



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**

Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket LR12024  
Order LR12-32**

**IN THE MATTER** of an appeal under  
Section 25 of the Rental of Residential  
Property Act, by Russell and Wilma Drake  
against Order LD12-242 dated September 7,  
2012 issued by the Director of Residential  
Rental Property.

**BEFORE THE COMMISSION**

on Monday, the 10th day of December, 2012.

John Broderick, Commissioner  
Michael Campbell, Commissioner  
Peter McCloskey, Commissioner

---

# Order

Compared and Certified a True Copy

(Sgd.) Susan D. Jefferson

---

Commission Administrator  
Land, Corporate and Appellate Services Division

**IN THE MATTER** of an appeal under Section 25 of the Rental of Residential Property Act, by Russell and Wilma Drake against Order LD12-242 dated September 7, 2012 issued by the Director of Residential Rental Property.

---

# Order

---

## BACKGROUND

On September 26, 2012, the Commission received a Notice of Appeal filed by two lessees, Russell and Wilma Drake (the Appellants) appealing Order LD12-242 issued by the Office of the Director of Residential Rental Property (the Director) on September 7, 2012.

James Platts (Mr. Platts) also filed an appeal of Order LD12-242. His appeal was scheduled to be heard at the same time as the Appellants' appeal. As Mr. Platts failed to appear at the hearing, his appeal was dismissed.

By way of background, on November 1, 2011 a lessor, MacRae Holdings Ltd. (the Respondent) filed with the Director a Form 12 – Application by Lessor for Approval of Rental Increase Exceeding Percentage Allowable by Regulation dated October 27, 2011 which application was delivered to each of the 112 residents of the Meadowvale mobile home park.

In Order LD12-242 issued to the “Residents of Meadowvale Mobile Home Park”, the Director ordered as follows:

***“IT IS THEREFORE ORDERED THAT***

- 1. The rent increase is approved for the Meadowvale mobile home park located in Miltonvale, PE and the new lot rent shall be \$159.95 per month for each lot included in the application. This rent increase shall be effective September 1, 2012.”*

The matter was heard before the Commission on November 1, 2012. The Appellants were represented by Wilma Drake who was assisted by Gary Bowness. The Respondent was represented by Harrison MacRae who was assisted by legal counsel, Lynn Murray and Keri Seward-Carpenter. Darrell Fisher and Michael Fitzpatrick were witnesses for the Respondent.

## EVIDENCE

The Commission heard in-depth evidence from Harrison MacRae. Mr. MacRae is the sole director of the Respondent. Mr. MacRae's evidence provided the Commission with background information to better understand the operations of the Respondent's mobile home park.

Darrell Fisher is a professional engineer and branch manager for the Charlottetown office of EXP Services Inc., an engineering firm. His testimony provided the Commission with important engineering evidence with respect for the need for a new sewage system for the Respondent's mobile home park. In summary, his evidence was to the effect that the most cost effective and environmentally responsible solution was for the mobile home park to connect to the City of Charlottetown's sewage system and for the existing lagoon system to be filled in. The sewage connection project was completed earlier in 2012 and the filling in of the lagoon is expected to be accomplished in the spring of 2013.

Mike Fitzpatrick is a chartered accountant whose accounting firm provides services for the Respondent. Mr. Fitzpatrick reviewed various financial statements in considerable depth.

Counsel for the Respondent emphasized that the ***Rental of Residential Property Act (the Act)*** authorizes a rental increase to allow a lessor to avoid financial loss, meet operating and capital expenses and provide a reasonable rate of return for the lessor's investment. Counsel urged the Commission to confirm the Director's decision not only to meet the capital and ongoing expenses associated with the new sewage system but to ensure the continued financial viability of the Respondent.

Wilma Drake (Mrs. Drake) raised some concerns (street lighting and pavement) not directly related to the Respondent's present application. Mr. Bowness acknowledged that the Respondent's mobile home park is a business and as such needs to be profitable.

## DECISION

Based on the figures provided by the Respondent, the Commission finds that the mobile home lot rental rate set by the Director of \$159.95 per month for all 112 lots provides a reasonable gross income for the Respondent to meet the sewer capital cost already incurred in 2012, the upcoming (expected in the spring of 2013) sewer capital cost associated with the filling in of the old lagoon, the ongoing sewer charges which the Respondent must pay to the City of Charlottetown Water and Sewer Utility and to allow for a reasonable return on the Respondent's investment.

The Commission finds that the Appellants did not pursue their appeal as a challenge to the Director's Order but rather presented their appeal as a request for a review of Order LD12-242 to ensure that the proposed increase was fully justified and explained. In doing so, the Appellants had an opportunity to question the Respondent's witnesses, better understand the financial data, and receive clarification as a whole. For example, it is now fully clear that the Appellants and other tenants in the Respondent's mobile home park will not be paying individual sewer bills to the City of Charlottetown and that the present water system is likely to continue for the foreseeable future.

As the Appellants have not offered evidence to challenge the financial data presented by the Respondent and as the Respondent's financial data appears reasonable, the appeal is denied and Order LD12-242 is confirmed, subject to a revised commencement date for the rental increase of January 1, 2013.

**NOW THEREFORE**, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Rental of Residential Property Act*

**IT IS ORDERED THAT**

1. The appeal is denied.
2. The Director's determination that a rent increase is approved for the Meadowvale mobile home park located in Miltonvale, PE and the new lot rent shall be \$159.95 per month for each lot included in the application.
3. The above noted rent increase shall be effective commencing January 1, 2013.

**DATED** at Charlottetown, Prince Edward Island, this **10th** day of **December, 2012**.

**BY THE COMMISSION:**

\_\_\_\_\_  
(sgd. John Broderick)

John Broderick, Commissioner

\_\_\_\_\_  
(sgd. Michael Campbell)

Michael Campbell, Commissioner

\_\_\_\_\_  
(sgd. Peter McCloskey)

Peter McCloskey, Commissioner

## NOTICE

Sections 26.(2), 26.(3), 26.(4) and 26.(5) of the ***Rental of Residential Property Act*** provide as follows:

*26.(2) A lessor or lessee may, within fifteen days of the decision of the Commission, appeal to the court on a question of law only.*

*(3) The rules of court governing appeals apply to an appeal under subsection (2).*

*(4) Where the Commission has confirmed, reversed or varied an order of the Director and no appeal has been taken within the time specified in subsection (2), the lessor or lessee may file the order in the court.*

*(5) Where an order is filed pursuant to subsection (4), it may be enforced as if it were an order of the court.*

## NOTICE: IRAC File Retention

In accordance with the Commission's Records Retention and Disposition Schedule, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.

IRAC141y-SFN(2009/11)