

July 17, 2025

**VIA EMAIL**

The Island Regulatory & Appeals Commission  
Attention: Michelle Walsh-Doucette  
National Bank Tower, Suite 501  
134 Kent Street  
Charlottetown, PEI  
C1A 7L1

Dear Ms. Walsh-Doucette:

**Re: D. Blair Sorrey v. Town of Three Rivers – Appeal #LA25005**

---

**Introduction**

This letter is in reply to yours of June 19, 2025, concerning the filing of a Notice of Appeal by D. Blair Sorrey (the “Appellant”) on May 27, 2025 in relation to a decision by the Town of Three Rivers (the “Town”) to issue a Development Permit (Number 46.25.DEP) to ACRE Development Core (the “Developer”) to construct a 2-storey, 40-unit residential development on Robertson Road in Brudenell (PID #199026) (the “Development”).

For the reasons noted, the Town agrees with the observations in your letter and respectfully requests that the Commission dismiss the Appeal as the grounds of appeal and relief sought relate solely to a request to review the Development by the Department of Environment, Energy and Climate Action, (the “Department”) for which the Commission has no legal grounds or jurisdiction to review, and is not an appeal relating to planning principles or the Town’s administration of its *Official Plan* or *Development Bylaw* in making land use planning related decisions.

**Ewan W. Clark** | Lawyer

Direct 902 838 5275 Main 902 838 1033 Fax 902 566 2639 Email [eclark@coxandpalmer.com](mailto:eclark@coxandpalmer.com)

P.O. Box 516, 4A Riverside Drive, Montague PEI C0A 1R0

### **Response to Notice of Appeal**

The Town submits that none of the grounds of appeal or relief sought fall within the jurisdiction of the Commission to consider or to award. [The jurisdiction of the Commission is reviewed at length in 629857 *N.B. Inc. v. City of Charlottetown*, Order LA09-11].

In addition, the Town's decision to approve the Permit was a decision made in accordance with sound planning principles and the Appellant has not raised any grounds or evidence otherwise.. In order to prove that a decision was not made in accordance with sound planning principles, an appellant is required to show more than mere anecdotal evidence of their opinion and disagreement and must provide expert evidence to overturn the decisions made by Council on recommendations from experienced planners based on objective and reliable evidence. Public opinion alone is insufficient to overturn these decisions and this has been upheld by the Commission on a number of occasions [for example: *Queens County Condominium Corporation No. 40 v City of Charlottetown*, Order LA 18-02].

Further, while outside the jurisdiction of the Commission on Appeal, for the information of the Commission, the Town would advise that it did at all times consult with the Department, adhere to, consider, and meet any and all environmental requirements of the Department as necessary in considering and issuing the Permit. The Town maintains its position that any legal consideration of such matters fall under the purview of the Department and not the Commission on a planning appeal. The Town's *Development Bylaw* does require developers to obtain necessary environmental approvals as a condition of development, which occurred in the present Development. Enforcement of the *Environmental Protection Act* and Departmental reviews lie outside the Town's authority and are also outside the scope of the Commission's planning jurisdiction.

The grounds of appeal and relief sought lie outside the jurisdiction of the Commission. The appeal is founded on matters outside those open for examination by the Commission within the *Planning Act*. Environmental Issues raised by the Appellant associated with hydrocarbons, contamination and watercourses are governed under other authorities, including:

- The Environmental Protection Act (c. E-9)
  - Enables regulation and remedial measures where contaminants are involved (see Section 20).
  - Watercourses and Buffer Zones are prescribed in Section XX.

- **Petroleum Hydrocarbon Remediation Reg. (EC655/06)**
  - Sets cleanup standards for petroleum impacted soil / groundwater
- **Contaminated Sites Registry Reg. (EC656/06)**
  - Requires public registry of contaminated sites and risk notification
- **Petroleum Storage Tanks Regulations (EC240/07)**
  - Controls tank design, installation, operation, maintenance and reporting

### **Response to Further Submissions**

On June 23, 2025 the Appellant made further submissions, including:

- a. Failure to enforce the Environmental Permitting and Bylaw Enforcement
- b. Allegations of Contamination and Well Safety
- c. Allegations of Conflict of Interest

#### **a. Environmental Permitting and Bylaw Enforcement**

While the Appellant refers to Sections 1.2 (Purpose) and 5.22 (Watercourse Separation Distance) of the Town's *Development Bylaw*, these are general purpose and procedural clauses and all necessary environmental permits were obtained. The Appellant has not demonstrated how the approval in question failed to conform to the specific provisions of the *Development Bylaw* relating to use, density, form, compatibility, or land use policy implementation. Neither has the Appellant identified a specific planning principle that has been breached. Assertions of public risk or deception have not been supported by evidence or professional submissions tied to the development subject of the appeal. The Appellant's has failed to provide any planning grounds for appeal, nor expressed clarity in the relief sought through the Commission on appeal.

#### **b. Allegations of Contamination and Well Safety**

The Town repeats and relies on the information above in respect of environmental issues. The Town notes that the Appellant continues to reference potential soil or groundwater contamination and related restrictive covenants concerning a portion of the development site. Clearly, these are matters addressed under the *Environmental Protection Act* and other provincial legislation and do not fall within the purview of the Commission nor constitute valid planning grounds based in planning principles.

In addition, restrictive covenants contained in legal instruments registered on title between property owners are not planning tools, nor are they created or enforced under municipal or provincial planning legislation. As such, the Town has no authority to enforce or consider private covenants when reviewing development applications or issuing permits. In accordance with the *Planning Act* and applicable bylaws, the Town's role is to apply land use planning principles and ensure compliance with the *Development Bylaw*. Any concerns regarding restrictive covenants must be pursued privately by the parties, through the civil court system and not through the municipal permitting process or planning appeals.

In all events, the Town is not aware of any present contamination on the site and can confirm that previous monitoring of wells on the site was completed and closed by the Department on or about June 18, 2019.

**c. Allegation of Conflict of Interest**

The Appellant raises an allegation regarding a potential Councillor conflict of interest. The Town is not aware of any such conflict and, even if such was raised or existed, such a matter would be considered and addressed by the Town by separate statutory mechanisms, including the Town's *Conflict of Interest Bylaw* and the *Municipal Government Act*, and not by the Commission pursuant to the *Planning Act*. In any event, there is no evidence presented to support a material planning error linked to this allegation.

**Conclusion**

The Town submits that the Appeal, in both the original and supplementary information filed, fail to meet the requirements for appeal to the Commission under the *Planning Act*. The appeal does not allege that the decision of Council failed to conform to the Town's Official Plan or *Development Bylaw*, nor has the Appellant provided a legitimate planning rationale or principle for the Commission to consider.

Accordingly, the Town respectfully requests that the Commission dismiss the appeal in its entirety.

The Town respectfully reserves its right to provide further reply in response to any further submissions from the Applicant and substantively to the Notice of Appeal in the event the Appeal is not dismissed as requested.

Yours very truly,



Ewan W. Clark

EWC/th

c.c. D. Blair Sorrey  
ACRE Development Corp