

2016-2017

# Prince Edward Island Regulatory & Appeals Commission ANNUAL REPORT



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**ISBN Number:** 978-1-988666-00-0



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Fiscal 2016-2017







# LETTER OF TRANSMITTAL

The Honourable Jordan Brown  
Minister of Education, Early Learning and Culture  
Province of Prince Edward Island

Honourable Mr. Brown:

The Island Regulatory and Appeals Commission has the honour to present its Annual Report for the year ending March 31, 2017.

Respectfully submitted.



J. Scott MacKenzie, Q.C.  
Chair and Chief Executive Officer



Chair and Chief Executive Officer - J. Scott MacKenzie, Q.C.

## COMMENTS FROM THE CHAIR

I am pleased to present the Annual Report from the Prince Edward Island Regulatory and Appeals Commission for the year ending March 31, 2017. During this past year, the Commission continued its review of operations and allocation of human resources, as well as our work with external consultants on the governance and organizational structure of the Commission.

The revenue of the Commission increased slightly over the last fiscal period due to an increase in land fees received under the *Lands Protection Act*. These year-to-year fluctuations in revenue cannot be predicted as they are determined by real estate market activity in the province.

As we reported last year, the Commission now employs a more in-depth review of planning appeal applications to deal with questions of jurisdiction, and to determine if an appeal can be resolved through mediation rather than more adversarial mechanisms. The Commission's efforts to promote alternative dispute resolution have been successful with almost half of the appeals settled through mediation.

Through the *Insurance Act*, the Commission regulates automobile insurance rates. All insurers must file their rates with Commission annually. Once again, PEI had the lowest average annual premium costs for private passenger vehicles in the Atlantic Provinces, and amongst the lowest in Canada.

I want to thank the dedicated staff of the Commission who work diligently to serve the public, providing assistance in situations where people are in conflict. I would like to recognize the contribution of our full-time and part-time commissioners, Vice-Chair Doug Clow, Commissioner John Broderick and our part-time commissioners, Jean Tingley and Terry McKenna.

A handwritten signature in blue ink, appearing to read 'J. MacKenzie', with a stylized flourish at the end.

J. Scott MacKenzie, Q.C.,  
Chair and CEO

# COMMENTAIRES DU PRÉSIDENT

Je suis heureux de présenter le rapport annuel de la Commission de réglementation et d'appels de l'Île-du-Prince-Édouard pour l'exercice se terminant le 31 mars 2017. Au cours de la dernière année, la Commission a poursuivi son examen des activités et de l'affectation des ressources humaines, ainsi que son travail avec des conseillers externes sur sa gouvernance et sa structure organisationnelle.

Pendant la période de rapport, les revenus de la Commission ont légèrement augmenté en fonction des droits fonciers reçus en vertu de la *Lands Protection Act* (loi sur la protection des terres). Ces fluctuations des revenus ne peuvent être anticipées d'une année à l'autre, car elles dépendent de l'activité du marché immobilier dans la province.

Comme nous le rapportons l'année dernière, la Commission fait maintenant un examen plus approfondi des dépôts d'appels ayant trait à l'aménagement du territoire afin de traiter les questions de compétence et de déterminer si l'incident peut être réglé par médiation plutôt que par les mécanismes qui mènent à la confrontation. En promouvant différents moyens de régler les conflits, la Commission a réussi à résoudre près de la moitié des appels par médiation.

La Commission réglemente également les tarifs d'assurance automobile sous le régime de l'*Insurance Act* (loi sur les assurances). Tous les assureurs doivent soumettre leurs tarifs à la Commission chaque année. Encore une fois, l'Île-du-Prince-Édouard offrait la prime moyenne annuelle la plus basse au Canada atlantique pour les véhicules automobiles. Celle-ci figure parmi les plus basses au pays.

Je tiens à remercier les employés de la Commission qui servent le public avec diligence en prêtant leur concours en situation de conflit. J'aimerais aussi reconnaître la contribution de notre vice-président, Doug Clow, du commissaire John Broderick, et des commissaires à temps partiel, Jean Tingley et Terry McKenna.



J. Scott MacKenzie, c.r.  
Président et directeur général



# EXECUTIVE SUMMARY

The Island Regulatory and Appeals Commission (the “Commission”) was established in 1991 following the amalgamation of the former Public Utilities Commission, Land Use Commission, and the Office of the Director of Residential Rental Property. The Commission operates at arm’s length from the Provincial Government. It has three full-time and up to five part-time Commissioners and a staff complement of 19.

## MANDATE

The Commission is an independent quasi-judicial tribunal with appellate, regulatory, and administrative responsibilities derived from the *Island Regulatory and Appeals Commission Act* and the provisions of a number of Province of Prince Edward Island Statutes.

## VISION

To be respected for independence, professionalism, competence, and leadership in the matters the Commission regulates, adjudicates, and administers.

## MISSION

To ensure the public of Prince Edward Island is provided with unbiased, well-reasoned, clear, and timely decisions in all matters brought before the Commission for its consideration.

## LEGISLATIVE ROLES AND RESPONSIBILITIES

The principal *Acts* under the administration of the Commission are:

- *Island Regulatory and Appeals Commission Act*
- *Lands Protection Act*
- *Rental of Residential Property Act*
- *Petroleum Products Act*
- *Electric Power Act*
- *Water and Sewerage Act*

The Commission has appellate responsibilities under the following *Acts*:

- *Planning Act*
- *Unsuitably Property Act*
- *Revenue Administration Act* (appeals on taxation under the *Gasoline Tax Act*, the *Health Tax Act*, the *Revenue Tax Act*, and the *Environment Tax Act*)
- *Real Property Assessment Act*
- *Real Property Tax Act*
- *Roads Act*
- *Heritage Places Protection Act*

The Commission has responsibility under the *Municipalities Act* for conducting public hearings and making recommendations to the Minister on municipal amalgamations and boundary extension applications.

The Commission regulates automobile insurance rates under the *Insurance Act*, and changes to the Island Waste Management Corporation rates under the *Environmental Protection Act*.



## WHO WE ARE

The *Island Regulatory and Appeals Commission Act* provides for the appointment of a full-time Chair and Chief Executive Officer of the Commission, a full-time Vice-Chair (who assumes primary responsibilities for land matters), one other Commissioner, and not more than five part-time Commissioners. In 2016-17, the Commission had three full-time and two part-time Commissioners.

### ***Full-Time Commissioners:***

Chair and Chief Executive Officer  
Vice-Chair  
Commissioner

J. Scott MacKenzie, Q.C.  
Douglas Clow, CPA, CA  
John Broderick

### ***Part-Time Commissioners:***

Jean Tingley  
Terry McKenna



From left, Full-Time Commissioner John Broderick, Chair and CEO Scott MacKenzie, Vice-Chair Douglas Clow, and Part-Time Commissioner Jean Tingley. (Missing from photo: Part-Time Commissioner Terry McKenna)

### **Staff Positions:**

#### **Corporate Services and Appeals**

Director  
Appeals Administrator  
Finance/Human Resources  
Senior Systems Specialist  
Executive Assistant to the CEO  
Technical Coordinator  
Administrative Assistant  
Receptionists

Mark Lanigan, CPA, CA  
Philip Rafuse  
Susan Jefferson  
Daniel Arsenault  
Collette Vessey  
Donna Chandler  
Dawn Murphy  
Glynne Squires  
Mary-Lou Austin

#### **Regulatory Services**

Director  
Regulatory Analyst  
Regulatory Analyst  
Regulatory Analyst  
Regulatory Analyst

Allison MacEwen  
Heather Walker  
Faye Weeks  
Janice MacKinnon  
Cassie MacKenzie

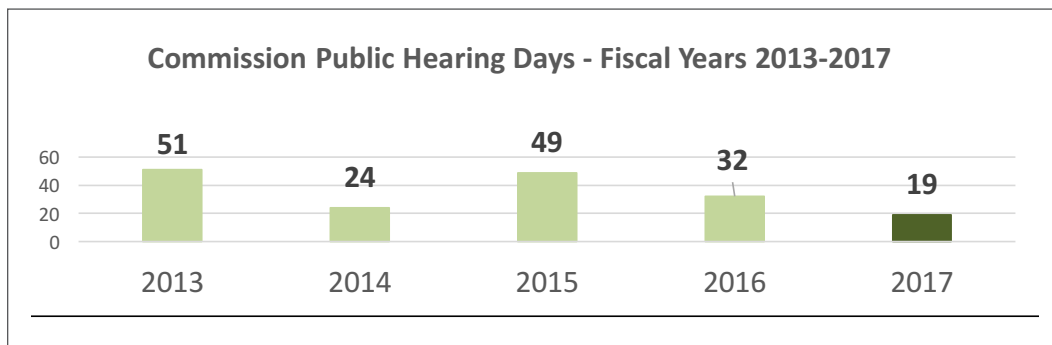
#### **Office of the Director of Residential Rental Property**

Director  
Rental Officer  
Rental Officer  
Intake Officer  
Intake Officer

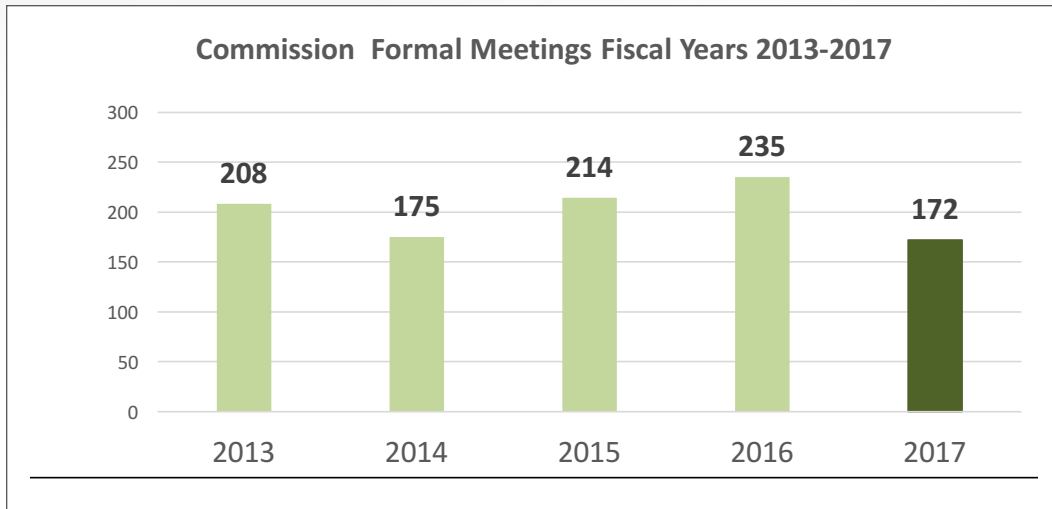
Catherine Flanagan  
Shayne Hogan  
Jennifer Perry  
Hillis Jones  
Kelly Charlesworth (on leave)

## **COMMISSION ACTIVITIES**

In 2016-17, the Commission presided over 19 public hearing days. The number of public hearing days has been reduced through the Commission using alternative dispute mechanisms, including mediation of *Planning Act* appeals.

