

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 THE ORDER OF
AN EXECUTIVE OFFICER ISSUED BY ALBERTA HEALTH
SERVICES, EDMONTON ZONE, DATED APRIL 9, 2025**

PANEL: Kevin Kelly, Chair
Dr. Theresa A. Chika-James, Member
David Rolfe, Member

BETWEEN:)	
)	
)	
Mr. Anthony (Tony) Worne)	Self-represented
(Appellant))	
)	
)	
- and -)	
)	
)	
Alberta Health Services)	John Siddons and Megan Tupper,
)	Alberta Health Services,
(Respondent))	Legal Counsel for the Respondent
)	
)	

Heard via Video/Teleconference:
June 23 and July 3, 2025

DECISION AND REASONS FOR DECISION

The Appeal

[1] A notice of appeal, including an application for a stay of order, was served on the Public Health Appeal Board (“**Board**” or “**PHAB**”) by the **Appellant**, Mr. Anthony Worne, on April 15, 2025. The appeal (“**Appeal**”) was with respect to an Order - Unfit for Human Habitation:

Order to Vacate (“**Order**”) - issued by an Alberta Health Services (“**AHS**”) Executive Officer (“**EO**”) concerning the housing premises located in Lethbridge County, Alberta and municipally described as: 112052 HWY 845; NE 14-11-20-W4 (the “**Premises**”).

History of Proceedings

[2] As permitted by the PHAB Rules of Procedure section 3.4.4 and 3.4.5 the PHAB Chair conducted a review of the Appellant’s application for a stay of order pending hearing and determined that it met the three-part test outlined by the Supreme Court of Canada¹ for granting a stay of a decision:

1. The applicant must demonstrate that the application raises a serious issue to be tried;
2. The applicant must demonstrate the possibility of irreparable harm occurring if a stay is refused; and
3. The applicant must demonstrate that the balance of convenience favours the granting of a stay, in that refusing the stay will cause more harm to the applicant than granting it will cause to the respondent party (AHS).

As such, the Chair granted the Appellant’s application for a stay of the Order on April 16, 2025, and the deadline for occupants to vacate the Premises noted in the Order does not apply until the Board has the opportunity to hear the Appeal and make its decision. That decision is now issued.

[3] The Appellant and AHS each made preliminary applications (on May 7 and May 21, 2025, respectively) to adjourn the initially scheduled hearings of the Appeal. Neither application was opposed. As permitted by the PHAB Rules of Procedure, Rule 3.3.6, the Chair granted both adjournment requests.

[4] The Appeal was heard by a panel of the Board on June 23 and July 3, 2025. On July 4, 2025, the Board issued a short-written decision to the parties, with further written reasons to follow. In the short decision, the Board confirmed that the Order would be varied.

[5] For the reasons that follow, the Board varies the Order.

Facts

[6] The Appellant, Mr. Worne, is not the owner of the Premises. He is the son/stepson of the owners Mrs. Gloria Rose Puurveen and Mr. Jacob Puurveen. Mr. Worne has lived in the Premises for 14 years.

[7] Although Mr. Worne does not pay rent, he was considered a tenant, along with the other persons residing in the Premises and surrounding property, for the purposes of the initial inspection (conducted by the EO on April 7, 2025) and subsequent inspections (on May 21, 2025, and June 19, 2025) of the Premises.

[8] The EO issued the Order pursuant to the *Public Health Act*, RSA 2000, c. P-37 (“**PHA**”); the *Nuisance and General Sanitation Regulation*, Alberta Regulation 243/2003 (“**NGSR**”); the

¹ *RJR-MacDonald Inc. v. Canada (Attorney General)*, 1994 CanLII 117 (SCC), [1994] 1 S.C.R. 311, at para 48.

Housing Regulation, Alberta Regulation 173/99; and the Minimum Housing and Health Standards (“**MHHS**”). The Order set out the contraventions of the PHA, NGS, *Housing Regulation* and MHHS as they pertained to the condition of the Premises.

[9] The EO observed eight violations of the NGS that also applied to the *Housing Regulation* and the MHHS, specifically:

- a. “The septic system servicing the dwelling was maintained in a state of disrepair. Sewage effluent was ponding on the ground surface adjacent to the septic tank to the south of the premises.
- b. The roof was maintained in a state of disrepair, and a section of the roof was tarped at the time of inspection.
- c. Various windows in the premises, including the living room window, were in a state of disrepair.
- d. The kitchen ceramic stove top was broken and no longer useable.
- e. The living room ceiling had a large section of drywall missing and was maintained in a state of disrepair.
- f. The smoke alarm servicing the dwelling was removed.
- g. The flooring material in the living room was removed, exposing the sub-floor.
- h. The electrical panel was not properly covered and exposed electrical wires were not properly secured in the panel.”

