

**Appeal Numbers: 07, 09, 10-2024**

**PUBLIC HEALTH APPEAL BOARD**

**IN THE MATTER OF THE *PUBLIC HEALTH ACT*  
R.S.A. 2000 c. P-37 AND THE REGULATIONS**

**AND IN THE MATTER OF THE APPEAL OF TWO ORDERS  
OF AN EXECUTIVE OFFICER ISSUED BY  
ALBERTA HEALTH SERVICES ON JULY 12, 2024**

**PANEL:** Paul M. Bourassa, Chair  
David Rolfe, Member  
Dr. Theresa A. Chika-James, Member  
Vicki Wearmouth, Member

BETWEEN:	)	
	)	
Matthew Peter	)	
Gavin Lubyk	)	Self-represented
Morgan-Lea Baldwin	)	
	)	
- and -	)	
	)	
	)	
ALBERTA HEALTH SERVICES	)	
	)	Ashley Groenewegen,
(Respondent)	)	Alberta Health Services,
	)	for the Respondent
	)	
	)	
	)	Heard via Videoconference:
	)	August 15, September 5, 26 and
	)	October 31, 2024

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**DECISION WITH REASONS**

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**Introduction**

[1] Two notices of appeal, including applications for a stay of orders, were served on the Public Health Appeal Board (the “Board” or “PHAB”) by Mr. Matthew Peter on July 26, 2024. The appeals were with respect to two orders of an Alberta Health Services (“AHS”) Executive Officer (“EO”) concerning the house as well as certain structures and vehicles located on the property in Sturgeon County, Alberta and municipally described as: 25103

Township 552, Lot 2 Block 1 Plan 1722925 (the “Premises”):

- a. Unfit for Human Habitation – Order to Vacate (the “House Order”) dated July 12, 2024; and,
- b. Closed for Tenant Accommodation Purposes – Order to Vacate Recreational Vehicles, Truck, Outside Metal Shed and all other structures that might be used for sleeping purposes (the “Campground Order”) dated July 12, 2024.

[2] Two additional notices of appeal were served on the Board on July 26, 2024, by Mr. Gavin Lubyk and Ms. Morgan-Lea Baldwin, with respect to the House Order.

### **The Appeals**

[3] Mr. Matthew Peter, a co-owner of the Premises with his mother Heather Peter, is appealing the Campground Order.

[4] Mr. Peter, along with Mr. Gavin Lubyk and Ms. Morgan-Lea Baldwin, are appealing the House Order.

### **Board Decision**

[5] A preliminary stay hearing for the appeals occurred on August 15, 2024, before the Board Chair Mr. Kevin Kelly, who denied the applications to stay the House Order and the Campground Order, and directed that the appeals of Mr. Peter, Mr. Lubyk and Ms. Baldwin be heard together.

[6] The hearing for the appeals began on September 5, 2024, continued on September 26, 2024, and concluded on October 31, 2024, with Acting Chair, Mr. Paul M. Bourassa, presiding over all three hearings.

[7] For the reasons that follow, the Board is confirming both the House Order and the Campground Order.

### **Background**

[8] An EO attended the Premises on June 26, 2024. Various structures on the Premises, including the house, recreational vehicles (the “RVs”) and outside metal shed (the “shed”), were serving as tenant accommodations.

[9] During the inspection, the EO observed 18 violations of the Minimum Housing and Health Standards (the “MHHS”) relating to certain structures on the campground, particularly the RVs and the shed, and 17 violations of the MHHS relating to the house.

[10] The EO issued two orders pursuant to the *Public Health Act*, RSA 2000, c. P-37 (the “PHA”), the Housing Regulation, Alberta Regulation 173/99, and the MHHS. The orders set out the contraventions of the PHA, Housing Regulation and MHHS as they pertained to the condition of the structures on the Premises.

