



Safety Codes Council

COUNCIL ORDER NO. 2025-05

BEFORE THE ADMINISTRATIVE TRIBUNAL OF THE BUILDING SUB-
COUNCIL

(the "Tribunal")

ON AUGUST 13, 2025

IN THE MATTER OF the *Safety Codes Act*, Revised Statutes of Alberta 2000, Chapter S-1 (the "Act");

AND IN THE MATTER OF the notice of cancellation sent by Rocky View County (the "Respondent") to Bears paw Seniors Living Inc. (the "Appellant") on June 3, 2025 (the "Notice of Cancellation") regarding an issued permit for a farm exempted building (the "Building Permit") to build a greenhouse (the "Building") on the land [REDACTED] (the "Property");

UPON REVIEWING AND CONSIDERING the evidence named in **The Record**, including written submissions of the Appellant and Respondent; and **UPON HEARING** the testimony of the parties at the hearing;

IT IS HEREBY ORDERED THAT the Notice of Cancellation is REVOKED.

Appearances, Preliminary, Evidentiary, or Procedural Matters:

1. The hearing for this matter was conducted by virtual means.
2. At the commencement of the hearing, the Coordinator of Appeals confirmed the subject of the appeal as the Notice of Cancellation and confirmed the names of those in attendance:
 - a. Appearing for the Appellant, the Tribunal heard from:
 - i. Christopher Davis, legal counsel to the Appellant;
 - ii. Ken [REDACTED] principal for the Appellant;
 - b. Appearing for the Respondent, the Tribunal heard from:
 - i. Adam [REDACTED] Safety Codes Officer for the Respondent;
 - c. Facilitating the hearing on behalf of the Safety Codes Council:
 - i. Jordyn Dryden, legal counsel for the Tribunal and Coordinator of Appeals.
3. The Coordinator of Appeals then introduced the Chair of the Tribunal (the "Chair"), Corey Klimchuk and turned the hearing over to them.

4. The Chair called the hearing to order and introduced the other Tribunal members: Geoff Brownlie and Cam Buskell.
5. The Appellant and Respondent confirmed there were no objections to any members of the Tribunal, and that the Safety Codes Council in general and the Tribunal in particular had jurisdiction to hear and decide the appeal. The Tribunal also confirmed they had jurisdiction to hear and decide this appeal.
6. The Chair then explained the process of the hearing and advised of the list of the written material before the Tribunal, consisting of the documents listed below in **The Record** (see paragraph 7). The Appellant and Respondent confirmed that there were no objections to any of the material submitted to the Tribunal.

The Record:

7. The Tribunal considered, or had available for reference, the following documentation:

	<u>Description</u>	<u>Date</u>
1.	Notice of Appeal	June 24, 2025
2.	Notice of Cancellation	June 3, 2025
3.	Appellant’s Brief	August 1, 2025
4.	Respondent’s Brief	August 1, 2025

Issue:

8. This appeal concerns the cancellation of the Building Permit by Rocky View County and the validity of the Building Permit’s issuance and its subsequent cancellation, particularly whether the Building’s design was truly consistent with its approved use and if the cancellation was based on “reasonable and probable grounds” as required by the Safety Codes Act.

Positions of the Parties:

Appellant

From the Appellant’s submissions and testimony, the Appellant’s position is summarized as follows:

9. It is the Appellant’s position that the Safety Codes Officer (the “SCO”) does not have the authority to issue or cancel a permit for the Building as it is an exempt structure under the National Building Code AE 2023 (the “Building Code”), and that, in the alternative, if the SCO does have the authority, the cancellation was improper and based on irrelevant information rather than “reasonable and probable grounds” as mandated under the Safety Codes Act.

Respondent

From the Respondent's submissions and testimony, the Respondent's position is summarized as follows:

10. It is the Respondent's position that the cancellation of the Permit is justified as the permit was issued in error, as the Building's intended use for vehicle storage, not as a greenhouse, and as such a building for vehicle storage does require a building permit and the Building does not meet the requirements for an accessory structure because there is no primary single-family dwelling on the property, which is required under the parcel's zoning.

