

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Lark Projects Ltd. **Appellant(s)**

AND Town of Gander **Respondent**

RESPECTING Lot 141 Trans-Canada Highway, Gander
Refusal to develop property situate at Lot # 141, Trans Canada and
Request to extend the Agreement of Purchase and Sale of lot 141

Lot 161 Trans-Canada Highway, Gander
Refusal to develop property situate at Lot # 161, Trans Canada and
Request to extend the Agreement of Purchase and Sale of lot 161

BOARD MEMBERS Stephen Burbridge, Chair
Barry Thomson, member
David Oxford, member

DATE OF HEARING October 9, 2019

IN ATTENDANCE

Authority: Mark McWhirter, Town of Gander
Appellant(s): Kirk Fisher
Greer Hunt

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

DECISION

Facts/Background

The Town of Gander (the Authority) received an application to develop the subject property on July 18, 2018. On August 3, 2018, the Town sent correspondence to the applicant (the Appellant) outlining the following:

- The details of an agreement between the Appellant and the Town concerning the subject property,
- The extensions that had been granted for the Appellant to meet the conditions of the agreement,
- That the application was unnecessary as the details of the application were covered in the agreement, and
- That the agreement would expire on August 11, 2018.

The letter was not a formal refusal of the application and did not outline the process for appeal.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Minister's Development Regulations, NLR 3/01

Town of Gander Development Regulations

Matters presented to and considered by the Board

Does this appeal fall under the jurisdiction of the Board as defined in the *URPA 2000*?

By the admission of both parties there was no development application submitted for lot 141. Rather, the grounds for this appeal are limited to the terms and conditions set out in the Agreement of Purchase and Sale.

According to Section 42 of the URPA, 2000 an appeal may be heard under the following conditions:

42. (1) A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate board

where the decision is with respect to

- (a) an application to undertake a development;
- (b) a revocation of an approval or a permit to undertake a development;
- (c) the issuance of a stop work order; and
- (d) a decision permitted under this or another Act to be appealed to the board.

As this agreement falls outside of these parameters the Board concluded that it did not have jurisdiction to rule on this appeal.

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 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 it did not have the jurisdiction to hear this appeal.

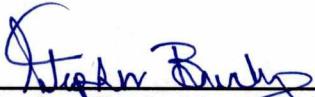
Order

Based on the information presented, the Board determined that it did not have the jurisdiction to confirm, reverse or vary the decision of the Town of Gander.

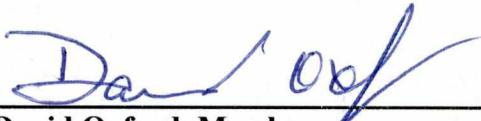
The Respondent and the Appellant(s) are bound by this decision of the Central Newfoundland Regional Appeal Board.

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 Gander, Newfoundland and Labrador, this 9 day of October, 2019



Stephen Burbridge, Chair
Central Newfoundland Regional Appeal Board



David Oxford, Member
Central Newfoundland Regional Appeal Board



Barry Thomson, Member
Central Newfoundland Regional Appeal Board