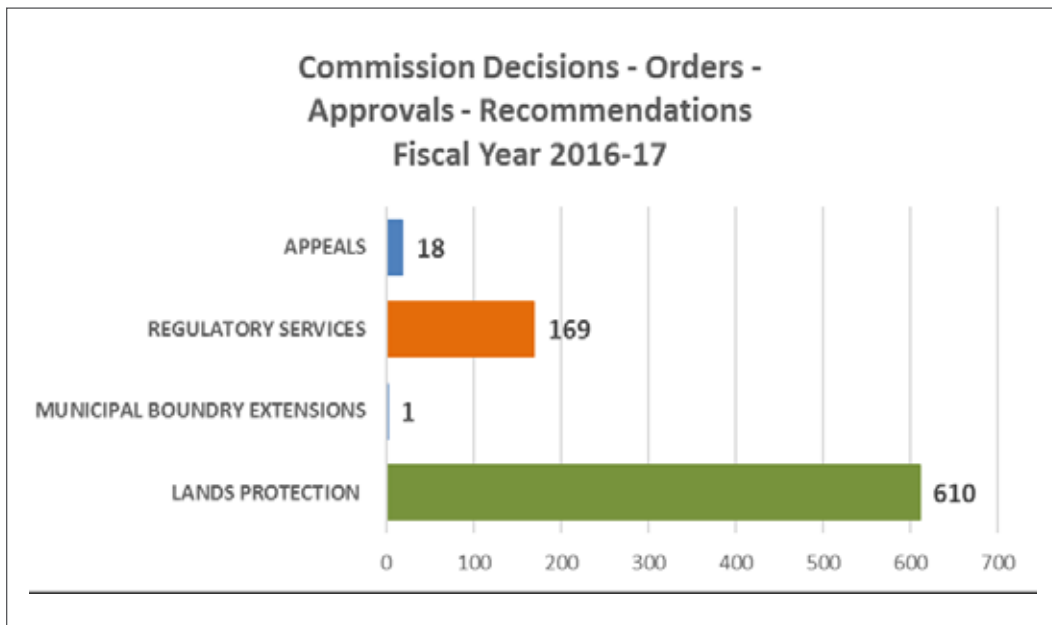


The Commission conducted 172 formal meetings where 864 Agenda items were decided:



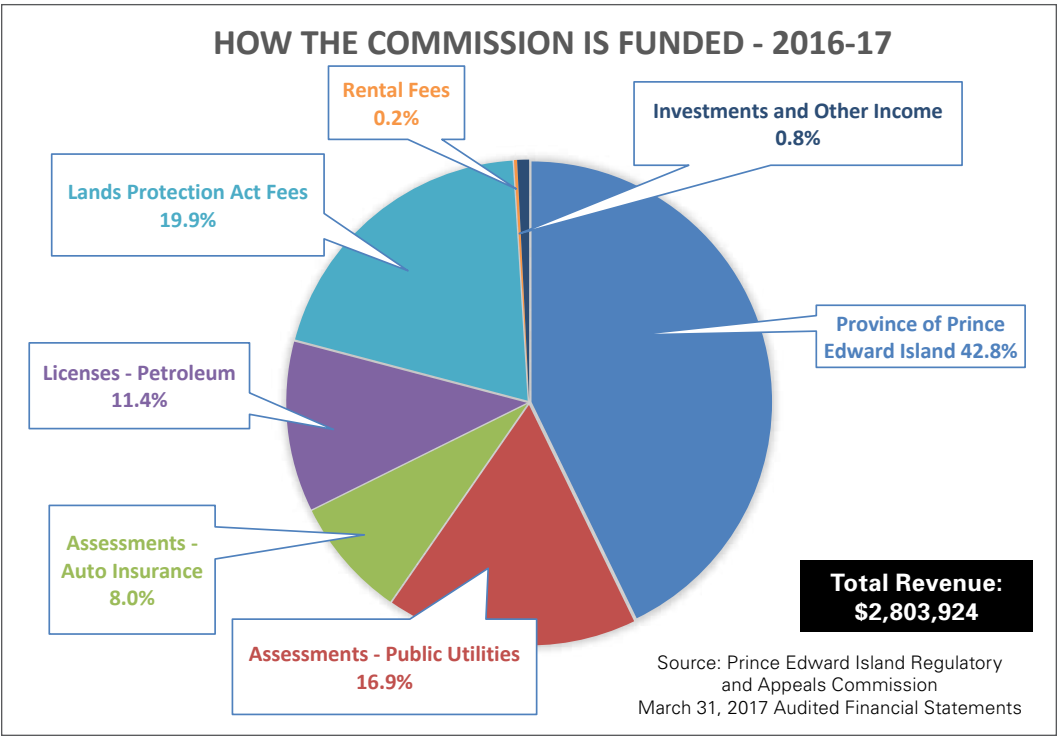
## DECISIONS, ORDERS, APPROVALS OR RECOMMENDATIONS

The Commission issued 798 decisions, orders, approvals, and recommendations. The following is a breakdown by area:



# WHO FUNDS THE COMMISSION

The Commission is funded by way of annual assessments, including the Province of Prince Edward Island, and application fees. In 2016-17, total Commission revenue amounted to \$2,803,924:



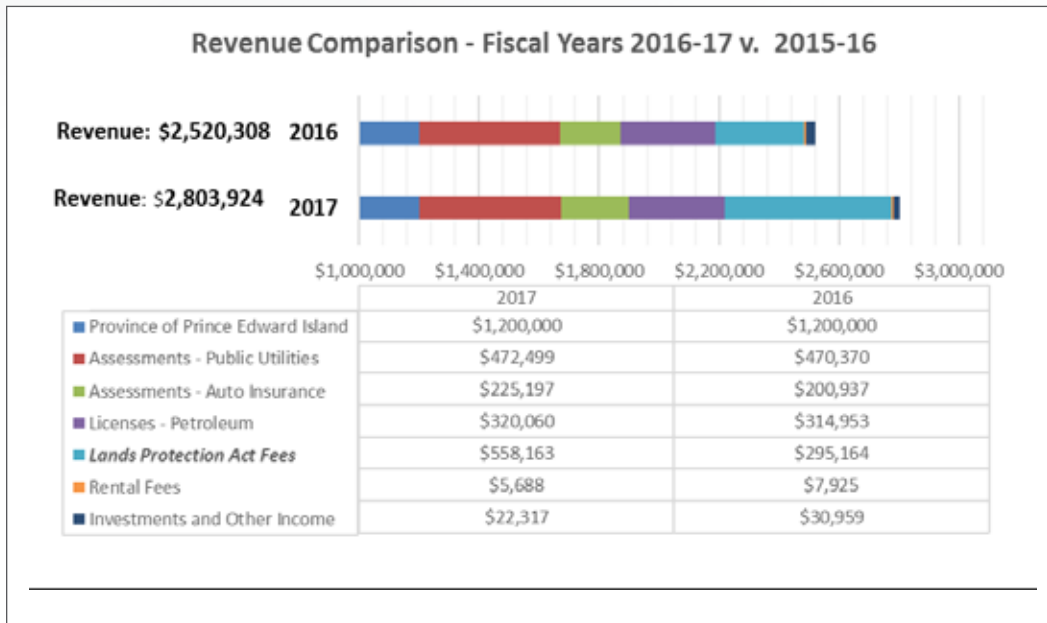
# YEAR IN REVIEW: FINANCIAL

The Commission follows the requirements of the *Financial Administration Act* and has engaged Fitzpatrick & Company, an independent company, to audit its annual financial statements.

# REVENUES

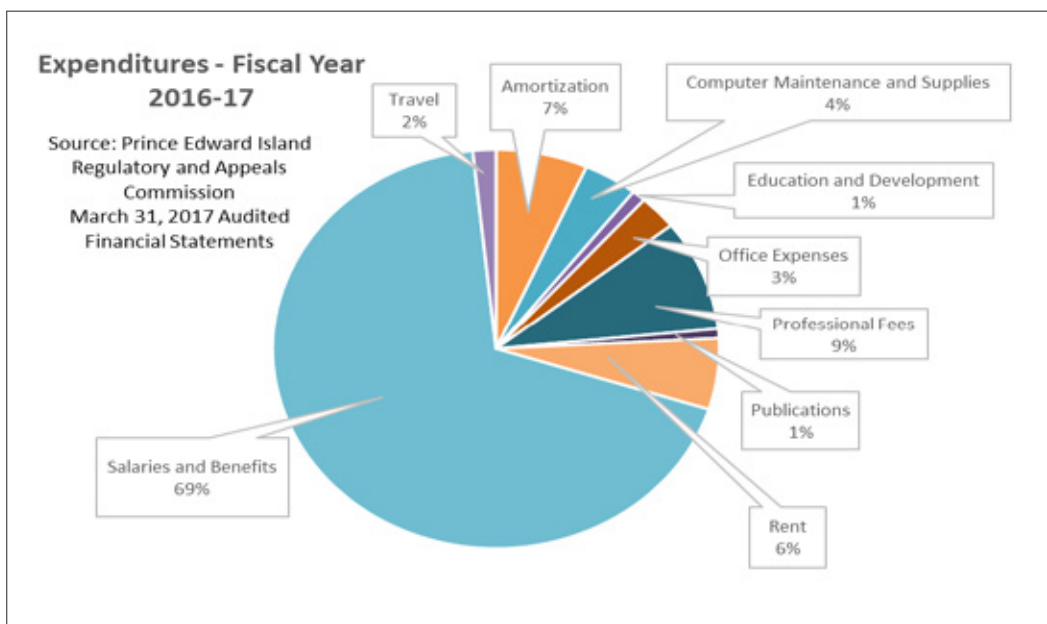
Commission revenues for 2016-17 amounted to \$2,803,924. This represents an increase of \$283,616 from the previous year's revenues of \$2,520,308. The increase in revenues is primarily due to an increase in non-resident fees of approximately \$262,999 under the *Lands Protection Act*.

