

2021 01G 5705
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION

BETWEEN:

ADVOCATES FOR THE RESPONSIBLE
DEVELOPMENT OF LONG POND

FIRST APPELLANT

AND:

SUNSET KEY MARINA INC.

SECOND APPELLANT

AND:

EASTERN NEWFOUNDLAND REGIONAL
APPEAL BOARD

FIRST RESPONDENT

AND:

THE TOWN OF CONCEPTION BAY
SOUTH

SECOND RESPONDENT

AND:

OMNI MARINE SERVICES INC.

THIRD RESPONDENT

NOTICE OF APPEAL

TAKE NOTICE THAT the First Appellant, the Advocates for the Responsible Development of Long Pond, and the Second Appellant, Sunset Key Marina Inc. (the "Appellants") appeal the decision of the First Respondent, Eastern Newfoundland Regional Appeal Board (the "ENRAB") dated October 21st, 2021 (received on October 22nd, 2021) in proceedings before the ENRAB bearing the appeal numbers 15-006-072-015 and 15-006-072-016 (both appeals having been heard together);

AND TAKE NOTICE THAT this appeal is made pursuant to section 46 of the *Urban and Rural Planning Act, 2000*, SNL 2000, c. U-8 (the "Act");


AND THAT the grounds of the appeal are:

1. That the ENRAB erred in jurisdiction or law in deciding that the Second Respondent, The Town of Conception Bay South (the "Town") had jurisdiction to approve the proposed development under the Province's *Interim Development Regulations, 2003*;
2. That the ENRAB erred in jurisdiction or law in deciding that the proposed development is not subject to the Town's *Municipal Plan 2011-2021* and the Town's *Development Regulations, 2011-2021*;
3. That the ENRAB erred in jurisdiction or law in deciding that the entirety of the site of the proposed development was only added to the Town's Municipal Planning Area by the Minister of Municipal and Provincial Affairs on June 10, 2021;
4. That the ENRAB erred in jurisdiction or law and breached its duty of procedural fairness and natural justice by ignoring, or failing to adequately consider, the *viva voce* evidence of the ENRAB's Land Use Planner, Ms. Mary Bishop, presented in the appeal proceeding;
5. That the ENRAB breached its duty of procedural fairness by failing to grant the postponement which was requested by the Solicitors for the Appellants on the grounds that there was insufficient time to review both the Respondent submissions as well as a closely related decision of the Board concerning very similar issues dated October 19th, 2021 and received by Solicitors for the Appellants at 3:07p.m. on that day (which was the day before the 9:00a.m. Hearing which gave rise to the Decision which is being appealed);

AND THAT the Appellants therefore request:

1. An order in the nature of *certiorari* that the decision appealed from be vacated;
2. That in accordance with subsection 46(4) of the *Act*, that the matter be referred back to the ENRAB with the opinion of the Court as to the error in law or jurisdiction and that the ENRAB shall deal with the matter in accordance with the Court's opinion;
3. An award of the Appellants' costs; and
4. Such further and other relief as this Honourable Court finds mete and just

DATED at the City of St. John's, in the Province of Newfoundland and Labrador, this 25th day of October, 2021.



GEOFFREY E. BUDDEN
BUDDEN & ASSOCIATES
Solicitors for the Appellants
Whose Address for Service is:
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TO: Eastern Newfoundland Regional Appeal Board
The First Respondent
Confederation Building, West Block, 4th Floor
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AND TO: J. Alex Templeton
McInnes Cooper
10 Fort William Place, 5th Fl.
St. John's, NL A1C 1K4
Solicitors for the Second Respondent

AND TO: Erin Best
Stewart McKelvey
Cabot Place, 11th Floor
100 New Gower Street
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Solicitors for the Proponent

AND TO: Supreme Court of Newfoundland and Labrador
General Division
309 Duckworth Street
P. O. Box 937
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