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

1. “That the Owner(s) takes all steps necessary to ensure all Occupants vacate the above noted premises on or before April 16, 2025.
2. That the Owner(s) immediately undertake and diligently pursue the completion of the following work in and about the above noted premises, namely:
 - a. Ensure the premises is adequately secured from unauthorized access.
 - b. Ensure the septic system is repaired to the satisfaction of a Safety Codes Officer, or certified plumber. Proof of inspection is required from a Safety Codes Officer or certified plumber.
 - c. Ensure the roof is repaired so it *[sic]* maintained in a waterproof, windproof and weatherproof condition.
 - d. Ensure the *[sic]* all the windows are in good repair and all openable windows are fitted with insect screens.
 - e. Ensure the stove is in good repair.
 - f. Ensure the living room ceiling is in good repair. Any evidence of mould or rot will need to be properly remediated and repaired.
 - g. Ensure a working smoke alarm is installed in accordance with section IV (12) of the Minimum Housing and Health Standards.
 - h. Ensure the living room floor is in good repair.
 - i. Have the electrical panel inspected by a Safety Codes Officer or certified electrician. Proof of inspection is required from a Safety Codes Officer or certified electrician.
 - j. Due to the volume of belongings, clutter, and garbage, the entire premises could not be inspected. Ensure a thorough decluttering and cleaning and *[sic]* the premises is undertaken and correct deficiencies.

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.”

Timing of Appeal

[11] 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 may serve a notice of appeal on the Board within 10 days after receiving notice of the decision (in this case, the Order).

[12] The PHAB Secretariat received Mr. Worne’s notice of appeal of the Order (dated April 9, 2025) on April 15, 2025. The notice of appeal was therefore filed in time.

Grounds of the Appeal

[13] In the notice of appeal, Mr. Worne itemized the following grounds of appeal:

- a) The one-week timeframe provided to vacate the house is insufficient considering how long he has resided there (14 years);
- b) Work is underway to address the deficiencies noted in the inspection;
- c) Any clutter observed is due to the storage of tools/supplies required to address the deficiencies;
- d) The inspectors were influenced by Mr. Worne’s stepfather’s desire to have the house condemned so it can be torn down and the property sold;
- e) The electrical panel and smoke detectors were removed for the purpose of painting;
- f) Holes in the roof/ceiling have been fixed with R-40 insulation and are properly vapour-sealed and taped off;
- g) Septic pipes were broken due to people driving their trucks through the yard; and
- h) The same people noted above broke the stove top and dented the fridge.

Issue

[14] The issue on the Appeal for consideration by the Board is:

- a) Should the Board confirm, reverse or vary the Order?

Jurisdiction

[15] There were no objections to either the composition of the Board’s panel or that panel’s jurisdiction to hear the Appeal.

Documents/Exhibits

[16] At the first day of the hearing on June 23, 2025, 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 – April 9, 2025;

- b) Exhibit B: Notice of appeal;
- c) Exhibit C: Appellant's disclosure including photos and emails – received by the PHAB on May 19, 2025;
- d) Exhibit D: AHS disclosure – received May 1, 2025 (138 pages);
- e) Exhibit E: AHS disclosure – received May 21, 2025 (34 pages); and
- f) Exhibit F: AHS disclosure – received June 20, 2025 (42 pages).

Written and Oral Submissions of the Appellant

[17] On May 19, 2025, the Appellant submitted his disclosure through a series of emails and pictures of the property to illustrate that he had been physically ill and was limited in his ability to make the required repairs by the timelines stated in the Order.

[18] He also submitted a handwritten explanation addressing the concerns outlined in the Order. He stated that:

- a) He is the only one living on the property, and he had already repaired a broken line on the septic system (4" PVC pipe), he was close to completing the rest of the work, and there was less pressure on the system since he is the only one living there now;
- b) The roof had been repaired with shingles and torch on roofing, and during recent rain there were no leaks;
- c) The window issues were yet to be addressed;
- d) The stove had been unplugged so posed no fire danger, however, he had other means to prepare food;
- e) The living room ceiling had been repaired with framing, vapor seal and drywall;
- f) The smoke alarms were removed during the painting process, and new ones were installed;
- g) The floor in the living room is not exposed subfloor, but very old original linoleum, in very rough shape. There are plans to put down laminate, linoleum or tile;
- h) The electrical panel cover was taken off for painting, but it had been put back on; and
- i) Most of the household clutter had been removed for easier access to exits in case of emergency.