A comparison of Commission revenues of 2015-16 and 2016-17 follows:



## EXPENDITURES

The Commission incurred expenses of \$2,867,249 in 2016-17, allocated as shown below:





## YEAR IN REVIEW - APPELLATE

The Commission Appeal Panel met 57 times to discuss 70 appellate agenda items:

- Thirty-three meetings to discuss 39 *Planning Act* appeal agenda items
- Twenty-four meetings to discuss 31 *Rental of Residential Property Act* appeal agenda items

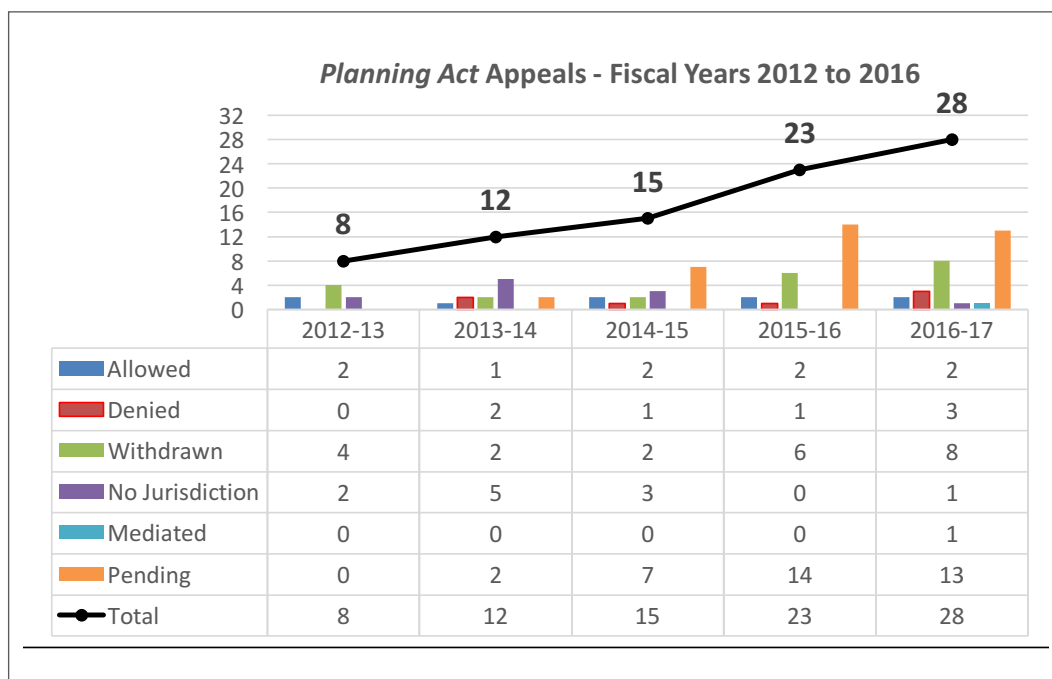
## ACTIVITIES

### PLANNING ACT

Under the *Planning Act*, the Commission is responsible for hearing and deciding upon appeals relating to land use. As an appellate body, the Commission hears appeals from persons who are dissatisfied with decisions made by the Minister or municipal councils, pursuant to subsections 28(1) and 28(1.1) of the *Act*.

In 2016-17, the Commission had 28 planning appeals in process. It allowed two appeals, denied three, eight were withdrawn, one was solved through mediation, and one was dismissed for lack of jurisdiction. The remaining 13 appeals were in various stages of process, including mediation, and awaiting input from the parties at the end of the fiscal year.

The following chart represents statistical data regarding *Planning Act* appeals from fiscal years 2012 to 2017:



## REAL PROPERTY ASSESSMENT ACT

The Commission hears appeals on property tax assessments under the *Real Property Assessment Act*. In 2016-17, 11 appeals were filed with the Commission. Of these, 10 were settled and withdrawn, and one appeal was pending at year-end.

## RENTAL OF RESIDENTIAL PROPERTY APPEALS

Under the *Rental of Residential Property Act*, the Commission hears appeals from decisions of the Office of the Director of Residential Rental Property. Of the 384 decisions issued on rental matters, the Commission received 23 appeals, compared with 40 appeals and cross-appeals in 2015-16.

In 2016-17, the Commission issued 12 decisions and one consent order. A summary of the Commission's activities with respect to rental appeals follows:

### *Rental of Residential Rental Property Act Appeals – 2016-17*

Appeals Filed and then Withdrawn by Appellant	10
Appeal Denied "Statute barred" (Decision issued)	2
Appeals Heard by Commission	11
<i>Total</i>	<i>23</i>
Decisions Issued:	
Commission Decisions Issued for Fiscal 2015-16 Appeals	1
Commission Orders Issued for Fiscal Year 2016-17	1
Commission Orders Issued for Fiscal 2016-17 Appeals	11
<i>Total</i>	<i>13</i>
Outstanding Decisions Carried Forward to Fiscal 2017-18	1

## MUNICIPAL BOUNDARY EXTENSIONS

Under the *Municipalities Act*, the Minister directs the Commission to hold a public hearing on applications for a municipal boundary extension. After the hearing has been completed, the Commission prepares a written report for the Minister. This report provides the Commission's recommendation on the municipal boundary extension application.

The Minister referred a municipal boundary application by the Town of O'Leary to the Commission. The Commission held a public hearing on June 29, 2016. The Commission provided its report and recommendation to the Minister on August 25, 2016. Executive Council approved the Town's boundary extension, effective September 24, 2016.



# REGULATORY SERVICES AND LAND

## WHO WE ARE

Regulatory Services and Land is comprised of a director and five staff members. The division is also assisted by the Director of Corporate Services and Appeals, who is responsible for administering the *Electric Power Act*.

## OUR ROLE AND RESPONSIBILITIES

Regulatory Services and Land is responsible for all matters relating to petroleum, public utilities, insurance, and land.

Division staff met with various Commission Panels 106 times to discuss 785 division agenda items.

## WHAT WE REGULATE

The Division is responsible for the administration of the following *Acts*:

- *Petroleum Products Act*
- *Water and Sewerage Act*
- *Insurance Act*
- *Lands Protection Act*
- *Environmental Protection Act*

The division has a wide ranging scope of responsibilities including: retail and wholesale petroleum product licensing; setting of minimum and maximum petroleum product prices; approval of rates for electricity, water and sewer, and Waste Watch; oversight of non-resident and corporate land transactions; and monitoring of large land holdings in the province.

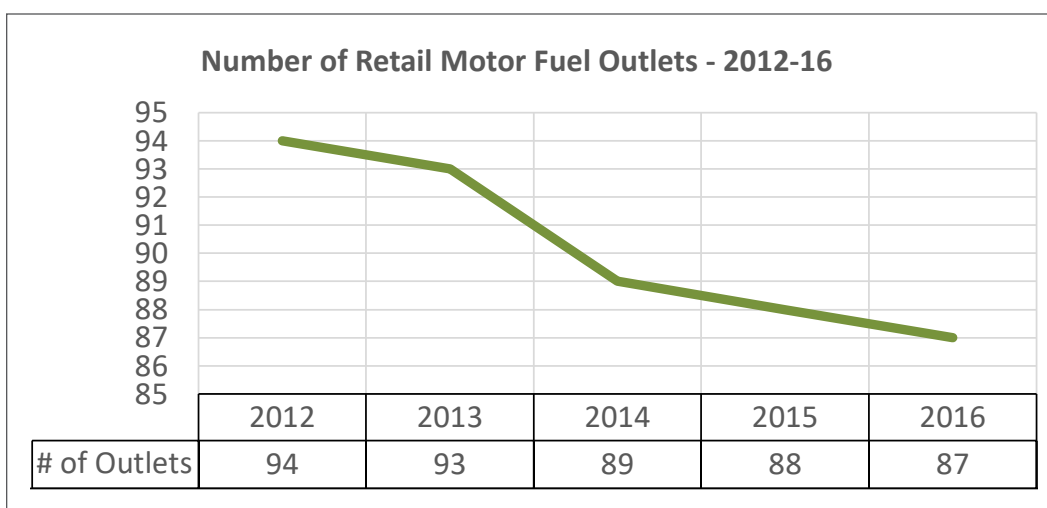


## YEAR IN REVIEW - PETROLEUM

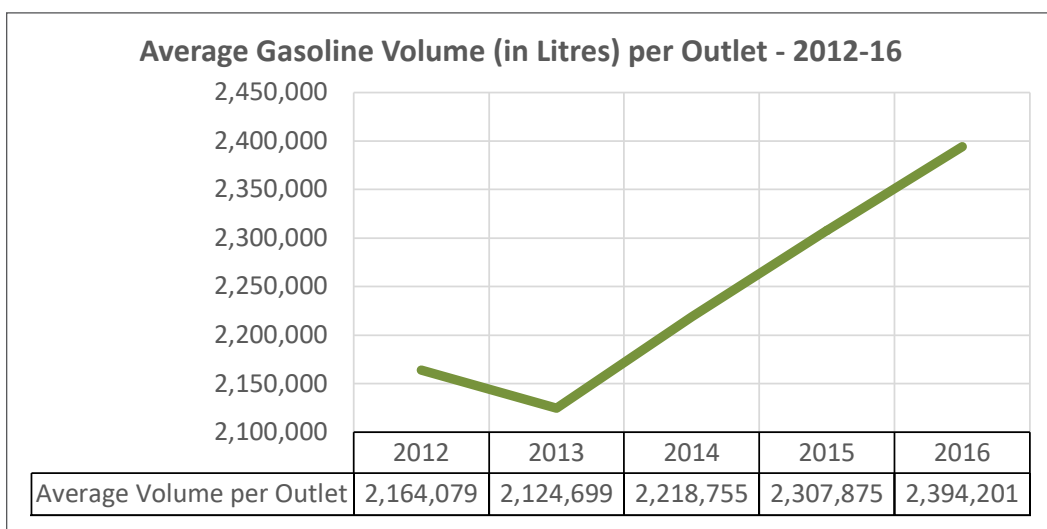
### PETROLEUM LICENSING

The Commission administers the *Petroleum Products Act* (the “PPA”). The PPA sets the requirements for licensing petroleum outlets in Prince Edward Island, and for the determination of just and reasonable wholesale and retail prices.

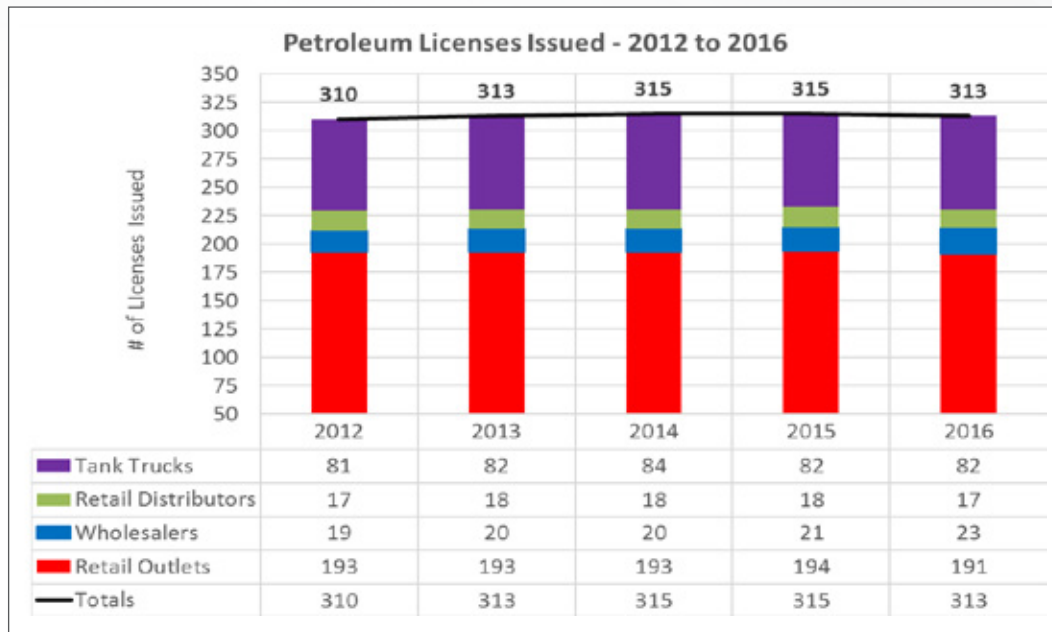
In 2016, there were 87 retail gas/diesel outlets in Prince Edward Island, down from 88 in 2015:



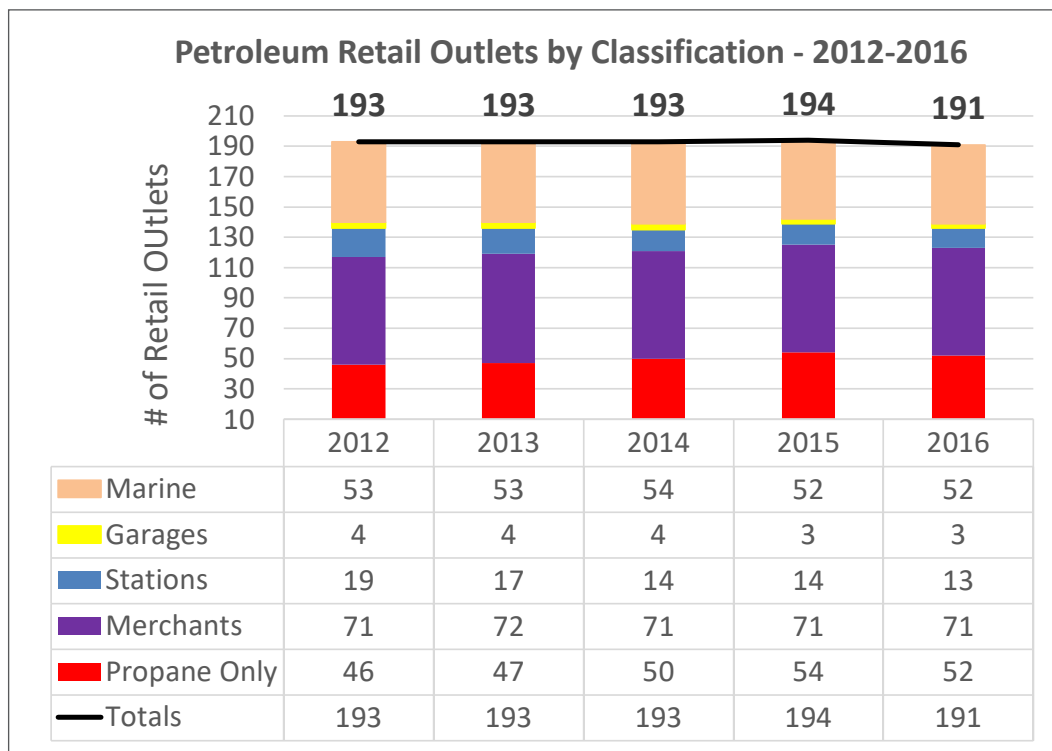
The average gasoline volume per outlet increased slightly to 2,394,201 liters. This represents an increase of approximately 230,122 liters per outlet from 2012:



Consistent with previous years, the Commission issued 313 petroleum licenses in 2016:



The number of petroleum retail outlets in the province remained relatively unchanged in 2016, at 191 outlets:

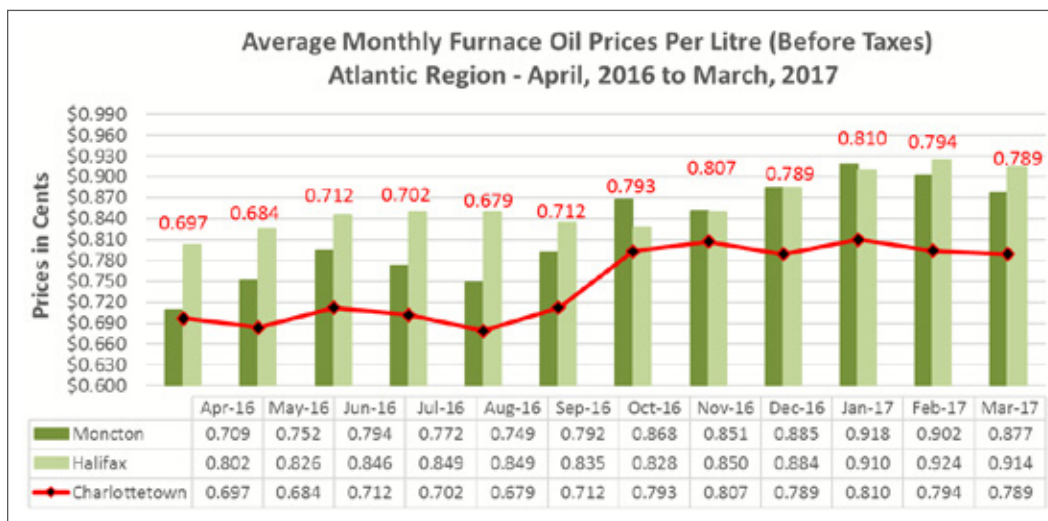
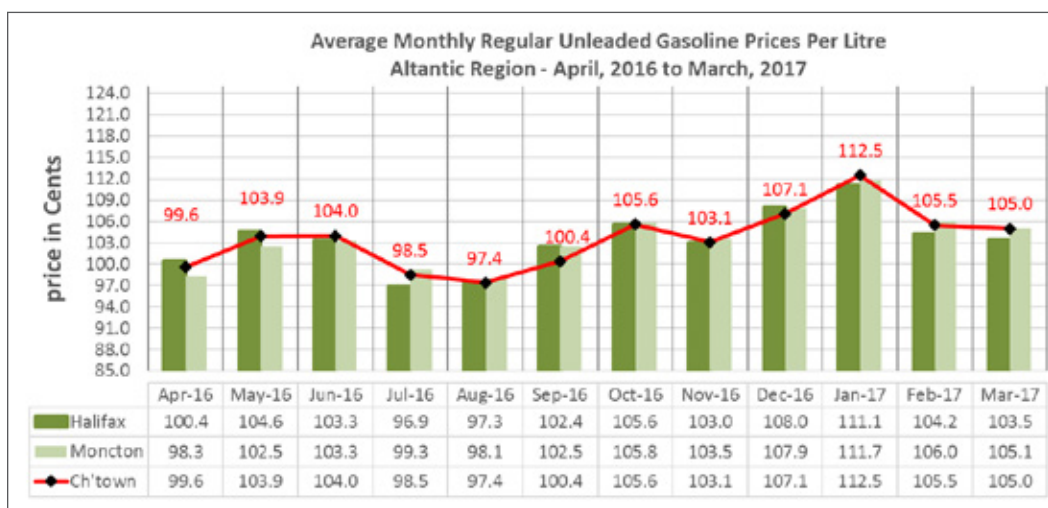




## PETROLEUM PRICING

In the area of petroleum pricing, the Commission's legislative mandate requires it to ensure a just and reasonable price for heating and motor fuels for consumers and licensees within the province. In the determination and calculation of price changes to wholesalers, retailers, and consumers, the Commission considers pricing information from local, national, and international sources.

As shown in the following two tables, the average monthly price per litre of unleaded gasoline in the province was consistent with prices in Nova Scotia and New Brunswick, while the price of furnace oil was below the monthly averages in those jurisdictions. (Note: Nova Scotia does not regulate furnace oil.)

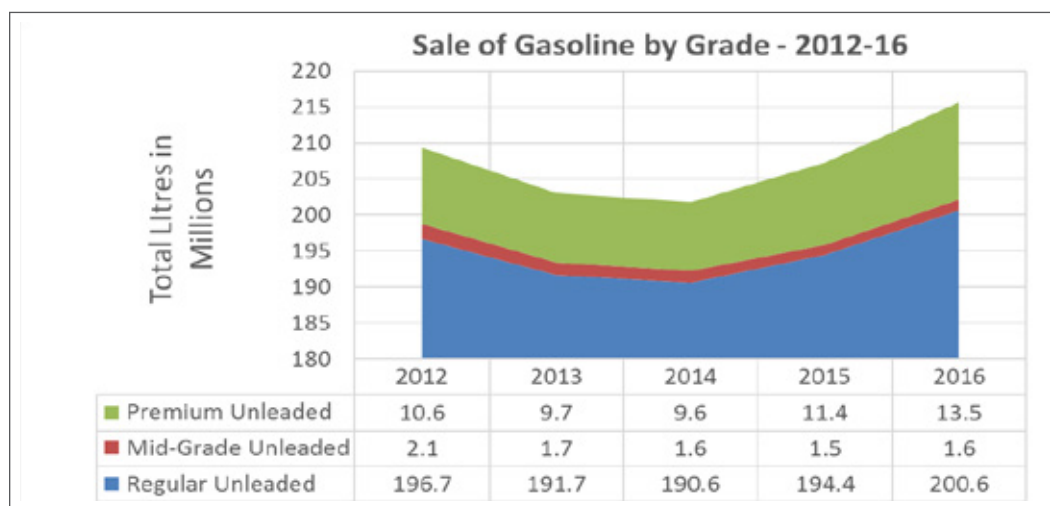
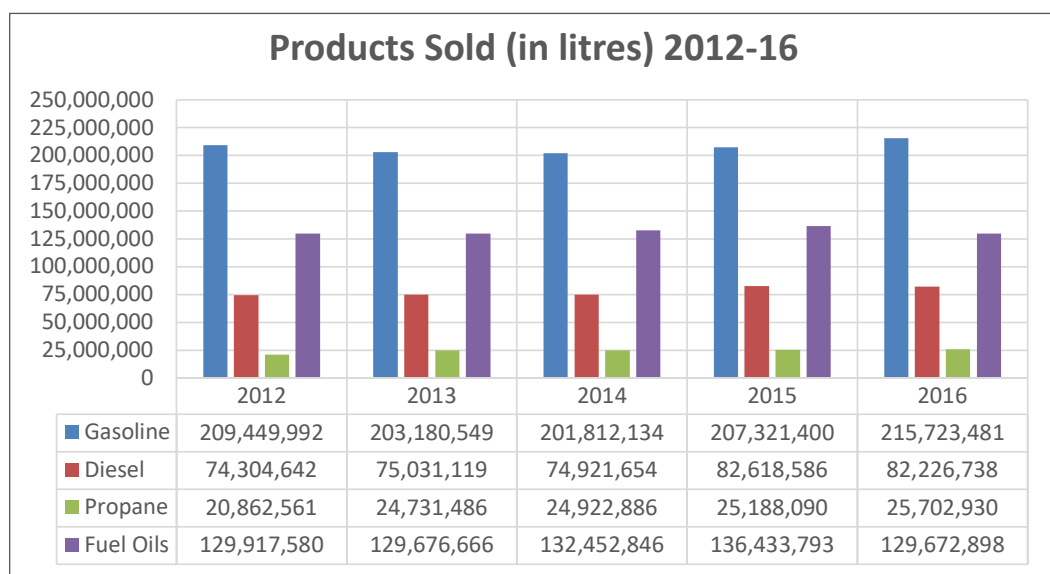


The Commission has the responsibility for determining the minimum and maximum markups for retailers. In 2016-17, the authorized markups ranged from 5.5 to 6.5 cents per litre at self-serve pumps, and from 7.5 to 10.5 cents per litre at full-serve pumps, essentially the same margins as in Nova Scotia and New Brunswick. In addition, the markup selected by a retailer for each method of dispensing must be consistently applied to each grade of gasoline sold or offered for sale at the outlet. At split-serve outlets, diesel fuel and each grade of gasoline sold at self-serve pumps must be priced at least 2.0 cents lower than the prices at which full-serve diesel fuel and each grade of gasoline are being offered for sale.

