10) days from the date of the letter. The Appellant did not comply, and on July 29, 2025 Town Council resolved that the building was a public nuisance, was not fit for human habitation, and that an Order should be issued. The Authority issued an Order pursuant to Section 285(1)(b) of the *Towns and Local Service Districts Act* on August 7, 2025 that was served to the Appellant on August 11th, 2025.

Section 285(1)(b) of the Towns and Local Service Districts Act states:

> 285. (1) Where a town council **is of the opinion that a person is contravening this Act, the regulations or a by-law,** the town council may issue an order
> (a) directing a person to stop doing something or to change the way in which the person is doing something; and

(b) **direct a person to take an action or measure necessary** to remedy the contravention of this Act, the regulations or a by-law.
(2) A person ordered to carry out an action or to stop an action under subsection (1) shall be served with that order and shall comply with that order at that person's own expense.

[Emphasis added]

The Order stated that the Authority deemed the property to be a public nuisance and unfit for human habitation and it required the Appellant to clean up the property by August 29, 2025. The Order did not however state what Act, Regulation or by-law that the town council was of the opinion that the Appellant was in violation of, nor did it specify the nature of the clean-up that was required of the Appellant to comply with the Order.

Where an Order is issued under section 285 of the *Towns and Local Service Districts Act*, a person aggrieved by the order may appeal to an adjudicator under the *Urban and Rural Planning Act, 2000*, in accordance with section 286 of the *Towns and Local Service Districts Act.* Section 286 states:

Appeal
286. (1) A person aggrieved by an order made under subsection 285(1) may, within 14 days of the service or posting of the order, appeal to an adjudicator appointed under the Urban and Rural Planning Act, 2000 and the adjudicator may make an order with respect to the matter.

Adjudicators Conclusion

With respect to the Appellants first ground of appeal, both the Appellant and the Authority stated that the property was sold to and purchased by the Appellant by a tax arrears sale. As such, pursuant to sections 150 to 158 of the Towns and Local Service Districts Act, title to the property was conveyed directly from the previous owner(s) to the Appellant and while the Town signed the conveyance, the property was not vested in the Authority. It is outside the jurisdiction of the Adjudicator to overturn a tax sale or to make an award to the Appellant for any failure to disclose the condition of the property. I do find however, that the Authority did not err in procedure by conducting an arrears sale and then issuing an Order for the successful bidder clean up a property that is not in compliance with an Act, Regulations or By-law.

Concerning the Appellants second ground of appeal, there is no requirement for the Authority to only Order property owners to undertake work that is feasible. I do find however that the Authority did err in failing to specify in the Order what provision of an Act, Regulations and/or By-law that they are of the opinion was violated by the Appellant. Further, I find that the Authority erred in failing to specify in the Order what the Appellant is required to do to comply with the Order. The term "clean up" in this fact situation is too vague for the Appellant to be notified of what is required of him. The Appellant has been left with the impression it is not feasible to do the work required to comply with the Order, but there is nothing in the Order setting out what is required of him or whether he may have different options for compliance with the Order. For example, is he required to repair/maintain, to demolish, to secure it in some

manner or do work to make the building structurally sound? Need he only remove construction debris and no other work will be required?

In relation to the Appellants third ground of appeal, the valuation of property is outside the jurisdiction of the Adjudicator. Municipal assessments are completed by an assessor appointed by the Province in accordance with the *Assessment Act, 2006, SNL 2006 Ch. A-18.1*, and a ratepayer may appeal their assessment to a commissioner within the prescribed timeline under that Act. If the Appellant objected to the assessed value of the property, he ought to have filed an appeal in accordance with the procedure set forth in the Assessment Act.

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, for the reasons cited above, the Adjudicator concludes that the Authority erred in:

1) failing to state in its Order, the Act, Regulation and/or By-law that they were of the opinion the Appellant has contravened; and
2) failing to provide sufficient particulars in the Order of what the Appellant needs to do to bring the property into compliance with that Act, Regulation and/or By-law.

Order

The Adjudicator orders that the matter be referred back to the Town of Rose Blanche-Habour Le-Cou so that they may make a decision to either vacate, reissue or vary their Order of August 7, 2025 to Greg Sheaves respecting property at 10 & 14 Fish Plant Road to bring it into compliance with section 285 of the Towns and Local Services Act by:

1) Making reference to the Act, Regulations and/or By-law that the property is in contravention of; and
2) specifying what action or measure is required to bring the property into compliance with that standard.

The Authority and the Appellant(s) are bound by this decision.

As the Appellant was not successful in relation to his grounds of appeal and I have not reversed the Order of the Authority, the Authority is not required to pay an amount equal to the Appellants filing fee in accordance with section 45(2) of the Urban and Rural Planning Act, 2000.

According to section 46 of the Urban and Rural Planning Act, 2000, the decision of this 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 Adjudicator's decision has been received by the Appellant(s).

DATED at Corner Brook, Newfoundland and Labrador, this 16th day of November, 2026.

L Sharpe

Adjudicator-Lorilee A. Sharpe

Urban and Rural Planning Act, 2000