[19] The Appellant also submitted photos that showed several in progress renovations around the inside of his home: the repaired ceiling, kitchen cabinets, tools in his home, repairs in his bathroom, walls that are spackled, repaired drywall, cleared pathways in his home, and new flooring being laid.

[20] During the hearing on June 23, 2025, the Appellant reviewed what was included in his disclosure and handwritten submission and restated that he was limited both physically, in that no one was available to help him, and financially, as he was unemployed.

[21] Under questioning by AHS, the Appellant stated that the roof had not leaked after he re-shingled it, and while some clutter and renovation supplies remain in the house that is because he does not have a shed, and he cannot leave anything outside as theft is high in the area.

Written and Oral Submissions of the Respondent - AHS

[22] AHS counsel provided the Board with their disclosure on May 1, 2025, and written submissions on May 6, 2025.

[23] AHS' disclosure included both written statements and photos of the property and home in various states of disrepair.

[24] AHS' disclosure and submissions, prepared following subsequent inspections, primarily focussed on the fact that those repairs that the Appellant had effected or begun did not address the major issues of concern outlined in the Order.

[25] AHS counsel called AHS-EOs, Michel Gervais and Sean Robison as witnesses.

[26] AHS counsel submitted that the Appellant may have some experience in construction related projects, however, he is neither a certified plumber nor a certified electrician. Installing a sewage system and electrical panels are projects, and they require inspection by qualified assessors.

[27] In the original inspection, the EO identified two travel trailers with about six or seven people living in them. Power cords from the house were plugged into the travel trailers, and there were no water systems for the trailers.

- a) Also, a plastic tarp had been held in place on the roof of the home by tires. There was also sewage effluent visible on the surface of the ground, and a window covered with a vapor barrier and tape. Several of the windows were cracked.

[28] The respondent's photos showed:

- a) exposed electrical panels;
- b) exterior grounds showing accumulation of detritus, a fire pit containing burned materials, and fifth wheel travel trailers;
- c) kitchen cabinet doors removed, drawers that could not be closed, sections of drywall cut out of the ceiling, and a cracked ceramic stove top; and
- d) what appeared to be sewage effluent pooling above ground near the septic tank further identified by a strong odour suggesting it was in fact sewage.

[29] Following the subsequent inspections on May 21, and June 19, the AHS-EO's Gervais and Robison, confirmed that some of the work outlined in the initial order had been completed, for instance, the trailers were gone, as were all the other "tenants" or friends of the Appellant.

- a) Also, although, the living room had repairs in progress, including the ceiling that had fresh drywall but still had not been mudded. AHS inspectors stated that very little had actually been completed, and that it might be that the bathroom renovations had been conducted previously and were in any event not relevant to the concerns outlined in the Order.

[30] The AHS inspectors also expressed concern regarding the Appellant's physical and financial ability to complete the repairs without assistance.

- a) The Puurveen's have stated that they will not be contributing financially to any of the repairs of the property and confirmed their son does not have financial resources.
- b) The Appellant does not have a clear plan or itinerary to finish the project, and he has many physical ailments at the moment that prevent him from completing the work.

[31] Both of the witnesses emphasized that the

- a) concerns identified are not cosmetic; they are substantial and require remediation.
- b) Priority items of concern, notably the septic tank and electrical panel, need to be completed by certified professionals and then reinspected by an AHS-EO.

Analysis and Reasons

Standard of Review

[32] In order to decide the Appeal, the Board must first determine the standard of review that it must apply to its assessment of the Order. This engages a review of the applicable legislative scheme, in particular, the following sections of the PHA:

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

- (a) an inspection of a public place under section 59 or a private place under section 60, or*

(b) *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.

Alberta Courts have provided administrative decision-makers with guidance in making their decisions, which can be summarized as follows. In *Moffat v Edmonton (City) Police Service*², the Alberta Court of Appeal reviewed the relevant caselaw and held that “internal administrative appeals are of multiple types and therefore do not admit to one single approach to standard of review”.³ In *Yee v Chartered Professional Accountants of Alberta*⁴, the Alberta Court of Appeal held that “[t]he appeal tribunal should ... remain flexible and review the decision under appeal holistically, without a rigid focus on any abstract standard of review”.⁵ In *Newton v Criminal Trial Lawyers’ Association*⁶, the Alberta Court of Appeal identified several factors to guide the determination of the appropriate standard of review for an appellate administrative tribunal. These include: the respective roles of the first-instance and appellate tribunals under the enabling legislation; the nature of the issue; the overall statutory scheme; the expertise and position of the first-instance tribunal relative to the appellate body; and considerations of efficiency, including the need to limit the number, length, and cost of appeals, and to preserve the economy and integrity of the original proceedings.⁷

[33] After thorough consideration of judicial guidance provided, 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 either that a nuisance exists on the property or that 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.