Current and archived pricing information on all products is available on the Commission's website at [www.irac.pe.ca/petrol](http://www.irac.pe.ca/petrol).

In 2016-17, the Commission issued 53 pricing orders relating to petroleum regulation.

The following graphs illustrate additional statistical data for the calendar years 2012 to 2016.



## YEAR IN REVIEW - ELECTRICITY

The Commission's regulatory powers related to electricity are derived from the *Electric Power Act*. The legislation provides for the regulation of electric power rates and charges of Maritime Electric Company, Limited ("Maritime Electric"). The City of Summerside Electric Utility is largely exempt from the jurisdiction of the Commission.

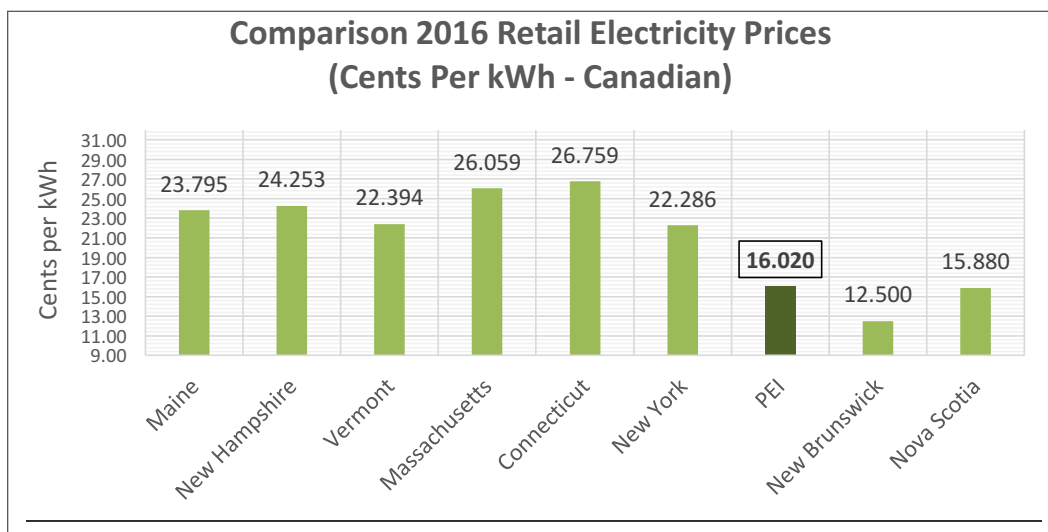
The Commission's Electric Panel met 22 times to discuss 22 electricity related agenda items, including monthly review of Maritime Electric Financial Reports, review of customer inquiries related to service, and review of applications seeking Commission approval.

The Commission approved the issuance of first mortgage-secured bonds in the amount of \$40 million over a 40-year term at a rate of 3.657%. The Commission approved the Maritime Electric 2017 Capital Budget and the 2015 Capital Budget variances. The Commission approved interim rates for rented LED street and area lights, as well as revisions to the interim Weather Normalization Reserve for 2017.

In July 2016, the Commission held a public hearing to review the procedural aspects of the Open Access Transmission Tariff application filed by Maritime Electric. Following this hearing, the Commission issued a procedural order which detailed the timeline for the application and required a technical briefing. This briefing was held by Maritime Electric in September 2016.

To learn more, visit our website at [www.iraac.pe.ca/electric](http://www.iraac.pe.ca/electric).

The chart below sets out the retail residential electricity rates in Prince Edward Island, as compared to the Maritime Provinces and New England States:





## YEAR IN REVIEW - WATER AND SEWER

The Commission regulates all water and wastewater utilities in Prince Edward Island, with the exception of municipal utilities in Charlottetown, Summerside, Stratford, and Cornwall. For more information, please visit [www.irac.pe.ca/utilities](http://www.irac.pe.ca/utilities).

In 2016-17, the Commission's Water and Sewer Panel met eight times to discuss nine water and sewer-related agenda items.

Five permits were issued for utility construction projects for various municipalities and one rate setting order was issued. The construction projects related to sewer services and included: the installation of a dewatering system in Montague; replacement of existing mains in Mount Stewart; expansion of services in Tyne Valley and O'Leary; and a lift station upgrade in Alberton.

Funding through various federal-provincial development initiatives was available for infrastructure upgrades, which helps reduce a project's impact on utility rates.

The Commission issued a water/wastewater Order for the Miscouche Sewer Utility approving an increase in rates effective January 1, 2017.

The Commission's uniform system of accounts for water and wastewater utilities provides consistency and comparability of utility financial data. The Commission will continue to monitor the annual financial information of utilities to identify when rates should be reviewed.



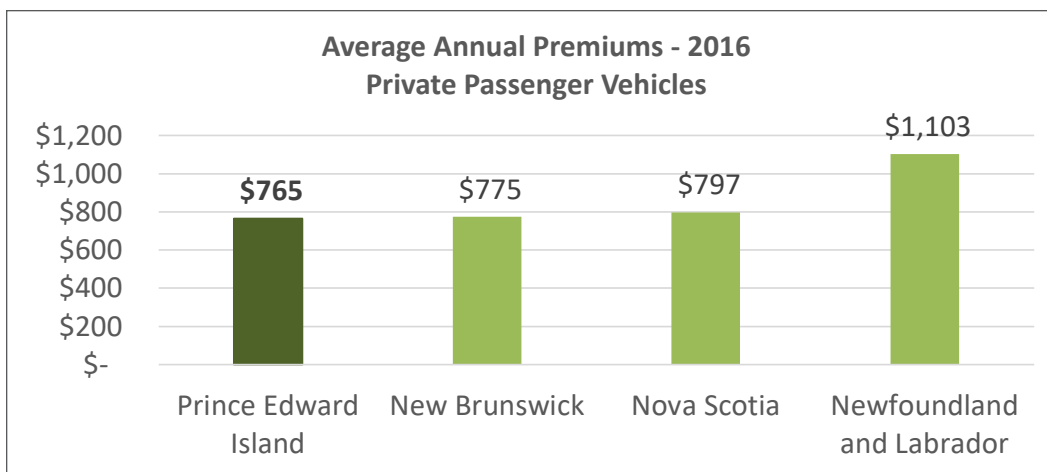
## YEAR IN REVIEW - AUTOMOBILE INSURANCE

The *Insurance Act* provides for the supervision of automobile insurance rates by the Commission. All insurers providing automobile insurance in Prince Edward Island must file their rates with the Commission on an annual basis.

In 2016-17, the Commission's Insurance Panel met 10 times to discuss 76 rate and rate-related automobile insurance filings.

The Commission administered insurance rates for 115,677 vehicles, with associated total premiums of \$95,901,000.

Insurance premiums for private passenger vehicles on Prince Edward Island remain the lowest in Atlantic Canada, averaging approximately \$765/year:





## YEAR IN REVIEW - *LANDS PROTECTION ACT*

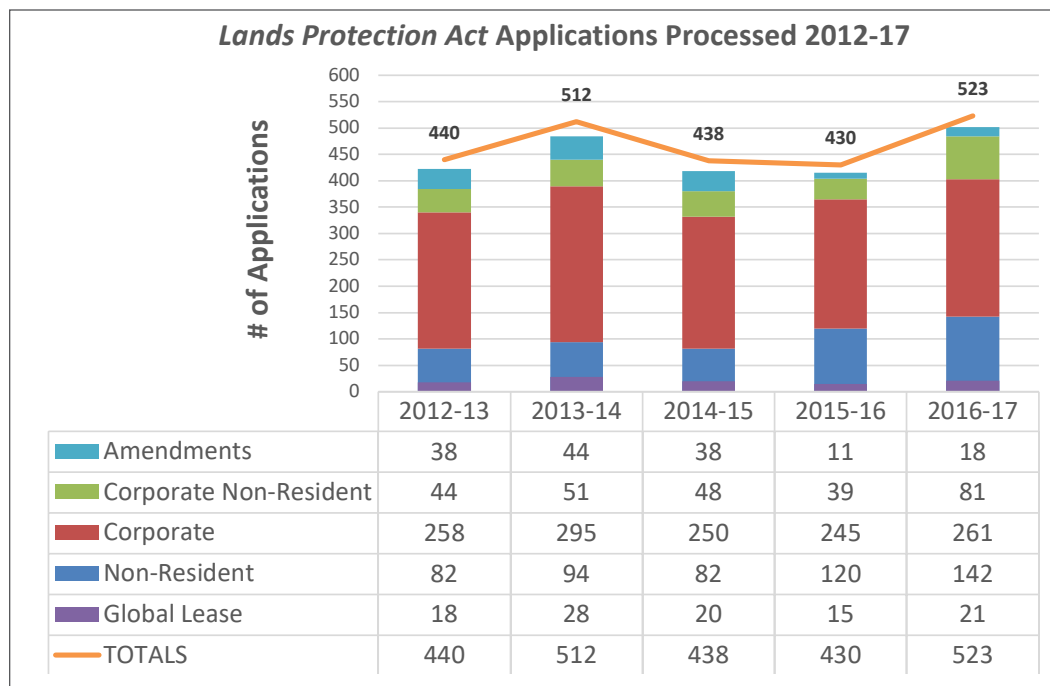
The Commission is responsible for the administration of the *Lands Protection Act* ("the *LPA*"). It does not make decisions on land applications. It is a recommending body for Executive Council which has the authority to approve or deny applications for land purchases or leases. The Commission monitors the land holdings of large land owners, and carries out investigations for enforcing the *LPA*. To learn more about the *LPA*, visit our website at [www.irac.pe.ca/land](http://www.irac.pe.ca/land).

The Commission's Lands Protection Panel meets bi-weekly to review land applications. In 2016-17, it met 35 times.

### APPLICATIONS

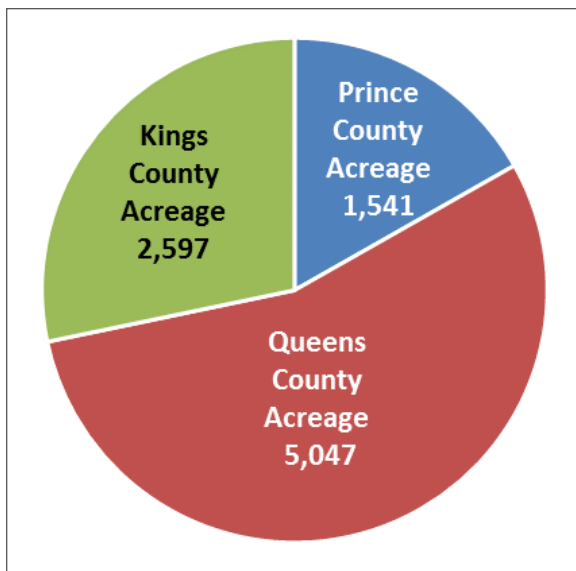
The Commission processed 523 applications under the *LPA*. Of these, 505 applications were for acquisition of land, involving 52,174 acres. The Commission also processed 18 land identification amendments in 2016-17.

