

**EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD**

**URBAN AND RURAL PLANNING ACT, 2000**

**APPEAL**

**BETWEEN**

Ray Nichol

**Appellant(s)**

**AND**

Town of Paradise

**Respondent**

**RESPECTING**

Order: 7 Grandview Avenue, Paradise  
File # ; 15-006-057-046

**BOARD MEMBERS**

Clifford Johnson, Chair  
Robert Warren, member  
Damian Ryan, member

**DATE OF HEARING**

December 13, 2019

**IN ATTENDANCE**

Ray Nichol, appellant, absent

Alton Glenn, Town of Paradise

Darren Randel, Town of Paradise

Robert Cotter, Secretary to the Eastern Newfoundland Regional Appeal Board

Kim Blanchard, Technical Advisor to the Eastern Newfoundland Regional Appeal Board

## DECISION

### Facts/Background

The Board reviewed the technical planning report and as the facts and chronological order of events were not contested by either party the Board accepts that:

On January 7, 2019, the Town Council of Paradise (the Authority) issued an Order to Ray Nichol (Appellant). The Order stated that the building with civic address, 7 Grandview Avenue, Paradise be vacated immediately until an occupancy permit is issued following the rectification of the deficiencies identified in the Town Inspector's report. Mr. Nichol is appealing this Order on the grounds that he needs the Town to issue permit to occupy and turn on his water to enable him complete the repairs to the subject property.

### BACKGROUND

- December 11, 2015 following a fire incident at the subject property, the town council ordered the subject property not to be occupied until an occupancy permit was issued.
- 2016, 2017, 2018 property owner retained services of structural engineer to determine the work necessary to make subject property structurally sound; Town issued repair permit. property owner started repairs of the subject property.
- December, 2018 Town received reports that someone was living at the subject building. The town's building inspector carried out inspections on the subject building.
- December 13, 2018 the building inspection report dated December 13, 2018 outlined the repairs awaiting completion and stated that the building was not to be occupied until the repairs are made to the satisfaction of the Town.
- January 7, 2019 the Town, under the occupancy and maintenance regulations, issued an order to vacate subject building until the repairs are made and an occupancy permit is issued by the town.
- January 17, 2019 Ray Nichols filed his appeal with the Eastern Newfoundland Regional Appeal Board.

**Legislation, Municipal Plans and Regulations considered by the Board**

*Urban and Rural Planning Act, 2000 Municipalities Act, 1999*

Town of Paradise Development Regulations

**Matters presented to and considered by the Board**

The Board notes that a notice of hearing was sent to the appellant on November 6, 2019 by registered mail via Canada Post to the address provided by the appellant.

In the absence of the appellant the Secretary to the Board read Mr. Nichol's grounds of appeal dated January 18, 2019.

To Whom it May Concern:

I am appealing a decision of The Town of Paradise not to turn on my water, and give me an occupancy permit for my home at 7 Grandview Ave, Paradise. I had a fire in my home a few years ago, I am attempting to clean up the home and get it renovated, and however the Town has refused me water and a permit to occupy. Without this I cannot complete the repairs to my home so my family can move back in.

Hopefully this decision can be overturned, and my water and a permit will be granted me.

Thanks You  
Ray Nichol

**What is the subject matter under appeal?**

On January 7, 2019, the Town Council of Paradise (the Authority) issued an Order to Ray Nichol (Appellant). The Order stated that the building with civic address, 7 Grandview Avenue, Paradise be vacated immediately until an occupancy permit is issued following the rectification of the deficiencies identified in the Town Inspector's report. Mr. Nichol is appealing this Order on the grounds that he needs the Town to issue permit to occupy and turn on his water to enable him complete the repairs to the subject property.

### **Why did the Town issue the Order?**

The Town received reports in December 2018 that someone was living at the subject which had been damaged by a fire in December 2015. The Board learned that in a report (December 13, 2018) as submitted to the Board, from the Town's inspector that the building was deemed not to be fit for habitation.

The Town issued an Order to vacate the subject building until repairs are made to the satisfaction of the Town and occupancy permit is issued by the Town. The Order was served on Mr. Nichol on January 7, 2019. The order was confirmed by council on January 8, 2019.

### **Did the Town have the authority to issue the Order?**

Yes. The Board notes that section 194 of the *Municipalities Act, 1999* provides that:

#### **Building prohibition**

**194.** A person shall not within a municipality

- (a) erect a building;
- (b) extend, repair, relocate or demolish an existing building;
- (c) change the use for which an existing building is or was last held or occupied; or
- (d) occupy a building that has been vacant for a period of 6 months or more or a newly constructed building,**

except in accordance with a written permit from the council.

#### **Water and sewage prohibition**

**195.** (1) A person shall not within a municipality

- (a) construct a privy or sewer system, septic tank, or sewer; or
- (b) make or use a new water supply or system

**except in accordance with a written permit  
from the council.**

(2) A council shall not approve a permit under subsection (1) without the prior written approval of the Department of Health and Community Services and the department.

The Board also notes that the Town has the authority under sections 4, 5, 8(3) and 42. Occupancy and Maintenance Regulations to issue the Order. (*URPA, 2000*)

### **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.

The Board has determined that the Town was within its authority to issue the Order dated January 7, 2019.

Therefore, the Board *confirms* the Respondent's decision to issue the Order dated January 7, 2019.


**Order**

Based on the information presented, the Board orders that the decision by the Town of Paradise on January 7, 2019 to issue an Order to vacate the dwelling at 7 Grandview Avenue until such time as an occupancy permit has been issued following the rectification by the property owner, with appropriate confirmation, that the deficiencies identified in the Town's inspection report of December 13, 2018 and any resulting issues following such remedial work have been fully satisfactory addressed, be confirmed.

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

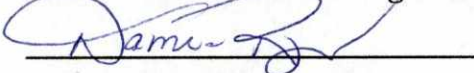
According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Eastern Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later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

DATED at Portugal Cove-St. Philips Newfoundland and Labrador, this 13 day of December 2019.



**Clifford Johnston, Chair**

**Eastern Newfoundland Regional Appeal Board**



**Damian Ryan, Member**

**Eastern Newfoundland Regional Appeal Board**



**Robert Warren, Member**

**Eastern Newfoundland Regional Appeal Board**