[34] In *Canada (Minister of Citizenship and Immigration) v Vavilov*⁸, 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

² *Moffat v Edmonton (City) Police Service*, 2021 ABCA 183 [Moffat].

³ *Ibid* at para 55.

⁴ *Yee v Chartered Professional Accountants of Alberta*, 2020 ABCA 98.

⁵ *Ibid* at para 35.

⁶ *Newton v Criminal Trial Lawyers’ Association*, 2010 ABCA 399 [Newton].

⁷ *Ibid* at para 43.

⁸ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

internally consistent and justified in light of the legal and factual constraints that bear on the decision.⁹

[35] Unlike the judicial review approach established in *Vavilov*, the standard of review adopted by the Board represents a hybrid procedure. This approach involves reviewing all the relevant records supplemented with *viva voce* (live witness oral) evidence, while also allowing portions of the hearing to be conducted on the documentary 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.

[36] 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 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

[37] The Board has considered the evidence before it and the parties' disclosure, submissions and arguments. While not all disclosure, evidence, submissions and arguments have been summarized or repeated here, the Board carefully considered the full record of evidence and argument before it in reaching its decision on the Appeal.

[38] Based on this fulsome review of the evidence and the parties' disclosure, submissions and arguments, the Board finds that AHS' decision to declare the Premises unfit for human habitation was reasonable. The Board accepts as reasonable AHS' arguments that:

- a) there were breaches of the PHA, NGRS and MHHS, as observed by the AHS-EOs;
- b) those breaches existed at the time of each of the inspections; and
- c) those breaches had not been rectified as of the date of the hearing of the Appeal.

[39] While the Board acknowledges the work that the Appellant has performed on the Premises and the property, and his assertions that he can bring the Premises into compliance with the terms of the Order, the Board finds that conditions exist in and about the Premises which are or may become injurious or dangerous to the public health or which might hinder the prevention or suppression of disease. In particular:

- a) During the initial inspection of the Premises and the property, the AHS-EO counted at least six people living in one of the trailers on the property, and power cords were running from the Premises to the trailers to supply them with electricity;
- b) Also, at the initial inspection, AHS-EOs could smell sewage and observed sewage effluent pooling at the surface outside the Premises;
 - i. In subsequent inspections, the septic system remains in a state of disrepair with a part of the septic tank missing.

⁹ *Vavilov*, at paras 99-101.

- c) The AHS-EOs also observed a portion of the roof of the Premises was covered with tarp held down by tires;
- d) Overall, the AHS-EOs observed that the property was not in a good state of repair, including water damage, evidence of leaks and exposed wiring;
- e) One of the AHS-EOs testified at the hearing that he did not believe that repairing the septic system, which was a critical breach of the regulations, was within the Appellant's abilities; and
- f) One of the property owners, Mr. Jacob Puurveen, indicated to the AHS-EO that he had no intention of fixing the property and planned to demolish it.

[40] The Board is also satisfied that the state of the Premises constitutes a nuisance in or about the Premises and potentially poses a risk, both to the Appellant, as the occupant of the Premises, and to persons occupying the surrounding area. Due to the condition of the Premises as observed by the EOs, the Appellant's physical and financial limitations described by him and AHS, and the evidence presented by the parties, the Board finds that the Appellant does not possess the certifications, expertise, and physical or financial resources to complete the work required to bring the Premises into compliance.

[41] The Board accordingly finds that the decision of AHS to declare the Premises unfit for human habitation is internally consistent and justified in light of the legal and factual constraints that bear on the decision.

[42] For the reasons given above, the Board varies the Order as follows:

1. The Appellant must vacate the premises by August 1, 2025, **unless**:
 - a) proof of inspection detailing the findings of the inspection is provided to and deemed acceptable by an Alberta Health Services Executive Officer of both the:
 - i. septic system, as inspected by a Safety Codes Officer or certified plumber; and
 - ii. electrical panel, as inspected by a Safety Codes Officer or certified electrician; OR
 - b) an alternate housing structure (i.e., a mobile home), with proof of inspection of water intake and sewage output systems, is installed, prior to August 1, 2025.
2. In the four weeks leading up to August 1, 2025, the Appellant must be the only person residing in the existing housing structure or anywhere on the property.

[43] The Order shall remain in effect until it is rescinded by AHS.

original signed

Kevin Kelly, Chair

On behalf of the Hearing Panel of the
Public Health Appeal Board

Date: