



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LA05012 and
LA05020
Order LA06-11**

IN THE MATTER of an appeal by Gregg Guptill, John Moore and Gerald Morneau of a June 1, 2005 Development Agreement and a June 3, 2005 decision of the City of Summerside.

BEFORE THE COMMISSION

on Tuesday, the 28th day of November, 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 an appeal by Gregg Guptill, John Moore and Gerald Morneau of a June 1, 2005 Development Agreement and a June 3, 2005 decision of the City of Summerside.

Order

WHEREAS the Appellants Gregg Guptill, John Moore and Gerald Morneau filed an appeal (LA05012) of a June 3, 2005 decision of the Respondent City of Summerside to issue building permit #2005-0554 for the construction of a condominium project;

AND WHEREAS in Order LA05-12, dated November 18, 2005, the Commission determined that it did have the jurisdiction to hear appeal docket LA05012;

AND WHEREAS the Appellants filed an appeal (LA05020) of a June 1, 2005 Development Agreement between the Respondent and Henry Court Inc.;

AND WHEREAS documents were presented by the Respondent to the effect that both building permit #2005-0554 and its associated Development Agreement referred to above were no longer in effect and, in fact, a new building permit and development agreement were approved by the Respondent and are presently under appeal as docket LA06012 which is currently before the Commission;

AND WHEREAS the Commission considered this matter at a public hearing in Charlottetown on October 24, 2006;

AND WHEREAS the Commission gave all parties the opportunity to be heard on this matter;

AND WHEREAS the Appellants requested an opportunity to file written submissions on this matter;

AND WHEREAS the Commission agreed to allow the Appellants the opportunity to file written submissions by November 7, 2006;

AND WHEREAS no written submissions were received from the Appellants;

AND WHEREAS the Commission has issued its findings in this matter in accordance with the Reasons for Order issued with this Order;

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Planning Act*

IT IS ORDERED THAT

1. The building permit #2005-0554 dated June 3, 2005 and the June 1, 2005 Development Agreement between the City of Summerside and Henry Court Inc. are no longer valid and thus cease to be a “decision” within the meaning of subsection 28(1) of the *Planning Act*.
2. As the aforementioned building permit and Development Agreement cease to be a decision of the Respondent, appeal dockets LA05012 and LA05020 are hereby dismissed.

DATED at Charlottetown, Prince Edward Island, this 28th day of November, 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.

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