Summary of the Evidence Provided On Behalf of the Appellant:

Written Submissions on behalf of the Appellant:

11. The Property is owned by the Appellant, located in a residential rural ("R-RUR") land use district. The R-RUR district allows for "Discretionary Accessory Buildings".¹ Rocky View County's Land Use Bylaw indicates that development permits are not required for "Agriculture (General) activities" nor for accessory buildings that involve the placement or construction of an accessory building in an Agricultural district.²
12. The Appellant intends to build a greenhouse for agricultural products or related equipment used in connection with growing farm crops, which is defined as an "agricultural operation" under the Agricultural Operation Practices Act, RSA 2000, c A-7, and would comply with the relevant Land Use Bylaws and Subdivision requirements.
13. On approximately February 25, 2025, the Appellant applied for a "Farm Building Exemption", upon the advice of the Respondent. In making the application, the Appellant confirmed that the proposed building would be for agricultural products or related equipment, that it would be used for an "agricultural operation" as defined by the Agricultural Operation Practices Act, that it would comply with all applicable Land Use Bylaws, and would not be used for any other occupancy. The application also included a site plan.³
14. On March 20, 2025, the Respondent issued a "Farm Building Exemption" permit. Upon receiving this approval, the Appellant ordered and received structural steel and other material needed to construct the Building.⁴
15. On June 3, 2025, the SCO issued a "Permit Cancellation Notice" under section 46 of the Safety Codes Act, stating the permit cancellation was issued "on reasonable and probable grounds... the building in question is intended for the storage of cars, which is not consistent with the information submitted or the intended use disclosed under the application."⁵
16. It is the position of the Appellant that neither the Building Code nor the Land Use Bylaw apply to the matter at hand, as the Building falls under the Farm Building Exemption as it complies with the definition of an agricultural operation under the Agricultural Operation Practices Act. As such, the

¹ The Record, page 20

² The Record, page 22

³ The Record, page 11-12

⁴ The Record, page 12

⁵ The Record, page 5

issuance of the Building Permit was not required and void, and therefore the cancellation of this Building Permit would also be of no force or effect.⁶

17. In the alternative, if the Tribunal finds the Building Code does apply to the Building, the Appellant submits that the Cancellation Notice was based on conjecture and belief that the Building will be used for a use contrary to the stated intended use and not on any actual evidence the Building is being used improperly. The Appellant submits that a “perceived ‘intention’ to commit a breach... is not ground to cancel an issued permit.”⁷

Evidence on behalf of Ken [REDACTED]

18. Ken [REDACTED] (“Ken”) is a principal with the Appellant.
19. Ken informed the Tribunal that the Appellant has owned the Property for a number of years and have plans for a seniors development on the land in the future. The Property is adjacent to another property which the seniors residence is built on. However, the Property is a separate parcel.
20. Ken told the Tribunal that Appellant was approached by an individual who had wanted to lease approximately 8 acres on the Property for garages to store classic vehicles. At the time, the Appellant thought it was a good opportunity to develop some cash flow, and to prepare for the future storage needs of the residents when the Appellant is able to build the planned seniors development on the Property.
21. The Appellant had a preliminary meeting with the Respondent to discuss the proposed development and lease arrangement. At this meeting, the Respondent turned the Appellant’s proposal down. Ken informed the Tribunal that the Appellant did not continue to pursue this opportunity when the Respondent refused the proposal.
22. Ken then told the Tribunal that he made a subsequent application to build an auxiliary building on the Property to store his tractor. That permit was denied because there is no residence on the Property. The seniors residence is on the adjoining property that is also owned by the Appellant.
23. The Appellant then made an application to build a greenhouse on the Property. The plans submitted show a fully transparent structure, as is consistent for a greenhouse. Ken told the Tribunal that it will have up to six planting areas with waist-level planting boxes. It would initially be used by the Appellant but they do see the possibility of some commercial opportunity in the future.
24. The application for the greenhouse was approved and the Permit was issued on March 20, 2025. Ken said that, based on the Permit’s issuance, the Appellant ordered the parts for the Building, which have since arrived.
25. Ken informed the Tribunal that when they received the Notice of Cancellation they were shocked and distressed, especially being “accused of something we’ve not done” when the Building had not been constructed. Ken emphasized that the Building is intended to be used as a greenhouse and they have been consistent with the conditions of the agricultural exemption.

