

# Eastern Newfoundland Regional Appeal Board

Appeal #	15-006-067-041
Appellant(s)	Jacqueline Power
Respondent / Authority	Town of Paradise
Date of Hearing	November 17, 2021

## Board Members

Chair	Carol Ann Smith
Member	Paul Boundridge
Member	Lisa Slaney

## Also in Attendance

Representatives for the Appellant(s)	Jacqueline Power Matthew Drover, Solicitor
Representatives for the Authority	Alton Glenn, Director of Planning and Protective Services Lindsay Church, Planner
Secretary to the Boards	Robert Cotter
Technical Advisor to the Boards	Sean McGrath

The authority for appeals comes from section 42 of the *Urban and Rural Planning Act, 2000* (The Act).

## Board's Role

The role of the Regional Appeal Board is to determine if the Town of Paradise acted in accordance with the *Urban and Rural Planning Act, 2000* and the Paradise Municipal Plan and Development Regulations when it issued a stop work order to Jacqueline Power (Appellant) dated October 29, 2020 to cease all dog grooming operations at 49 Canterbury Drive, Paradise.

## Presentations During the Hearing

The following is a synopsis/summary of the verbal presentations made to the Board during the Appeal hearing. The Board also received and reviewed written submissions from the Technical Advisor, as well as representatives for the Appellant and the Authority.

### 1. Technical Advisor's Report

Sean McGarth, technical advisor, advised the Board that under section 102 of the *Urban and Rural Planning Act, 2000*, Council has the authority to issue an order where a person has undertaken development contrary to a plan or development regulations. He stated that the subject property is zoned 'Residential Medium Density' (RMD) under the Town of Paradise Development Regulations and dog grooming is defined as animal grooming and that there are conditions for animal grooming uses. Mr. McGrath outlined the requirements for service of an order as outlined in section 107 of the *Urban and Rural Planning Act, 2000* and the requirement under section 109 *Urban and Rural Planning Act, 2000* of the that an order to confirmed by Council if issued by an employee.

### 2. Appellant's Presentation

Legal representative for the Appellant, Mr. Matthew Drover, and the Appellant provided information regarding her long term history of breeding, showing and grooming of dogs. The Appellant acknowledged that she receives compensation for services rendered.

The Appellant's legal representative asserts that the term "development", as defined in the *Urban and Rural Planning Act, 2000*, does not apply to the Appellant's alleged dog grooming activities.

### 3. Authority's Presentation

The Authority informed the Board that a complaint had been received that the Appellant was conducting a dog grooming business from her residence at 49 Canterbury Drive. The Appellant was advised to make application to the Town for Discretionary Approval of a Home-Based Business involving the grooming of dogs. This application was rejected by the Town on June 2, 2020.

The Town became aware that In spite of the Town's June 2, 2020 application refusal, the dog grooming business activity continued. Consequently, on October 29, 2020 the Town issued an Order to the Appellant to cease operation of the dog grooming salon at the subject property.

The Town also advised the Board that the Appellant's dog grooming salon, in its interpretation of the term "development", as defined in the Urban and Rural Planning Act, 2000, is a development and it does require a Permit from the Town before it can operate. Without the Permit, the Town was compelled to issue the Stop Order.

## Board's Analysis

Q. Is the activity conducted by the Appellant "development"?

A. Yes. The Board finds that the activity of dog grooming to be development in accordance with the definition in section 2 (g) of the *Urban and Rural Planning Act, 2000* and included in the Paradise Development Regulations. The Board acknowledges that dogs can be kept as pets; however, the Appellant confirmed that she groomed other dogs in exchange for compensation.

Q. Did the Authority have the right to issue a Stop Work Order?

A. Yes. The Board finds that the Authority had the right to issue a Stop Work Order to the Appellant under section 102 of *Urban and Rural Planning Act, 2000*.

Q. Did the Authority act in good faith?

A. The Board found no evidence that the Authority acted in bad faith. The Authority received a complaint, conducted an investigation and, as a result of that investigation, issued the order on October 29, 2020.

Q. Did the Authority issue the order appropriately?

A. Yes. The Authority issued the order in accordance with section 107 of the *Urban and Rural Planning Act, 2000*, and the Paradise Municipal Plan and Development Regulations.

## Board's Conclusion

In arriving at its decision, the Board reviewed the submissions and comments, given by the parties present at the Hearing, along with the technical information. 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.

After reviewing the information presented to this Board, the Board concludes that the Town of Paradise was justified and acted in accordance with the Urban and Rural Planning Act, 2000, and the Paradise Municipal Plan and Development Regulations, when, on October 29, 2020, it issued to the Appellant the order "that all home-based dog grooming operations cease within 14 days of the service of this order".

## Board's Order

The Board confirms that the Town of Paradise was justified and acted in accordance with the *Urban and Rural Planning Act, 2000*, and the Paradise Municipal Plan and Development Regulations when, on October 29, 2020, it issued to Jacqueline Power the Order "that all home-based dog grooming operations cease within 14 days of the service of this order".

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

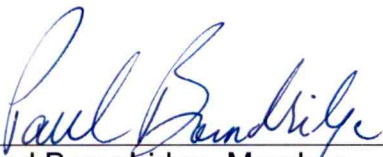
According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of this Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days after the Board's decision has been received by the Appellant(s).

DATED at St. John's, Newfoundland and Labrador, this 19<sup>th</sup> day of November, 2021.



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Carol Ann Smith, Chair  
Eastern Newfoundland Regional Appeal Board



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Paul Boudridge, Member  
Eastern Newfoundland Regional Appeal Board



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Lisa Slaney, Member  
Eastern Newfoundland Regional Appeal Board