[11] In the Campground Order, the EO ordered and directed the following:

1. “That the occupants vacate the above noted premises on or before July 24, 2024.
2. That the Owners immediately undertake and diligently pursue the completion of the following work in and about the above noted premises, namely:
  - a. Immediately stop using all four recreational vehicles, the metal shed and the truck for sleeping purposes except for registered owners and his/her immediate family members as these structures do not meet Alberta Housing Regulation and Minimum Housing and Health Standards requirements.
3. That until such time as the work referred to above is completed to the satisfaction of an Executive Officer of Alberta Health Services; the above noted premises shall remain closed for tenant accommodation purposes.”

[12] In the House Order, the EO ordered and directed the following:

1. “That the occupants vacate the above noted premises on or before July 24, 2024.
2. That the Owners immediately undertake and diligently pursue the completion of the following work in and about the above noted premises, namely:
  - a. Remove objects, materials, and items in sufficient quantity by ensuring access and egress paths within the premises which allows clear and unobstructed exit by occupants. Clean and ensure that the premises is maintained in a sanitary manner.
  - b. Ensure that the premises is supplied with hot running water. Provide information on water source, well drilling report, location of the water well and treatment system if any to this office. Provide information and location of the hot water tank.
  - c. Submit both microbiological and chemical water samples to Alberta Precision Laboratory to ensure potability.
  - d. Install all missing electrical switch plate covers in the premises.
  - e. Replace and ensure that all windows located in areas being used for sleeping purposes meet emergency egress requirements and are not obstructed.
  - f. Replace the cracked window by ensuring that the openable size of the window meets emergency egress requirements.
  - g. Provide either a natural or mechanical ventilation system in accordance with requirements in all sleeping areas.
  - h. Install a locking mechanism at all exterior doors and windows.
  - i. Install handrails in accordance with requirements at all staircases.
  - j. Install ceiling that is made of smooth, easy to clean and moisture resistant material in the basement area.
  - k. Install flooring that is made of smooth, easy to clean and moisture resistant material in the master bathroom.
  - l. Replace the shower surround in the main bathroom and ensure it is maintained in a good operating condition.
  - m. Ensure all bathroom fixtures are maintained in good operating state. Replace or repair these fixtures as required.
  - n. Do not dispose human waste on the ground. Re-mediate soil and the surrounding

- area where the human waste has been discarded. Empty sewer holding tank using a vac truck on regular basis. Properly secure the sewer holding tank opening and install an alarm system.
  - o. Contact a licensed pest control operator to re-mediate the pest infestation. A copy of the pest control report must be submitted to local Environmental Public Health Office.
  - p. Do not use basement area for sleeping purposes.
  - q. Repair the large vertical crack present on the exterior wall of the premises.
3. That until such time as the work referred to above is completed to the satisfaction of an Executive Officer of Alberta Health Services; the above noted premises shall remain vacant and secure from unauthorized entry.”

*August 15, 2024 – Stay Hearing*

[13] On August 15, 2024, a preliminary stay hearing for the Appeals 07, 09, 10-2024 was heard by the Board Chair, Kevin Kelly.

[14] Based on the oral submissions made by the Appellants and Ms. Ashley Groenewegen, Counsel for the Respondent (“AHS Counsel”), it was determined that the three-part test for granting a stay of the orders was not met. The applications for a stay of the orders were denied.

[15] The Chair also directed that the appeals of Mr. Peter, Mr. Lubyk and Ms. Baldwin be heard together.

*September 5, 2024 – Hearing*

[16] On September 3, 2024, AHS Counsel sent correspondence to the Board indicating that on the day of the scheduled hearing, AHS Counsel would be making a preliminary application to narrow the legal issues.

[17] On the day of the hearing, AHS Counsel sent an email to the Board indicating that AHS would be making a preliminary application for an adjournment to confirm the current state of the Premises, as Mr. Peter had provided information to EO Ravinder Thind (“EO Thind”) indicating that improvements had been made since the last inspection.

