



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1204

H.P. 848

House of Representatives, March 26, 2013

**An Act To Clarify the Appeal Process of Code Enforcement Officers
and Boards of Appeal**

Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HOBBS of Saco.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 30-A MRSA §2691, sub-§4**, as enacted by PL 1987, c. 737, Pt. A, §2 and
3 Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is
4 further amended to read:

5 **4. Jurisdiction.** Any municipality establishing a board of appeals may give the
6 board the power to hear any appeal by any person, affected directly or indirectly, from
7 any decision, order, regulation or failure to act of any officer, board, agency or other body
8 when an appeal is necessary, proper or required. ~~No board may assert jurisdiction over~~
9 ~~any matter unless the municipality has by charter or ordinance specified the precise~~
10 ~~subject matter that may be appealed to the board and the official or officials whose action~~
11 ~~or nonaction may be appealed to the board.~~ Absent an express provision in a charter or
12 ordinance that certain decisions of its code enforcement officer or board of appeals are
13 only advisory, a notice of violation or an enforcement order by a code enforcement
14 officer under a land use ordinance is reviewable on appeal by the board of appeals and in
15 turn by the Superior Court under the Maine Rules of Civil Procedure, Rule 80B. Any
16 such decision that is not timely appealed is subject to the same preclusive effect as
17 otherwise provided by law. Any board of appeals shall hear any appeal submitted to the
18 board in accordance with Title 28-A, section 1054.

19

SUMMARY

20 This bill seeks to address the decision in Eliot Shores, LLC v. Town of Eliot, 2010
21 ME 129, 9 A.3d 806, by allowing the board of appeals for a municipality to review a
22 decision of a code enforcement officer for that municipality unless the charter or an
23 ordinance of the municipality expressly provides that the decision of the code
24 enforcement officer or board of appeals is only advisory.