The following graph is a summary of the applications considered by the Commission over the past five years under the *LPA*:



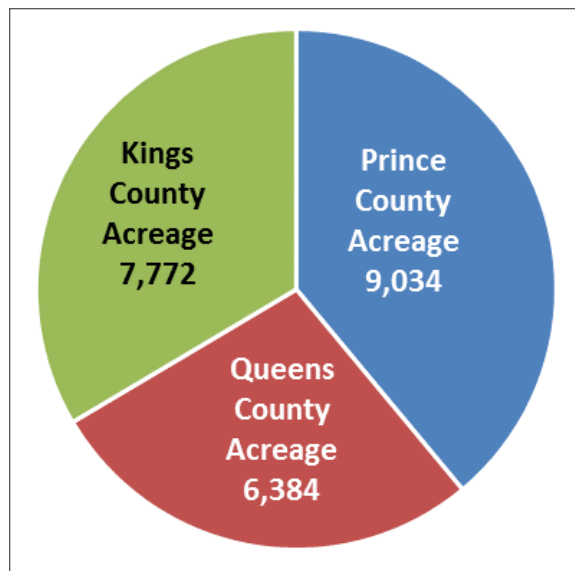
### Non-Resident Applications

The Commission considered 142 applications from non-residents totaling 9,185 acres. Twenty-eight applications with shore frontage, totaling approximately 39,475 feet, were included in the non-resident applications.



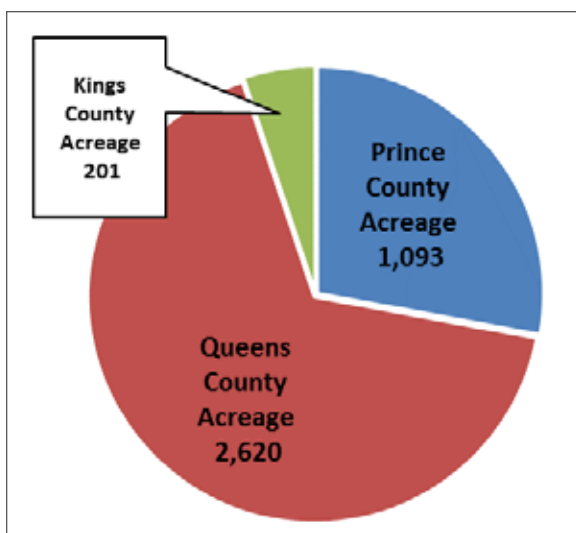
### Corporate Applications – Resident

The Commission considered 261 applications totaling 23,190 acres of land from resident corporations. Fifty-six applications with shore frontage, totaling approximately 102,240 feet, were included in the resident corporate applications.



### Corporate Applications – Non-Resident

The Commission considered 81 applications totaling 3,914 acres of land from non-resident corporations. Eight applications with shore frontage, totaling approximately 10,963 feet, were included in the non-resident corporate applications.



### Global Leasing Applications – Non-Resident and Corporate

A Global Lease Permit enables a non-resident person or corporation to apply for permission to acquire land by way of lease and to continue to hold a permitted number of acres of land as part of their aggregate land holdings. This permit is especially useful for farm corporations that use different parcels of land each year in their crop rotations. Twenty-one applications, totaling 15,885 acres of land, were considered under section 5.3 of the *Lands Protection Act*.

## **Applications to Cancel, Suspend or Amend Conditions**

The Commission is responsible for receiving applications to cancel, suspend, or amend any condition, including the condition that the land be identified for non-development use, imposed under subsection 9(1) or 21(1) of the *Act*. The Commission does not make recommendations on these applications. Its role is to review the applications to ensure they are complete. Upon completion, they are submitted to the Minister for consideration. The Minister then makes a recommendation to Executive Council.

In January 2015, an amendment to the *Lands Protection Act* provided an automatic 10-year expiry date on land identification agreements. For this reason, there is significantly less land in the province subject to land identification agreements and this change is reflected in the Commission's statistics. In 2016-17, 18 applications, totaling 165 acres, were processed by the Commission.

## **ANNUAL DECLARATION STATEMENT**

Under Section 10 of the *LPA*, a person having an aggregate land holding in excess of 750 acres, or a corporation having an aggregate land holding in excess of 2,250 acres, must file an annual land holding declaration statement with the Commission.

For the year ending December 31, 2016, the Commission received and processed a total of 87 annual land holding declaration statements. Of these, 63 were filed by persons, and 24 were filed by corporations.







# OFFICE THE DIRECTOR OF RESIDENTIAL RENTAL PROPERTY

## WHO WE ARE

The Office of the Director of Residential Rental Property (the “Office”) is comprised of a director, two rental officers, and two intake officers. Rental officers hear applications and render decisions. Intake officers handle inquiries from the public and process documents. Further information on the Office is available at [www.irac.pe.ca/rental](http://www.irac.pe.ca/rental).

## ROLE AND RESPONSIBILITIES

The *Rental of Residential Property Act* (the “Rental Act”) establishes the obligations and responsibilities of the parties to rental agreements for residential premises. The Rental Act outlines procedures for the enforcement of statutory conditions including: the handling of security deposits; termination of rental agreements; rent owing; disposition of abandoned personal property; and allowable rent increases, among other things.

The Rental Act creates a forum, outside of the traditional court system, for the adjudication of disputes between residential landlords and tenants.

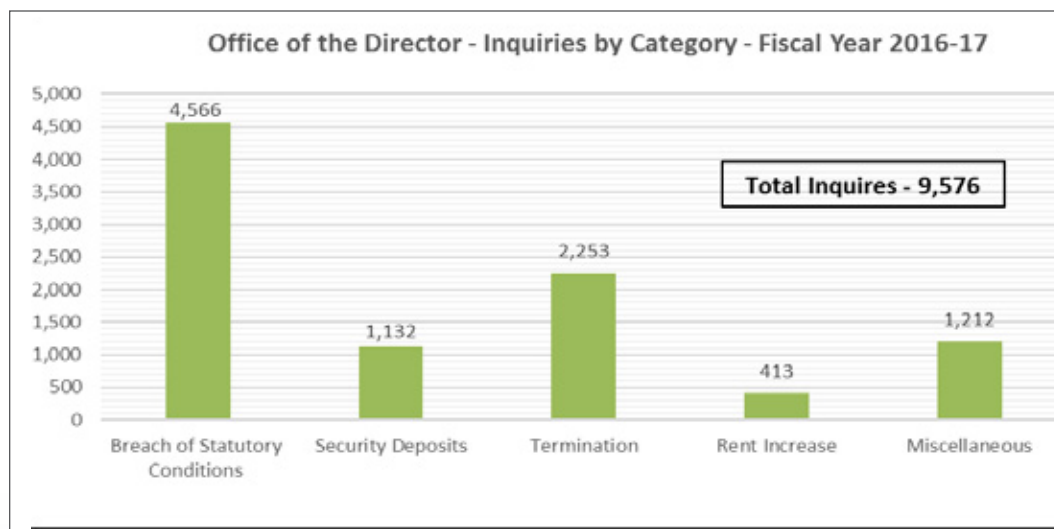
Under section 4 of the Rental Act, the Director of the Office is responsible for:

- Providing information to the public to promote understanding of rights and responsibilities under the Rental Act;
- Advising landlords and tenants on matters relating to rental agreements;
- Receiving and investigating allegations of violations of rental agreements, the Rental Act and its Regulations;
- Holding hearings, making decisions, and issuing orders on matters relating to the rights of landlords or tenants; and
- Entering and inspecting residential premises, after serving an inspection order, for the purpose of carrying out the powers or duties under the Rental Act or Regulations.

## YEAR IN REVIEW - INQUIRIES

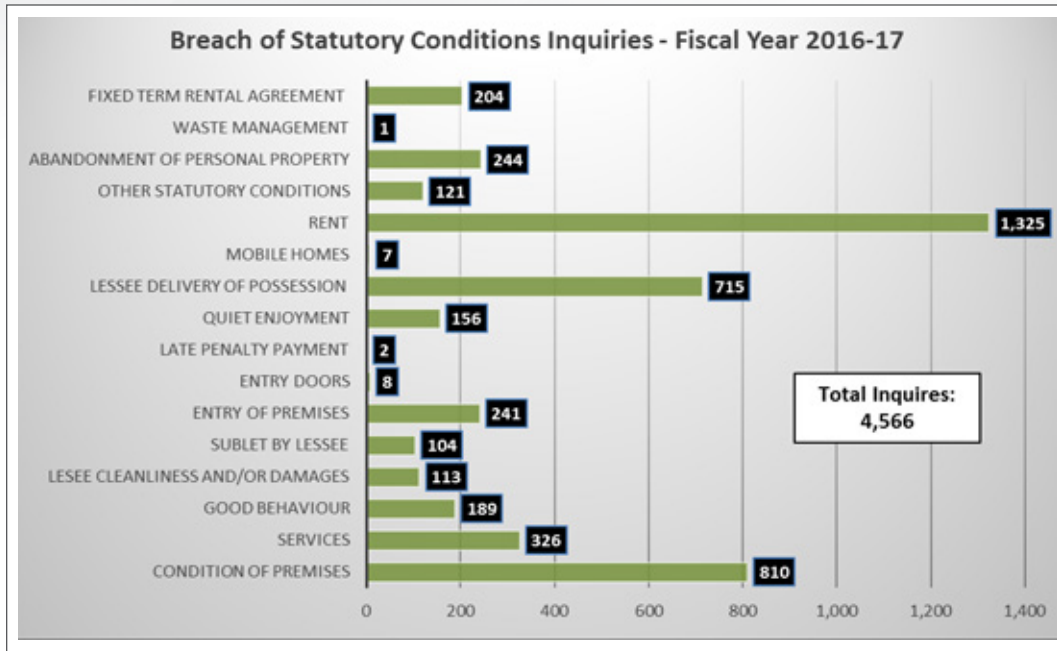
All inquiries, whether in person or by letter, fax, email or telephone, are handled by intake officers. In 2016-17, the Commission received 9,576, inquiries, a slight decrease from the previous year. The Office receives between 500 and 600 inquires per month.

The following graph provides a breakdown of the inquiries received by the Commission:





The following graph provides the number of inquiries made in 2016-17 regarding Statutory Conditions:

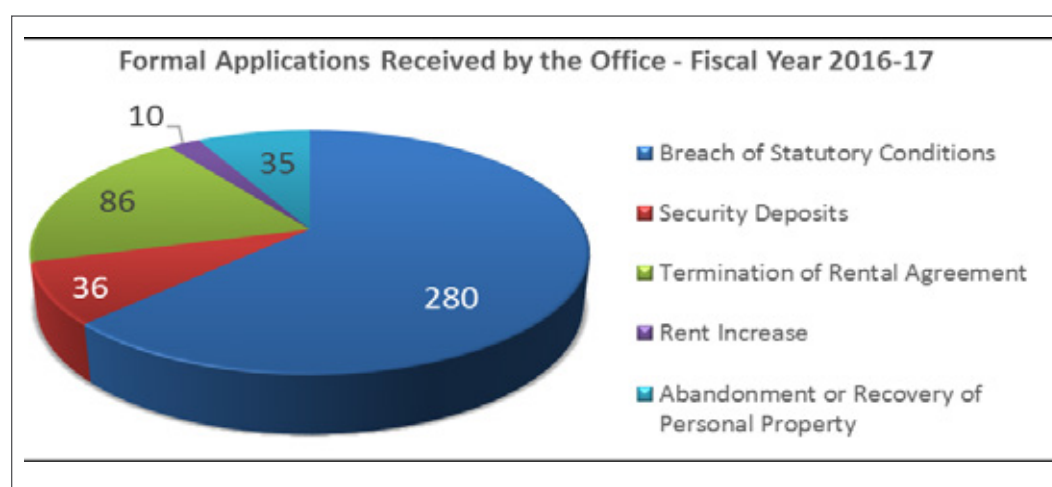


## YEAR IN REVIEW - APPLICATIONS

The Office continues to receive a large volume of applications for adjudication of disputes from both landlords and tenants.