[18] At the hearing, the Board heard submissions from all the parties on the application for adjournment. The Board found that the disclosure from AHS Counsel, which was voluminous in nature, and from Mr. Peter, which contained details about recent work he had done to the Premises, continued to arrive after the deadline imposed by the Board, which was 4:00PM, September 3, 2024.

[19] The Board granted the application for an adjournment in order to permit the Board to properly review the disclosures, as well as permit AHS to return to the Premises for an inspection, which could potentially narrow the legal issues. Given the potential for the legal issues to be narrowed *res ipso facto*, the Board did not need to consider the pre-hearing application to narrow the legal issues at this time.

[20] The Board directed that:

- a. The parties provide all disclosure and written submissions 10 days in advance of the start of the hearing, as required by the PHAB Rules of Procedure;
- b. Pursuant to section 5(5) and (6) of the PHA, these matters be referred back to AHS for further consideration and redetermination, which AHS Counsel indicated was for AHS to undertake a further inspection of the house scheduled for September 9, 2024, following which, as soon as practical provide to the Board and the Appellants further detailed information resulting from said inspection; and,
- c. Following said inspection and prior to date on which the hearing was next scheduled to continue, should AHS Counsel determine that the scope of the legal issues continue to be narrowed, the notice of such application be made as soon as possible.

*September 26, 2024 – Hearing*

[21] The parties attended for a hearing continuation for another half-day on September 26, 2024. Mr. Peter called his case and AHS Counsel cross-examined his witnesses.

[22] There was no time left for AHS Counsel to call its case, requiring a further adjournment. At the conclusion of this day's hearing, the Board again directed AHS to return to the Premises for further re-inspection prior to the next scheduled hearing date.

[23] AHS Counsel advised that their client would be rescinding the House Order and issuing a new order based on re-inspection. Mr. Peter agreed to accept service of the order via email.

[24] The Board clarified that the appeals concerning the House Order (even when rescinded by AHS) and the Campground Order would remain active.

[25] The Appellants were notified that they may appeal the new order should they wish, and if so, the Board would join any new appeals with the current appeal. The PHAB Secretariat confirmed this direction in writing to the parties by email on September 30, 2024.

[26] Directly following the hearing on September 26, 2024, multiple emails were exchanged between Mr. Peter, the PHAB Secretariat and AHS, specifically regarding AHS' re-inspection of the Premises, which was scheduled for and completed on October 1, 2024.

*October 31, 2024 - Hearing*

[27] At 1:57AM on October 31, 2024, the day of the hearing continuation, Mr. Peter notified the Board via email that he did not receive any new orders that were based on the re-inspection conducted October 1, 2024. He reported he was not aware that two new orders had been delivered by email on October 4, 2024, and further indicated that he wanted to appeal the new orders ("New House Orders") once he had the opportunity to review them.

[28] An application was made by Mr. Peter for the Board to extend the time for production

of a notice of appeal for the New House Orders (“Application for Extension”).

[29] The Board heard initial submissions from Mr. Peter and AHS Counsel, following which the Board adjourned briefly to consider Mr. Peter’s Application for Extension. Following the adjournment, the Board returned and indicated that it was prepared to grant the extension.

[30] However, AHS Counsel made the Board aware that evidence relating to the House Order, which could influence the Board’s decision for the Application for Extension, had not yet been presented. AHS Counsel submitted to the Board to reconsider its decision to grant the Application for Extension.

[31] The Board reversed its oral decision to grant the Application for Extension and directed the Appellant, Mr. Peter, and AHS Counsel to provide written submissions on whether to grant the Application for Extension to the Board by 4:00PM on November 7, 2024.

[32] The hearing continued with the Mr. Peter and AHS Counsel presenting evidence relating to the Campground Order.

[33] On November 15, 2024, the Board sent a letter to the parties stating that it was denying the Application for Extension, confirming both the Campground and House Orders, and that a written decision with reasons would follow in due course.