⁶ The Record, page 14

⁷ The Record, page 14

Legal Counsel's Submissions on behalf of the Appellant:

26. The Appellant submit to the Tribunal that the Building is an exempt structure not requiring a building permit, as section 1.1.1.1(1)(d) of the Building Code exempts low human occupancy farm buildings. This section states that the Building Code does not apply to a building that is of low human occupancy and is associated with the operation of the farm on which it is located. For this exemption to apply, the building must be used for one of three specific purposes: (i) the housing of livestock, (ii) the storage or maintenance of equipment, or (iii) the storage of materials or produce. The Appellant submits that it is this third purpose that applies to the Building.
27. Under the Permit Regulation, a "farm building" refers to a building located on an agricultural land base, occupied for an agricultural operation, as defined by the Agricultural Operations Practices Act.
28. The Appellant's position is that because the Building does fall under the farm building exemption, and that what was issued to the Appellant was a farm building exemption permit - which is not required for construction. Accordingly, there is no permit capable of being cancelled. In other words, if no permit is required, there is nothing to revoke or cancel and the Permit and the Notice of Cancellation are without legal effect.
29. The Appellant also submits to the Tribunal that the Respondent's rationale for the cancellation were couched in land use application and land use matters, including development permit matters, which does not fall under the jurisdiction of the Safety Codes Act.
30. The Appellant also submits that, in addition or in the alternative, the Notice of Cancellation was improper and based on improper rationale.
31. It is the Appellant's position that the principle outlined in Justice Prowse's rationale in *Delinga* that "nowhere in the Act is there any suggestion that the character of an applicant for a permit is a relevant planning consideration" applies to the case at hand, wherein the SCO improperly took irrelevant information, namely the previous denied applications or alleged intentions, into account on whether a permit should be issued. The Appellant further submits that, as stated in *Delinga*, if a statutory body takes into account matters not within its jurisdiction its decision "cannot stand".⁸
32. The Appellant submits that the SCO's reliance on innuendo or hearsay does not meet the "reasonable and probable grounds" test required under section 46 of the Safety Codes Act, which requires evidence of a substantial nature that justify the grounds. Specifically, the Appellant references a previous Safety Codes Council Tribunal decision which states that "belief in the mere possibility that something could exist is insufficient" to meet the reasonable and probable grounds test.

Summary of the Evidence Provided On Behalf of the Respondent:

Written Submissions on behalf of the Respondent:

33. The Respondent first became involved with the Appellant when the Appellant applied for a building permit for an accessory building on October 7, 2024, for storage of vehicles. The Respondent denied

⁸ The Record, page 56

the application as there was no primary building or dwelling on the Property.⁹

34. After the application was denied, the Appellant then applied for a farm building exemption on the Property on November 13, 2025. This application proposed a metal storage building. The Respondent states this application did not meet the setback requirements. The Respondent also required additional information about the floorplan, which was not provided, despite the Appellant having an opportunity to do so. As a result, this application was denied.¹⁰
35. The Appellant then again applied for a farm building exemption. The application materials and plans were “nearly identical” to the application submitted on November 13, 2025, with the exception of the proposed use for the building, which stated the building would be a greenhouse. This application was accepted and the Respondent issued the Building Permit.¹¹
36. On the 28th of May, 2025, the Respondent received a complaint alleging that the Appellant had commenced construction of the Building and it “was apparent that the building was not a greenhouse” but was in fact a six door vehicle storage building. The complainant also stated that they had been told by the Appellant’s representatives, Ken and his business partner, that they were going to develop the property into a recreational vehicle and vehicle storage business.¹²
37. In response to the complaint, the Respondent reviewed the submitted plans for the Building again, and noted that the building was fully enclosed, had a solid roof, contained multiple partitions, and had garage doors. The Respondent determined that the plans were inconsistent with a greenhouse or farm building.¹³
38. The Respondent, having re-examined the plans, determined that the Building Permit had been issued in error and that the “undertaking for which the Building Permit had been issued would contravene the Safety Codes Act and the Municipal Government Act.” The Respondent submits that it was upon reasonable and probable grounds they determined the Building was actually a vehicle storage building and therefore required an appropriate building permit.¹⁴ The Respondent issued the Notice of Cancellation on June 3, 2025.
39. The Respondent acknowledges that safety codes officers are not authorized to enforce planning regulations of the county, section 26 of the Permit Regulation states that a safety codes officer may be cancelled where the undertaking contemplated by the permit is contrary to the Safety Codes Act or any other enactment, and therefore the cancellation is not outside the Safety Codes Officer’s jurisdiction.¹⁵

Evidence made on behalf of Adam [REDACTED]

40. Adam [REDACTED] (“Adam”) is a SCO with the Respondent and the SCO who issued the Notice of Cancellation.
41. Adam informed the Tribunal that the Appellant applied for a building permit for an accessory building

⁹ The Record, page 68

¹⁰ The Record, page 68

¹¹ The Record, page 68

¹² The Record, page 68

¹³ The Record, page 68

¹⁴ The Record, page 69

¹⁵ The Record, page 69

for car storage on October 7, 2024, and that this application was denied because there was no primary building or dwelling on the Property, which is required by the R-RUR zoning.