### NATURE OF APPLICATIONS

The following graph provides a breakdown of the formal applications received by the Office in 2016-17:



### STATUS OF APPLICATIONS

In 2016-17, the Office received 447 new applications for adjudication of rental disputes. Of those 477 applications, 18 were withdrawn by the applicant prior to any action being taken by the Director, and 87 were resolved by the parties, with the assistance of the Director or staff, prior to a hearing.

### Enforcement of Statutory or Other Conditions of Rental Agreement

Statutory conditions are the responsibilities of either the landlord or tenant as set out in the Rental Act and the standard form of rental agreement. The Rental Act also provides a process for dealing with personal property abandoned by tenants. In 2016-17, the Office received 280 applications involving statutory or other conditions.

### Security Deposits

The Rental Act sets out the handling and processing requirements for security deposits taken as a condition of the rental agreement. In 2016-17, the Office received 36 applications for a determination of entitlement to the security deposit, compared with 87 applications the previous year.

## **Termination of Rental Agreement**

The Rental Act provides for limited security of tenure for the tenant, whereby the tenant must be given, in writing, proper notice and cause for termination of the rental agreement. Termination is allowed only for the reasons set out in Sections 13, 14 and 15 of the *Act*. If a tenant wishes to challenge a notice of termination, they must apply to the Office. The landlord may also, in some circumstances, apply for earlier termination of the rental agreement. In either case, when an application regarding termination is received, the Office holds a hearing and renders a decision. In 2016-17, the Office received 86 applications for termination, compared with 73 applications the previous year.

## **Rent Increases**

Each year, the Director invites written representation from landlords and tenants to assist the Commission in establishing the annual allowable rent increase. In 2016-17, the Commission ordered that the rates for heated and unheated premises and mobile home sites could increase by 1.5% for 2017.

Any application for a greater than allowable rent increase requires approval by the Director before being charged and collected. In 2016-17, the Office received 10 applications for rent increases greater than the allowable amount.

## **Personal Property**

The Rental Act provides for the process by which landlords can deal with the abandonment or recovery of personal property. In 2016-17, the Office received 35 applications regarding abandonment or recovery of personal property, compared with 61 applications the previous year.

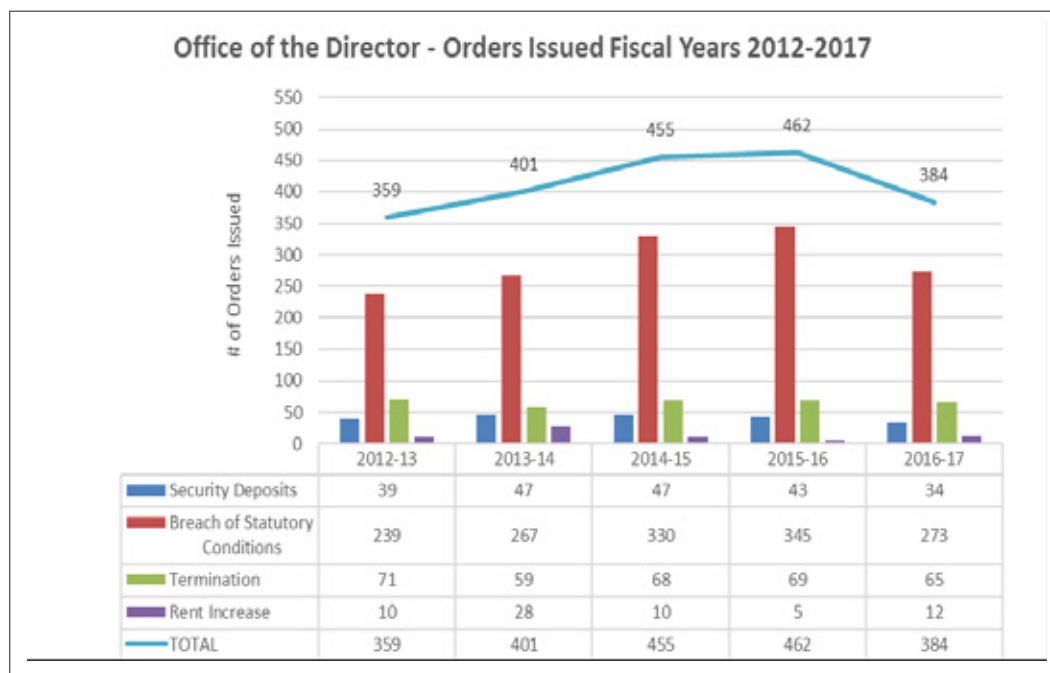
## YEAR IN REVIEW - RENTAL ORDERS ISSUED

The Office strives to reduce the average time required to process matters from the time the application is filed to when a decision is rendered. The volume of orders issued by the Office is dependent upon the number and complexity of the applications that it receives.

In 2016-17, the Office issued 384 orders, including applications carried over from 2015-16. This compares to 462 orders issued in 2015-16.

As in previous years, most of the orders related to applications for breach of statutory conditions. The number of orders related to rent increases, security deposits, or terminations, were consistent with previous years.

The following chart provides statistical data for the last five years:



## YEAR IN REVIEW - APPEALS TO THE COMMISSION

The Commission has the power to hear appeals of decisions of the Director. From the 384 orders issued by the Director on rental matters in 2016-17, the Commission panel heard 23 appeals, compared with 40 appeals and cross appeals the previous year.



# FINANCIAL STATEMENTS FISCAL 2016-17

Section 17 of the *Island Regulatory and Appeals Commission Act* states:

*“The Executive Committee shall appoint an auditor to audit the accounts and financial transactions of the Commission.”*

Fitzpatrick & Company, an independent company, was appointed to audit the financial statements of the Island Regulatory and Appeals Commission for the year ended March 31, 2017.



**Prince Edward Island  
Regulatory and Appeals  
Commission**  
**Financial Statements**

For the Year Ended March 31, 2017



### **Independent Auditor's Report**

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To the Commissioners of Prince Edward Island Regulatory and Appeals Commission

We have audited the accompanying financial statements of Prince Edward Island Regulatory and Appeals Commission which comprise the statement of financial position as at March 31, 2017 and the statements of operations, net financial assets and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

#### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

#### **Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstance, but not for the purposes of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### **Opinion**

In our opinion, the financial statements present fairly, in all material respects, the financial position of Prince Edward Island Regulatory and Appeals Commission as at March 31, 2017 and its financial performance for the year then ended in accordance with Canadian Public Sector Accounting Standards.

Chartered Professional Accountants

Charlottetown, PE  
June 13, 2017

#### **FITZPATRICK & CO.**

127 St. Peters Road, Suite 201, Charlottetown, PE C1A 5P3 | P 902.628.9000 | F 902.628.8808 | [fitzandco.ca](http://fitzandco.ca)

# Prince Edward Island Regulatory and Appeals Commission

## Statement of Financial Position

As at March 31, 2017, with comparative figures for 2016

	2017	2016
<b>Financial Assets</b>		
Cash (note 2)	\$ 311,153	\$ 97,614
Accounts receivable (note 3)	131,193	157,301
Investments (note 4)	906,682	1,140,627
	1,349,028	1,395,542
<b>Liabilities</b>		
Accounts payable and accrued liabilities (note 5)	1,296,266	1,330,393
Employee future benefits (note 6)	266,012	243,851
Leasehold improvements and inducements	80,000	96,000
	1,642,278	1,670,244
Net financial assets	(293,250)	(274,702)
<b>Non-Financial Assets</b>		
Prepaid expenses	2,136	1,781
Tangible capital assets (note 7)	198,790	243,921
	200,926	245,702
Commitments (note 8)		
Pension costs and obligations (note 9)		
Accumulated deficit (note 10)	\$ (92,324)	\$ (29,000)

Approved on Behalf of the Commission;

\_\_\_\_\_, Commissioner \_\_\_\_\_, Commissioner

The accompanying notes are an integral part of these financial statements.

# Prince Edward Island Regulatory and Appeals Commission

## Statement of Operations

For the Year Ended March 31, 2017, with comparative figures for 2016

	Budget (note 12)	2017	2016
<b>Revenue:</b>			
Assessment - Province of PEI	\$ 1,200,000	\$ 1,200,000	\$ 1,200,000
Assessments on public utilities	470,000	472,499	470,370
Licenses - petroleum products	308,150	320,060	314,953
Permits - land and property division	300,100	558,163	295,164
Assessments on auto insurance	200,000	225,197	200,937
Investment and other income (note 13)	21,900	28,005	38,884
	2,500,150	2,803,924	2,520,308
<b>Operating expenses:</b>			
Advertising	49,500	17,209	23,467
Amortization	146,000	191,288	188,800
Cleaning	10,200	8,096	8,221
Computer maintenance and supplies	121,000	112,300	108,302
Education and development	40,500	16,339	22,302
Insurance	15,000	12,675	11,256
Office expenses	62,300	37,659	44,004
Part-time commissioners	50,500	19,317	36,096
Postage	6,000	3,607	4,731
Professional fees	269,000	260,651	338,637
Publications	23,000	22,251	21,930
Rent	166,000	165,854	165,854
Repairs and maintenance	12,500	872	5,132
Salaries and employee benefits	1,965,738	1,937,963	2,000,736
Telephone	15,000	13,147	13,797
Travel	86,000	48,021	61,917
	3,038,238	2,867,249	3,055,182
Annual deficit	(538,088)	(63,325)	(534,874)
Accumulated (deficit) surplus, beginning of year	-	(29,000)	505,874
Accumulated deficit, end of year	\$ -	\$ (92,325)	\$ (29,000)

The accompanying notes are an integral part of these financial statements.

## Prince Edward Island Regulatory and Appeals Commission

### Statement of Change in Net Financial Assets

As at March 31, 2017, with comparative figures for 2016

	Budget (note 12)	2017	2016
Annual deficit	\$ (538,088)	\$ (63,325)	\$ (534,874)
Acquisition of tangible capital assets	(144,000)	(146,156)	(246,405)
Amortization of tangible capital assets	146,000	191,288	188,800
Use of prepaid expenses	-	(355)	(1,297)
	(536,088)	(18,548)	(593,776)
Net financial assets, beginning of year	(274,702)	(274,702)	319,074
Net financial assets, end of year	\$ (810,790)	\$ (293,250)	\$ (274,702)

The accompanying notes are an integral part of these financial statements.