[34] The reasons for confirming the Campground Order and the House Order follow in this decision and the reasons for denying the Application for Extension are included in a separate decision.<sup>1</sup>

### **Timing of the Appeal**

[35] Pursuant to section 5(3) of the PHA, a person who is directly affected by a decision of a regional health authority and feels aggrieved by the decision, must serve a notice of appeal on the Board and AHS within 10 days after receipt of an order.

[36] The House Order and the Campground Order are dated July 12, 2024. In the notices of appeal, it is stated that no verbal orders were issued, and hard copies of the House Order and the Campground Order were received on July 17, 2024.

[37] As there is no evidence suggesting the House Order and the Campground Order were received earlier than July 17, 2024, the Board relies on this to calculate the deadline for serving the notices of appeal on the Board. As the notices of appeal were received to the PHAB email inbox on July 26, 2024, the notices of appeal were served on the Board within the time prescribed by the PHA.

### **Grounds of the Appeal**

[38] In the Appellant, Mr. Peter’s notice of appeal for the Campground Order, he stated that

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<sup>1</sup> *PHAB Appeal 07-2024 Application for Extension Decision* – February 3, 2025.

the MHHS should not be applied in the situation where people are willingly camping on private property, particularly given the housing crisis and the absence of shelter spaces in Sturgeon County.

[39] In the Appellant, Mr. Peter’s notice of appeal for the House Order, he responded to each of the deficiencies listed in the House Order and stated that he should not be evicted from his own home and that others could safely reside in the main floor of the house.

[40] In the Appellant, Mr. Gavin Lubyk’s notice of appeal for the House Order, he stated that his room and board is provided by Mr. Peter in exchange for volunteering to help around the Premises. Mr. Lubyk further stated that although the house is cluttered, it is habitable with access to potable water and hot water.

[41] In the Appellant, Ms. Morgan-Lea Baldwin’s notice of appeal, she stated the following:

“I’m happy being out on the farm I have my own area where I can cook my own food on the campfire, I haven’t smelt any septic because it was away from the work area. I got provided city water that Matt dropped at my campsite and I’m never in danger of a fire. There is both running hot and cold water and I have the option of showering indoors or outdoors.”

## **Legal Issues**

[42] The legal issue on this appeal (the “Appeal”) for consideration by the Board is:

- a. Should the Board confirm, reverse or vary the House Order and the Campground Order?

## **Jurisdiction**

[43] There were no objections to the composition of the panel for the Board (the “Panel”) and the Panel’s jurisdiction to hear the Appeal.

## **Documents/Exhibits**

[44] At the hearing on September 26, 2024, the following documents were entered as exhibits by agreement of the parties:

- a. Exhibit A: Order of an Executive Officer – Unfit for Human Habitation Order to Vacate – July 12, 2024
- b. Exhibit B: Order of an Executive Officer – Unfit for Tenant Accommodation Purposes Order to Vacate – July 12, 2024
- c. Exhibit C: Notice of Appeal Mr. Peter – House
- d. Exhibit D: Notice of Appeal Mr. Peter – Campground
- e. Exhibit E: Notice of Appeal Mr. Lubyk
- f. Exhibit F: Notice of Appeal Ms. Baldwin
- g. Exhibit G: AHS Disclosure 01 PHAB Appeal 07-2024 Appeal 09-2024 Appeal 10-2024



- h. Exhibit H: AHS Disclosure 02 PHAB Appeal 07-2024 Appeal 09-2024 Appeal 10-2024
- i. Exhibit I: Amended September 9, 2024 Inspection Report – to replace Tab 8 in the 02 disclosure above
- j. Exhibit J: Updates to September 9, 2024 Inspection Report
- k. Exhibit K: Draft Executive Order varying habitation of house
- l. Exhibit L: Authorities
- m. Exhibit M: Chronology of events May 15-August 8, 2024
- n. Exhibit N: Facebook Screen Shots July 3, 2024
- o. Exhibit N-2: Photos EO Thind June 26, 2024
- p. Exhibit N-3: Video EO Sandhu June 26, 2024
- q. Exhibit N-4: Photos EO Thind July 25, 2024
- r. Exhibit N-5: Photos EO Thind September 9, 2024
- s. Exhibit O: Submitted by Appellant via email September 3 and 19, 2024
- t. Exhibit O-2: Appellant responses to each item in the inspection report
- u. Exhibit O-3: Photos sent in for September 5 and 26, 2024 hearings (48 photos labelled Exhibit A through to Exhibit NN)
- v. Exhibit O-4: Summary list of Appellant Disclosures
- w. Exhibit O-5: Email objecting to legality of search and appointment of PHAB members by the Lieutenant Governor.
- x. Exhibit O-6: Case Law: *Victoria (City) vs Adams*<sup>2</sup>
- y. Exhibit O-7: Water Testing Results September 9, 2024

[45] At the hearing on October 31, 2024, the following documents were entered as exhibits by agreement of the parties:

- a. Exhibit A: Order of an Executive Officer – Unfit for Tenant Accommodation – October 4, 2024.
- b. Exhibit B: Order of an Executive Officer – Work Order – October 4, 2024.

(Collectively referred to as the “New House Orders”)

### **Evidence and Submissions of the Appellant, Mr. Peter**

#### House Order

[46] On September 26, 2024, the Appellant, Mr. Peter, provided evidence and called as witnesses, the Appellant, Mr. Lubyk, and the Appellant, Ms. Baldwin, in support of the reversal or variance of several of the deficiencies noted in the House Order. The Appellant, Mr. Peter, did not deny the deficiencies noted in the House Order relating to the basement of the house.

[47] The Appellant, Mr. Peter, challenged the accuracy of EO Thind’s reporting including her claims of no cooking facilities, no flush toilets, no hot or running water and evidence of mouse droppings. He argued that it was an egregious overstep to evict him from his own home.

[48] Mr. Peter felt strongly that his rights were violated by virtue of an “uninvited”

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<sup>2</sup> 2009 *British Columbia Court of Appeal (BCCA) 563* ([2009 BCCA 563 Victoria \(City\) v. Adams](#)).



inspection and the presence of RCMP officers escorting his “friends” from the property. He cited the British Columbia Court of Appeal decision, *Victoria (City) v. Adams*<sup>2</sup>, which he argued supports the position that Public Health bodies cannot give an order to vacate if no other shelter options are available to tenants.

[49] Mr. Peter alleged that EO Thind was incorrect to question the structural integrity of the house based on a crack in the stucco.

[50] Mr. Peter conceded there are rooms in the House that are cluttered and that he has a lot of “stuff” but that the rooms are clean. He also agreed the basement rooms should not be used for tenants as they did not allow proper egress in case of fire or other emergency.

[51] Mr. Peter agreed to fix the patio door lock, provide proper ventilation in one of the bedrooms, install a handrail on a designated stairway, renovate a bathroom to code as described in the House Order, install a proper number of showers and patch the holes in the walls of the two upstairs bedrooms.

[52] Questions from the Board sought clarification about whether the people living in the house had no other place to live. The Appellant, Mr. Peter reported that they had no other alternative and that the “lodgers” were there voluntarily to work for Mr. Peter in exchange for room and board. The Appellant, Mr. Peter, further stated that each lodger signs a “contract” to stay on the Premises.

[53] The Appellant, Mr. Peter, called Mr. Lubyk as a witness. Mr. Lubyk confirmed the living circumstances of the house. He stated his belief that the house was safe, secure, has access to proper plumbing, food is properly prepared and that the “RV” people (referred to as the Campground for purposes of the hearing) have access to the house facilities as needed.

[54] The Appellant, Mr. Peter, called Ms. Baldwin as a witness. Ms. Baldwin confirmed the house conditions indicating that the house was secure, has adequate shower and toilet facilities and hot water and that, as a female, she felt safe. She advised that she provides cleaning services for the house as part of her contribution. In the summer she lives in one of the RVs and in the winter, she lives in the unfinished basement.