- 42.** Subsequently, on November 13, 2024, the Appellant applied for a farm building exemption for a metal storage building, which was denied as it did not meet setback requirements and the Respondent required further floorplan information, which the Appellant failed to provide.
- 43.** Adam then stated that on March 20, 2025, the Appellant applied for a farm building exemption for a greenhouse. Adam informed the Tribunal that the application materials and plans were nearly identical to the previous exemption application, except for the change in proposed use. Based on the Appellant's application, the Respondent initially deemed it to meet the farm building definition and issued the Building Permit.
- 44.** Adam informed the Tribunal that the Respondent requires a farm building exemption permit as an administrative record and review process. The purpose of this process is to review the proposed building to ensure it complies with the farm building exemption criteria and to create an official record of the building and its approved use for tracking purposes. Once the exemption permit is issued, a permit services report is issued immediately to close out the permit and grant occupancy for record keeping. Adam agreed that the farm building exemption permit is not considered a traditional building permit.
- 45.** Adam agreed that if a building meets the requirements for a farm exempt building, the Building Code and the permit regulations exempt it from requiring a traditional building permit. The Notice of Cancellation refers to a permit cancellation because in the Respondent's system it is a permit for recordkeeping purposes.
- 46.** Adam informed the Tribunal that the Respondent received a complaint from someone close to the property on May 28, 2025, that the Appellant was commencing construction on a building that was not a greenhouse but a six-door vehicle storage building. The complainant also stated that Ken and his business partner had stated that the Property would be developed into a recreational vehicle and vehicle storage business, which was consistent with the previous denied applications. No written evidence was provided with the complaint.
- 47.** Based on the complaint, Adam informed the Tribunal that the Respondent did a review of the plans and noted the Building appeared inconsistent with a greenhouse or farm building. Based on this review, Adam determined that the Appellant had not complied with the Safety Codes Act.
- 48.** Adam submits to the Tribunal that, because the Building was determined to not be a farm building but a vehicle storage building, the Building Permit was issued in error, as an appropriate building permit would be required for a vehicle storage building. And as the zoning of the Property does not permit a vehicle storage building without a primary dwelling first being constructed, a permit would not be permitted.
- 49.** In answering a question from the Tribunal, Adam stated that nothing had changed in the proposed design of the Building from the time it was initially approved as an exempt building to the time the complaint was made. The error in issuing the Building Permit was attributed to a different SCO who performed the initial review.
- 50.** Adam submits that it is the Respondent's position that the proposed Building design is not consistent with a greenhouse but rather is consistent with a vehicle storage building and therefore requires a

development permit and is not permitted under the Land Use Bylaw as a R-RUR zoned property.

Reasons for Decision:

51. On an appeal such as this, the powers of the Tribunal are set out in subsection 52(2) of the *Act*, the relevant excerpt is reproduced below:

52(2) The Council may by order

(a) confirm, revoke or vary [a]... cancellation appealed to it and as a term of its order may issue a written variance with respect to any thing, process or activity related to the subject-matter of the order if in its opinion the variance provides approximately equivalent or greater safety performance with respect to persons and property as that provided for by this Act

Validity of the Permit and Subsequent Cancellation

52. The crux of this appeal is whether a building permit was required under the Safety Codes Act, and therefore whether the Notice of Cancellation is valid.

53. The Tribunal agrees with the Appellant that if a building is exempt then the Safety Codes Act does not apply and therefore the cancellation does not apply. Therefore, the Tribunal must first determine if the Building in question is exempt under the farm building exemption in the Permit Regulations.

54. The Permit Regulations define a farm building as a building located on an agricultural land base, occupied for an agricultural operation, as defined in the Agricultural Operation Practices Act. As established above, the Property is zoned as R-RUR. Under the Land Use Bylaw, the R-RUR zoning is described as providing for “residential uses in a rural setting on parcels which can accommodate limited agricultural pursuits.”¹⁶ Therefore, the Property is located on an agricultural land base.

55. The Agricultural Operation Practices Act uses the term “agricultural operation” in its definition of a farm building. Agricultural operation is defined as including “(iv) the production of agricultural field crops, fruit, vegetables, sod, trees, shrubs and other specialty horticultural crops” and “(vii) the operation of agricultural machinery and equipment, including irrigation pumps”.¹⁷ As a greenhouse’s primary function is to provide an environment and climate to support the growth of plants, including fruits and vegetables, the Building meets the definition of an agricultural operation under the Agricultural Operation Practices Act.

56. As these conditions are met, the Tribunal finds that the Building does fall under the definition of a farm building under the Permit Regulations. Now, the Tribunal must determine if the Building meets the exemption requirements for a farm building.

57. The Building Code, section 1.1.1.1(1)(d) states that the Building Code does not apply to a farm building that is of low human occupancy and is associated with the operation of the farm on which it is located. Low human occupancy is defined as having an occupant load of no more than 1 person per 40 meters square of floor area during normal use. The design for the Building indicates the Building is 2000 square feet, which is 185.806 square meters. The maximum occupant load calculation for low human

¹⁶ Land Use Bylaw, section 317

¹⁷ Agricultural Operation Practices Act, section 1(1)(b).

occupancy for a building of this size is four persons. Under the Appellant's application for the exemption the occupant load was declared as being three persons. Therefore, this meets the criteria for low human occupancy.

- 58.** The Building Code, section 1.1.1.1(1)(d) then states that the building must be used for one of three specific purposes, as referenced above. A greenhouse with planting beds falls under the "storage of materials or produce" purpose allowed under this exemption. So, under the Building Code, the Tribunal finds that the Building has met the requirements for a farm building exemption.
- 59.** As the Building has met the requirements for a farm building exemption, the Tribunal has determined that a building permit is not required and therefore the cancellation is void.

Reasons for Cancellation

- 60.** Despite the Tribunal determining that the Notice of Cancellation is void, other arguments were raised by the parties and therefore will be addressed.
- 61.** The Appellants submit to the Tribunal that the Notice of Cancellation was not only incorrectly issued but was issued based on irrelevant considerations and assumptions. The Tribunal agrees.
- 62.** The Notice of Cancellation was triggered by a verbal complaint that the Building was actually a vehicle storage building rather than a greenhouse and that the Appellant had previously discussed a vehicle storage business on the Property with the Respondent.
- 63.** The Tribunal does acknowledge that the Respondent had a reason to question the Appellant's application after receiving a complaint as the complaint was consistent with previous applications. The Tribunal agrees that this complaint provides proper justification for the Respondent to revisit the application, to do a site visit, or to contact the Appellant for more information. However, the Tribunal agrees with the Appellant that this is not enough to justify a cancellation.
- 64.** The Respondent admitted that nothing had changed in the actual design of the Building between the permit issuance and subsequent cancellation. The only thing that changed was the perspective of the reviewing SCO, whose perspective was colored by assumptions rather than proof. The SCO assumed that the presence of bay doors meant the Appellant was going to use the Building improperly. However, bay doors are not solely used for garages and their presence alone does not indicate improper use.
- 65.** The Respondent also relied on previous applications to infer the Appellant was going to use the Building improperly once it was built. This is also improper. An applicant's past conduct is irrelevant to a permit decision, as the permit issuer's jurisdiction is focused on the actual use. Individuals are allowed to change their mind and their plans and it is improper to use previous ideas or applications to reject an otherwise valid application.
- 66.** Additionally, even if the Appellant had intended to use the Building for vehicle storage rather than as a greenhouse, they had not yet done so. Anticipatory judgements based on speculation about future intent, rather than current evidence, are improper. Permits and buildings are to be based on what is and not what could be. If the Appellant had constructed the building and was storing vehicles inside then there are processes for addressing those contraventions. And even if this is the Appellant's intention, they have not yet done so and therefore cannot be punished for something that has not yet happened.

Conclusion

- 67.** For the reasons described above, the Tribunal has determined that the Building falls under the farm building exemption and therefore does not require a permit. This effectively makes the Notice of Cancellation void.
- 68.** The Tribunal, as identified above, only has the power to uphold, vary or revoke a cancellation. And therefore, in recognition of the powers available to the Tribunal, the Notice of Cancellation is hereby revoked.

Signed at the City of Edmonton)
in the Province of Alberta)
this 26th day of 2025)



Corey Klimchuk
Chair, Building Sub-Council
Administrative Tribunal