## Prince Edward Island Regulatory and Appeals Commission

### Statement of Cash Flows

For the Year Ended March 31, 2017, with comparative figures for 2016

	2017	2016
Cash flows from operating activities:		
Cash receipts from government transfers and customers	\$ 2,816,201	\$ 2,577,640
Cash paid to suppliers and employees	(2,704,281)	(2,931,873)
Interest received	13,831	22,265
	125,751	(331,968)
Cash flows from capital activities:		
Purchase of tangible capital assets	(146,157)	(246,405)
Cash flows from investing activities:		
Decrease in investments	233,945	627,645
Net increase in cash	213,539	49,272
Cash, beginning of year	97,614	48,342
Cash, end of year	\$ 311,153	\$ 97,614

The accompanying notes are an integral part of these financial statements.

# Prince Edward Island Regulatory and Appeals Commission

## Notes to the Financial Statements

For the Year Ended March 31, 2017, with comparative figures for 2016

The Commission is incorporated under the Island Regulatory and Appeals Commission Act of Prince Edward Island. The Commission is primarily engaged in the general supervision of public utilities, petroleum distributors, land and property appeals, Office of the Director of Residential Rental Property, auto insurance rate regulation and the hearing of appeals for property and sales tax disputes. The Commission is also responsible for recommending decisions under the Lands Protection Act. The Commission is a non-taxable entity under the provisions of the Income Tax Act.

### 1. Significant accounting policies:

#### a) Basis of accounting:

The financial statements of Prince Edward Island Regulatory and Appeals Commission are the representations of management prepared in accordance with Canadian Public Sector Accounting Principles established by the Public Sector Accounting Board of the Canadian Institute of Chartered Professional Accountants.

#### b) Tangible capital assets:

Tangible capital assets are recorded at cost less accumulated amortization. Cost includes all amounts directly attributable to acquisition or construction of the tangible capital assets. Contributed tangible capital assets are recorded at fair value at the time of the donation, with a corresponding amount recorded as revenue. Amortization is recorded on a straight-line basis over the estimated life of the tangible capital asset commencing once the asset is available for productive use as follows:

Asset	Rate
Computer equipment	3 years
Furnishings and equipment	5 years
Leasehold improvements	5 years

#### c) Vacation pay, retirement allowance, and sick time:

Vacation pay is recorded as a liability when earned.

The Commission records an annual expense based on the change in the actuarially determined obligation for retirement allowance benefits, net of payments during the year.

The Commission records an annual expense based on the change in the actuarially determined obligation for sick time, net of sick time taken in excess of sick time earned during the year.

#### d) Government transfers:

Government transfers are recognized in the financial statements in the period in which events giving rise to the transfer occur, providing the transfers are authorized, any eligibility criteria have been met, and reasonable estimates on the amounts can be determined.

# Prince Edward Island Regulatory and Appeals Commission

## Notes to the Financial Statements

For the Year Ended March 31, 2017, with comparative figures for 2016

### 1. Significant accounting policies: (continued)

e) Pension costs:

Employees of the Commission belong to the Civil Service Superannuation Plan which is a multi-employer contributory defined benefit pension plan and is accounted for as a defined contribution plan. Employees' contributions and matching employer's contributions are transferred to the Civil Service Superannuation Fund. These contributions are expensed as incurred. Future actuarial liabilities assumed by the Province of Prince Edward Island are not reflected in these financial statements.

f) Investments:

Investments consist of Guaranteed Investment Certificates and are recorded at cost plus accrued interest.

g) Leasehold improvements and inducements:

Costs incurred or paid by landlords to renovate the Commission's premises are recorded as leasehold improvements and amortized over the life of the lease.

h) Revenue recognition:

All revenues other than investment income are recorded in the period in which the transactions or events that give rise to the revenues occur. Amounts that have been received in advance of services being rendered are recorded as deferred revenue until the Commission discharges the obligations that led to the collection of funds. Investment income is recorded in the period in which the interest is earned.

i) Use of estimates:

The preparation of financial statements in accordance with Canadian Public Sector Accounting Standards requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from management's best estimates as additional information becomes available in the future.

### 2. Cash:

	2017	2016
Cash	\$ 301,043	\$ 86,624
Cash held in trust for deposit guarantees	10,110	10,990
	<u>\$ 311,153</u>	<u>\$ 97,614</u>

# Prince Edward Island Regulatory and Appeals Commission

## Notes to the Financial Statements

For the Year Ended March 31, 2017, with comparative figures for 2016

### 3. Accounts receivable:

	2017	2016
Trade receivables	\$ 129,431	\$ 153,449
Other receivables	1,762	3,852
	<b>\$ 131,193</b>	<b>\$ 157,301</b>

### 4. Investments:

Investments consist of Guaranteed Investment Certificates invested at the Bank of Nova Scotia with interest rates ranging from 1.1% to 2.00% and maturity dates ranging from June 2017 to July 2018.

### 5. Accounts payable and accrued liabilities:

	2017	2016
Province of Prince Edward Island - accumulated surplus	\$ 1,072,630	\$ 1,072,630
Trade	84,101	87,754
Vacation pay	74,868	81,051
Accrued sick leave	54,557	77,968
Deposit guarantees - Director of Residential Rental Property	10,110	10,990
	<b>\$ 1,296,266</b>	<b>\$ 1,330,393</b>

### 6. Employee future benefits:

Certain employees are eligible for retiring pay as defined by the Collective Bargaining Agreement with the Government of Prince Edward Island. This plan provides retiring pay to employees who meet the eligibility requirements outlined in the Agreement. The retiring pay entitlement is equal to either one week or two weeks of pay for each year of service and the maximum will vary depending on the particular employee group. These benefits are unfunded. An analysis of the components of, and changes in, employee future benefits is as follows:

Retirement allowance	2017	2016
Balance, beginning of year	\$ 243,851	\$ 249,283
Current service cost	27,085	22,266
Accrued interest	7,733	7,807
Retirement pay	(13,801)	(36,123)
Loss on valuation	1,144	618
	<b>\$ 266,012</b>	<b>\$ 243,851</b>

The 2017 retirement allowance balances are based on an independent actuarial valuation estimate dated April 1, 2017. The Commission projects the total liability in the years between the tri-annual actuarial valuations.



# Prince Edward Island Regulatory and Appeals Commission

## Notes to the Financial Statements

For the Year Ended March 31, 2017, with comparative figures for 2016

### 6. Employee future benefits: (continued)

The economic assumptions used in determining the actuarial value of accrued retirement allowances were developed by reference to the expected long-term market conditions. Significant actuarial assumptions used in the valuations and projections on the actuarial report which was completed on April 1, 2014, are primarily the same with exception of the discount rate. The discount rate has been updated to reflect market rate changes which is consistent with the Province's cost of borrowing. The remaining assumptions are below:

	2017	2016
Discount rate	3.26%	3.80%
Expected inflation rate	3.00%	3.00%
Expected average remaining service life	9 years	9 years

Employees that become ineligible for retiring benefits may become entitled to severance benefits calculated under similar methods.

During the 2017 fiscal period, two employees retired, resulting in a decrease in the obligation of \$ 13,801 (2016 - \$ 36,123).

### 7. Tangible capital assets:

	Cost	Accumulated Amortization	2017 Net Book Value	2016 Net Book Value
Computer equipment	\$ 549,793	\$ 383,879	\$ 165,914	\$ 161,908
Furnishings and equipment	93,645	60,769	32,876	46,964
Leasehold improvements	175,247	175,247	-	35,049
	\$ 818,685	\$ 619,895	\$ 198,790	\$ 243,921

### 8. Commitments:

The Commission has an operating lease for its premises at \$ 14,981 per month plus common area charges, under a lease expiring March 31, 2022.

The minimum annual lease payment to the expiry date is \$ 179,772.

### 9. Pension costs and obligations:

The Commission participate in the multi-employer contributory defined benefit pension plan as defined by the Civil Service Superannuation Act. This plan provides a pension on retirement based on 2% of the average salary for the highest three years times the number of years of pensionable service for service to December 31, 2013, and 2% of the career average salary indexed with cost of living adjustments for service after 2013. Indexing is subject to the funded level of the plan after December 31, 2016. The plan is administered by the Province of Prince Edward Island and the responsibility for any unfunded liability is that of the Province.

During the year, the Commission contributed \$ 288,523 (2016 - \$ 277,132) to the defined benefit pension plan on behalf of employees. These amounts are included in salaries and employee benefits in the Statement of Operations.



# Prince Edward Island Regulatory and Appeals Commission

## Notes to the Financial Statements

For the Year Ended March 31, 2017, with comparative figures for 2016

### 10. Accumulated surplus:

The Commission segregates its accumulated surplus in the following categories:

	2017	2016
Capital fund	\$ 198,790	\$ 243,921
Operating fund	(491,114)	(472,921)
Reserve	200,000	200,000
	\$ (92,324)	\$ (29,000)

Capital fund:

The capital fund represents amounts already spent and invested in tangible capital assets.

Reserve:

On April 1, 2013, an agreement was signed with the Province of Prince Edward Island effective until March 31, 2016. Under this agreement, the Commission has agreed to refund the accumulated surplus to the Province, at the discretion of the Province, for any fiscal year by March 31 of the year following the end of the fiscal year for which the accumulated surplus is calculated. On January 26, 2015, the Commission received a legal opinion from independent counsel which raises concerns about the obligations of the Commission to the Province of Prince Edward Island regarding the transfer of accumulated surplus as recognized in these financial statements. In addition, legal counsel in the current year provided an opinion that it is not necessary for the Commission to have a new agreement with the Province. As a result, it is unknown at the time of this report whether the accumulated surplus (note 5) will be payable to the Province.

Under the previous agreement, the Commission was allowed to retain a one time \$ 200,000 reserve of its accumulated surplus to cover net costs exceeding the annual assessments agreed to under this agreement. Although a new agreement is not in place, the reserve fund will be unchanged.

### 11. Financial instruments risk:

Credit risk:

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to discharge an obligation. The Commission is exposed to credit risk arising from its accounts receivable.

Interest rate risk:

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. The Commission is exposed to interest risk arising from its pension and sick leave liability.

## Prince Edward Island Regulatory and Appeals Commission

Notes to the Financial Statements

For the Year Ended March 31, 2017, with comparative figures for 2016

### 12. Budget:

A reconciliation of the 2017 fiscal operating budget prepared by the Commission to the budget figures disclosed in the financial statements is as follows:

	2017
Commission budgeted annual deficit	\$ 538,088
Less:	
Capital expenditures	144,000
	<u>\$ 394,088</u>

### 13. Investment and other income:

	2017	2016
Investment income	\$ 13,831	\$ 22,266
Police commission	8,400	8,400
Rental fees	5,688	7,925
Other	86	293
	<u>\$ 28,005</u>	<u>\$ 38,884</u>

### 14. Contingent liabilities:

The Commission is in the process of modifying certain regulations, as recommended in the Report of the Commission on the Land Protections Act, dated June 30, 2013. The Commission intends to modify the land fees paid by non-residents, who become residents within 2 years of receiving approval to purchase the land. They also intend to modify the rebate of fees for unsuccessful applications.

The likelihood of these changes being realized is high; however, the liabilities are difficult to estimate due to the lack of historical data and the difficulties in estimating immigration rate of non-residents, who purchase land in Prince Edward Island.

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## This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.





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