#### Campground Order

[55] On October 31, 2024, the Appellant, Mr. Peter, provided evidence in support of the reversal or variance of several of the deficiencies noted in the Campground Order.

[56] The Appellant, Mr. Peter, challenged the accuracy of EO Thind’s reporting of standing sewage on the ground near the house and that tenants were using hose water to shower outside.

[57] The Appellant, Mr. Peter, argued that the MHHS should not be applied in the situation where people are willingly camping on private property. EO Thind, when cross-examined at the hearing on September 26, 2024, provided that any move to designate Mr. Peter’s property as a campground would require zoning changes.

[58] EO Thind explained the referral to AHS came through a contact from Sturgeon County who was concerned that the Premises, meaning both the house and the campground, were a rental property and did not meet standards for rental accommodations.

[59] EO Thind confirmed the details as provided at the hearing on September 26, 2024, and provided multiple photographs showing the conditions of the campground as described.

[60] The Appellant, Mr. Peter, submitted that people staying in the RVs and shed were roommates, not renters and that the MHHS should not apply. He questioned the availability of shelter space and asked if EO Thind was aware of any health issues related to the RVs and shed. He spent a great deal of time asking about the required floor space for a bedroom and disagreed with AHS about what is reasonable per person.

[61] The Appellant, Mr. Peter, acknowledged there are four RVs and some are connected to power but have no plumbing or sewage hookups. There is a shed that is insulated, with electricity and internet. The RVs are occupied by homeless people in the summertime and have no heat or running water. Residents in those units use the bathroom facilities in the house as needed. The Appellant, Mr. Peter, agreed that if he was not allowed to house people in the shed, he would not do so but questioned why the arrangement is allowed in a campground but not on his land. He cited the dangers of shelter living in Alberta and added that Sturgeon County does not offer shelter spaces at all.

[62] In conclusion, the Appellant, Mr. Peter, agreed that the RVs should meet the MHHS then argued that people should be allowed to camp on his land and blames AHS for making the people homeless as they have nowhere to go. Last, he submitted that there was adequate floor space per unit, the house facilities are available to the campground residents, and no one is currently living in either the shed or the RVs.

[63] AHS Counsel asked if Mr. Peter could confirm the number of people on the Premises using the house facilities (e.g., showering at any given time), and Mr. Peter indicated that the numbers vary, that there is one person per RV/shed, so up to five people could be using the bathroom facilities in the house in addition to those residing in the house.

## **Submissions of the Respondent**

### House Order

[64] AHS was not able to submit evidence or question witnesses due to time constraints in the hearing on September 26, 2024. The Board took into consideration the evidence provided in the disclosure documents prepared for each of the three hearings.

[65] The Board determined that evidence provided by the Appellant, Mr. Peter, at the hearing on September 26, 2024, in addition to the cross examination and questions by AHS counsel and the Board members is sufficient to make a decision on the House Order.

### Campground Order

[66] AHS stated that there are multiple breaches of the PHA, the structures were in effect rental accommodations as the tenants' labour counted as rental payments. Water and

plumbing must be in each unit and not external, and there was inadequate floor space per unit.

[67] AHS submitted that there is sufficient evidence that the RVs and the shed were being used as tenant accommodation.

[68] AHS took the position that the Appellant must ensure that the tenant accommodations meet the current requirements of the MHHS. Meeting the MHHS applies even if the tenants are receiving room and board in exchange for working on the Premises. As such, there is no justifiable reason to vary the Campground Order.

