

**MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

Docket No. KEN-25-468

LAUREN SHAW REVOCABLE TRUST

Plaintiff/Appellant

v.

TOWN OF BELGRADE

Defendant/Appellee

On appeal from the Kennebec County Superior Court

REPLY BRIEF OF APPELLANT

Benjamin E. Ford (Bar No. 4528)
Michael J. Skolnick (Bar No. 6719)
Archipelago
1 Dana Street
Portland, ME 04101
bford@archipelagona.com
mksolnick@archipelagona.com
(207) 558-0102
Attorneys for the Appellant

Dated: April 29, 2026

TABLE OF CONTENTS

TABLE OF AUTHORITIES	3
INTRODUCTION	4
ARGUMENT	4
1. Whose measurement wins?	4
2. Is an easement for ingress and egress the same thing as a private road?	5
3. What is the definition of a bedroom for the purposes of the plumbing code?	6
CONCLUSION	7
CERTIFICATE OF SERVICE.....	9

TABLE OF AUTHORITIES

Cases

Jacobellis v. Ohio, 378 U.S. 184, 197 (1964) (Stewart, J., concurring)..... 6

INTRODUCTION

This case presents the Court with three critical questions: 1. Is this building 225 feet or 64 feet from the lake? 2. Can this lot be considered two separate lots under the Town's ordinances? 3. What is the legal definition of a bedroom? While the Town Code Enforcement Officer ("CEO") is entitled to a deferential standard with respect to his factual findings, each of these are legal questions to be answered by this Court *de novo*.

ARGUMENT

1. Whose measurement wins?

Where is this building exactly in relation to the lake? Gary Fuller, the first CEO found it to be 225 feet from the lake. Hans Rasmussen, the current CEO found it to be 64 feet from the lake. The proximity to the lake, or wetlands, forms the basis for most of the alleged violations. If the building is in fact 225 feet from the lake, the size and shape of the staircase becomes permissible as does the alleged "expansion" of the structure. The existence of the stone walkway becomes irrelevant; as does the need for a revegetation plan. If the 100-foot setback is removed as an issue, most of these alleged violations become a question of whether or not the changes were in the scope of the 2021 permit.

With the exception of a square, rather than rectangular staircase, the building permit describes exactly what was built on this site, including all the dimensions. If Ms. Shaw is entitled to rely on the written determinations of the prior CEO, then the remaining violations become a matter of obtaining after-the-fact permits.

In contrast, if the current CEO is allowed to overrule the findings of the prior CEO, the Town would have the authority to order the demolition of a building and the waste of \$300,000 of building expenses.

Contrary to Appellee's assertions, this is not a case of a property owner relying upon a prior CEO's oral assertions. Ms. Shaw has an actual building permit. That permit states the camp is a conforming building on a conforming lot. Sparse as they may be, those are factual findings. Appellee does not appear to dispute that those findings were reached after the CEO inspected the site.

2. Is an easement for ingress and egress the same thing as a private road?

Ms. Shaw is not claiming the kitchen is permissible because she was ignorant of the law. As argued previously, the kitchen is permissible because there is a private road separating the two dwelling units. Appellees would have this Court distinguish between a right of way easement for ingress and egress and a private road. Red Br. 31. Characterizing this as a "shared driveway" rather than "private road," Appellee argues the language of the Town's ordinances does not apply. But a shared driveway is the same thing as a private road. This road is an extension of Horse Point Road. It

transects the Shaw property and is used by the abutting neighbors to access their own land.

Ms. Shaw's ignorance of the kitchen restriction is relevant to her claim of estoppel. Had Ms. Shaw been aware of the kitchen restriction, her reliance on CEO Fuller's approvals might not have been justified. However, because she was not aware of the restriction and because CEO Fuller had been to the site and seen the existing kitchen, her reliance on the building permit in making a \$300,000 investment was reasonable and justified.¹

3. What is the definition of a bedroom for the purposes of the plumbing code?

CEO Rasmussen claims the authority to know a bedroom when he sees one. *See Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring). His standard appears to be if there is a bed in a room, no matter the size, shape, or configuration of the room, it's a bedroom. Under that logic, if someone puts a bed in an attic, it becomes a bedroom for the purposes of the plumbing code. If someone installs a Murphy Bed in the living room, it becomes a bedroom. If Ms. Shaw's grandchildren sleep in the pantry, that becomes a bedroom as well. A CEO is vested with substantial authority and duties, but arbitrarily deciding what is and is not a bedroom is not one of them. Appellants acknowledge there is sparse legal authority

¹ Appellee strenuously argues that Ms. Shaw cannot know what was in Mr. Fuller's head, but they do not dispute that he did visit the site prior to the issuance of the 2021 permit. In fact, there is a note about Mr. Fuller's visit in the building permit application. A. 162-163.

to define a bedroom. The question is whether this CEO has the authority to establish his own definition. Mr. Rasmussen has the authority and discretion to enforce the laws, not create new ones.

CONCLUSION

Counsel for Appellees makes a chilling statement: “A subsequent CEO is not precluded from taking new measurements or making new assessments as the need arrives in real time.” The authority implied in this claim is chilling. This argument suggests a CEO should be free to roam the town looking for what he considers to be violations in any building, no matter how old. Armed with a tape measure and the deferential “substantial evidence” standard, he should be free to reopen files, second guess the judgment of his predecessors, and reinterpret the scope of building permits. Finding a violation, that CEO can threaten to condemn a building if his terms are not met. Under such a rule, no building owner could ever be secure. No construction project would ever be complete. Under such a rule, the CEO becomes the most powerful and feared official in a small town. The potential for abuse becomes even more dire in cases, like this, where there is evidence of personal animus. Basic notions of fairness and due process must compel a different view from this Court.

Dated in Portland Maine, this 29th day of April 2026.

Respectfully submitted,

/s/ Benjamin E. Ford

Benjamin E. Ford (Bar No. 4528)

ARCHIPELAGO

1 Dana Street

Portland, ME 04101

mskolnick@archipelagona.com

bford@archipelagona.com

(207) 558-0102

Attorneys for the Appellant

CERTIFICATE OF SERVICE

I, Benjamin E. Ford Esq., hereby certify that I have this day caused a copy of the foregoing Reply Brief of Appellees to be mailed by U.S. Mail, first-class, postage prepaid and to counsel of record as follows:

Phillip Saucier, Esq.
Bernstein Shur
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029

Daniel Murphy, Esq.
Bernstein Shur
100 Middle Street
P.O. Box 9729
Portland, ME 04104-5029

Dated in Portland, Maine this 29th day of April 2026.

/s/ Benjamin E. Ford

Benjamin E. Ford (Bar No. 4528)

ARCHIPELAGO
1 Dana Street
Portland, ME 04101
mskolnick@archipelagona.com
bford@archipelagona.com
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