



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LA06002
Order LA06-08**

IN THE MATTER of a supplement to
Order LA06-06, issued by the Commission
on May 31, 2006.

BEFORE THE COMMISSION
on Tuesday, the 20th day of June, 2006.

Brian J. McKenna, Vice-Chair
Kathy Kennedy, Commissioner
Anne Petley, Commissioner

Order

Compared and Certified a True Copy

(sgd.) Philip J. Rafuse

Land and Appeals Officer
Land, Corporate and Appellate Services Division

IN THE MATTER of a supplement to
Order LA06-06, issued by the Commission
on May 31, 2006.

Order

WHEREAS the Commission issued Order LA06-06 on May 31, 2006 after holding a public hearing on April 19, May 1 and 2, 2006;

AND WHEREAS the Commission, in Order LA06-06 stated the following in paragraph 29 of said Order:

29. The Appellants submitted that a conflict of interest occurred given that the property where the proposed road would run through is currently owned by a close relative of the Mayor and Deputy Mayor. The Commission notes that it is a rezoning of parcels 739003 and 790246 which is under appeal, not the creation of a new highway exit and roadway. However, as it appears that at least some of the impetus for the haste of the Respondent's rezoning process was as a result of a desire to move forward on the new highway exit and roadway, it would be prudent for the Mayor and Deputy Mayor to abstain from any future participation in discussions or voting.

AND WHEREAS the Commission seeks to clarify the intended meaning of paragraph 29;

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Planning Act* the Commission hereby issues the following supplement to Order LA06-06;

1. **At the public hearing, the Appellants made an allegation that a conflict of interest occurred;**
2. **Some evidence presented at the public hearing gave the appearance of a conflict of interest. However, an important distinction between an appearance of a conflict of interest, and an actual conflict of interest, must be made.**
3. **The Commission at no time made a finding in Order LA06-06 that a conflict of interest had in fact occurred;**

4. In order to assist the Respondent in avoiding any future appearance of a conflict of interest, the Commission suggested in Order LA06-06 that it would be prudent for the Mayor and Deputy Mayor to abstain from any future participation in discussions or voting. However, such abstention is not legally required. The decision whether to abstain from discussions and voting remains with the individual elected official.
5. For greater certainty, and to avoid any misunderstanding, the Commission notes that there is no evidence that a conflict of interest actually existed in this matter.

DATED at Charlottetown, Prince Edward Island, this 20th day of June, 2006.

BY THE COMMISSION:

Brian J. McKenna, Vice-Chair

Kathy Kennedy, Commissioner

Anne Petley, Commissioner

NOTICE

Section 12 of the *Island Regulatory and Appeals Commission Act* reads as follows:

12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it or rehear any application before deciding it.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written **Request for Review**, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13.(1) and 13(2) of the *Act* provide as follows:

13.(1) An appeal lies from a decision or order of the Commission to the Appeal Division of the Supreme Court upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Supreme Court within twenty days after the decision or order appealed from and the Civil Procedure Rules respecting appeals apply with the necessary changes.

IRAC141B(99/2)