## Analysis and Reasons

### Standard of Review

[69] The applicable sections of the PHA regarding appeals that the Board must consider include the following:

*5(3) A person who*

- (a) is directly affected by a decision of a regional health authority, and*
  - (b) feels himself or herself aggrieved by the decision*
- may appeal the decision to the Board.*

*5(1) In this section, “decision of a regional health authority” means*

- (a) an order issued under section 62, and*
- (b) a decision to issue or to cancel, suspend or refuse to issue a licence, permit or other approval provided for in the regulations, and any other decision in respect of which an appeal to the Board is permitted under the regulations, whether any of those decisions is made by the regional health authority itself or one of its employees or agents.*

*9 A regional health authority shall appoint one or more persons as medical officers of health and one or more persons as executive officers for the regional health authority for the purpose of carrying out this Act and the regulations.*

*62(1) An executive officer may issue a written order in accordance with this section if the executive officer has reasonable and probable grounds to believe, based on*

- (c) an inspection of a public place under section 59 or a private place under section 60, or*
- (a) a report or test, regardless of whether the report or test is required to be produced or performed under this Act, if a public place or private place was not inspected under section 59 or 60, that a nuisance exists in or on the public place or private place, or that the place or owner of the place or any other person is in contravention of this Act or the regulations.*

*5(11) The Board may confirm, reverse or vary the decision of the regional health*

*authority and shall give written notice of its decision to the appellant and the regional health authority.*

[70] After thorough consideration of the *Newton*<sup>3</sup> factors and in accordance with the Alberta Court of Appeal's guidance in *Moffat*<sup>4</sup> and *Yee*<sup>5</sup>, and reading the relevant sections of the PHA harmoniously with the intention of the legislature, the Panel is satisfied that the appropriate standard of review to be applied in this Appeal has been articulated in section 62(1) of the PHA.

This standard is:

Whether there are reasonable and probable grounds to believe that a nuisance exists on the Premises or there is a contravention of the PHA, or the regulations and standards based on an inspection or a report or test such that the order under appeal is warranted.

[71] In *Canada (Minister of Citizenship and Immigration) v Vavilov*<sup>6</sup>, the Supreme Court of Canada provided instruction on the application of the reasonableness standard of review. The focus of a reasonableness review is on the reasons. A decision will be reasonable if it is both internally consistent and justified in light of the legal and factual constraints that bear on the decision.<sup>7</sup>

[72] Unlike the judicial review approach established in *Vavilov*<sup>6</sup>, the standard of review adopted by the Board represents a hybrid procedure. This approach involves reviewing all the relevant records supplemented with viva voce evidence, while also allowing portions of the hearing to be conducted on the record. As the Board is not a court, it is not bound by the strict rules of evidence applicable to courts. However, the Board's authority is limited to confirming, reversing, or varying an order of an AHS EO, without extending beyond these options as provided in the PHA.

[73] In conclusion, by adopting this hybrid standard of review, the Board can effectively balance the need for procedural flexibility and thoroughness with respect for the specialized expertise and initial findings of the AHS EOs. This approach ensures that the appeal process remains efficient and cost-effective, while preserving the integrity of the original proceedings and allowing the Board to make well-informed decisions that uphold public health standards consistent with the objectives of the PHA.

### **Findings and Conclusion: House Order**

[74] The Board has considered the evidence before it and assigned weight to each argument.

[75] The house as described in the House Order is deemed to be a rental property as the

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<sup>3</sup> *Newton v Criminal Trial Lawyers' Association*, 2010 ABCA 399 [Newton].

<sup>4</sup> *Moffat v Edmonton (City) Police Service*, 2021 ABCA 183 [Moffat].

<sup>5</sup> *Yee v Chartered Professional Accountants of Alberta*, 2020 ABCA 98.

<sup>6</sup> *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

<sup>7</sup> *Vavilov*, at paras 99-101.

“roommates” are instead renters whose labour is offsetting costs of room and board at the Premises.

[76] Several AHS inspections have been conducted since the initial inspection of June 26, 2024, that resulted in the issuance of the House and Campground Orders on July 12, 2024. These subsequent inspections have been conducted as a result of incremental progress being made by the Appellant to remediate the conditions in breach of the PHA and MHHS.

[77] The issues outlined in the House Order have, to some extent, been remediated to the point where the Appellant and his mother are once again permitted to reside in the residence as per the Rescind Notice issued September 26, 2024.

[78] As to the House Order, pursuant to the PHAB Rules of Procedure, the Board can decide what parts are moot by virtue of subsequent orders, which in effect leaves only a few upon which to be decided (and which are mirrored and/or largely captured in the New House Orders), so it does not matter for effect and purposes whether we consider the July 12 House Order issued on July 12, 2024, or the New House Orders issued on October 4, 2024.

[79] The issues have now been narrowed to the repair of a crack on the exterior of the house and some non-critical repairs to some walls within the house.

[80] The Appellant has expressed a desire to appeal the New House Orders giving reason that if he does not appeal, he will not be treated fairly by AHS.

[81] The Board finds that the appeals of the Campground Order and the House Order were not rescinded by subsequent AHS orders, which is permissible pursuant to Rule 3.6, despite AHS’ position.

[82] Very little work remains outstanding to fully meet the conditions stated in the New House Orders and the Appellant, Mr. Peter has agreed to complete the work as needed. As such there is sufficient evidence to confirm the New House Orders as issued on October 4, 2024.

[83] The Appellant, Mr. Peter, argued that *Victoria (City) v. Adams*<sup>2</sup> supports the position that AHS cannot give an order to vacate if no other shelter options are available to tenants. The Board was not convinced by Mr. Peter’s argument in this regard.

[84] First, the Board did not hear evidence that there were no alternatives for Mr. Peter’s “lodgers” to live. Second, *Victoria (City) v. Adams* concerned a park, and not private property, such as that of the Appellant, Mr. Peter. Last, the Appellant, Mr. Peter is a landlord and therefore is subject to the PHA, the MHHS, and other regulations. These similar type issues were discussed in detail by Justice Graesser of the Alberta Court of Queen’s Bench (as it then was) in *Peter v Public Health Appeal Board of Alberta*.<sup>8</sup>

[85] The Board heard from the Appellants, notably Mr. Peter. While AHS Counsel, strictly speaking, still had not called its evidence in support of its position, the Board has the flexibility over its procedure as outlined in the PHA and the PHAB Rules of Procedure, and

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<sup>8</sup> [2019 ABQB 989 \(CanLII\)](#) | [Peter v Public Health Appeal Board of Alberta](#) | [CanLII](#)

finds that what remains in the House Order should be confirmed.

[86] Accordingly, having considered the principles of natural justice, the Board finds that hearing AHS' evidence is not necessary because of the evidence that has been heard, which necessarily included giving the Appellant, Mr. Peter, a wide berth when calling his evidence and questioning thoroughly the witnesses called, the Board confirms what remains in the House Order.

### **Findings and Conclusion: Campground Order**

[87] The Board has considered the evidence before it carefully and assigned weight to each argument.

[88] The Campground, consisting of 4 RVs and a shed, is being used for tenant accommodation.

[89] As a rental property(s), the accommodations noted above fall under the jurisdiction of the MHHS.

[90] The Campground Order noted numerous deficiencies with the Campground that necessitated it to remain vacant and secure from unauthorized entry until the work is completed to an EO's satisfaction. The Appellant acknowledged in his evidence that the campground accommodations do not meet the required standards for housing and never will.

[91] The Board finds that AHS conducted themselves and inspected the Premises and issued the orders pursuant to the PHA and the MHHS, both of which exist to protect the health of Albertans.

[92] The conditions of the campground accommodations, notably the multiple breaches noted in the submissions above, and the fact that the Appellant has stated that the accommodations do not meet required standards and never will, is convincing evidence that the Campground Order as issued should be confirmed.

[93] The Order as it relates to the campground is confirmed.

[94] For the above reasons, the Campground Orders are confirmed and shall remain in effect until rescinded by AHS.

Paul M  
Bourassa  
Paul Bourassa, Chair  
On behalf of the Panel for the  
Public Health Appeal Board  
Date: 2/3/25

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