

April 15, 2026

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: Charlie Hicken v Town of Three Rivers – Appeal #LA26004

Introduction

This letter is in response to yours of March 31st, 2026, requesting the parties provide submissions on the preliminary issue of jurisdiction and whether the Appellant is an “aggrieved person” as required by the *Planning Act* (the “Act”) to commence an appeal. It is also in response to further submissions by the Appellant to the Commission on April 6, 2026 and provided to the Town on April 7, 2026.

We note that the proposed Appeal is of a decision of Town Council of the Town of Three Rivers (the “Town”) to approve a development at 2661 Heatherdale Rd., Three Rivers, pertaining to PIDs 483404, 253666, 759001 and 729939, approving a development permit DEP 14.26 for a visitor centre/guardhouse.

For the reason noted herein, the Town requests that the Appeal be dismissed at this preliminary stage as the Appellant is not an “aggrieved person” and the Commission lacks jurisdiction to hear the Appeal. The Notice of Appeal was not appropriately served on the Town. Further, the Appeal discloses no valid grounds for appeal under the Act and should be dismissed without the necessity of a public hearing.

Preliminary Issue – Standing of the Appellant

The right of appeal requires an “aggrieved Person”, not an “affected Person” and the proposed Appellant does not meet that requirement. The Commission has appropriately identified this preliminary issue of whether the Appellant meets the definition of an “aggrieved person” under section

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27.1 of the Act. The burden rests with the Appellant to prove that he meets that definition in order for the appeal to continue. The Appellant has not met that burden.

In fact, while the Appellant submits that he is an “affected person”, that is not the legal requirement for standing. Indeed, the Appellant resides approximately 14 kilometers from the subject property. Further, the Appellant has not identified any direct or specific impact arising from the development that would adversely affect the reasonable enjoyment of his property. The concerns raised relate to speculative future scenarios, generalized and distant neighbourhood impacts, and matters outside the jurisdiction of both the Town and the Commission.

The Commission will recall having previously considered and ruled on similar submissions from this same Appellant in LA26-03 (*Hicken v. Town of Three Rivers*), where it determined that such concerns, being generalized assertions, unsupported by objective evidence, and without direct adverse impact on the Appellant’s reasonable use and enjoyment of his property simply do not meet the threshold requirement to establish that a person is “aggrieved” so as to have a right of appeal under the Act. In particular, the Appellant’s distance from the subject property limits any reasonable inference of adverse effect and that broad concerns regarding environmental impacts and community change are insufficient to establish standing.

The Appellant’s current submission include hypothetical future development on unrelated properties, and the Appellant continues to submit unsubstantiated similar speculative statements and generalized commentary; such concerns do not satisfy the statutory test to establish a right of appeal.

The right of appeal to the Commission is a right enacted by statute and the Commission only has the jurisdiction granted by the enabling legislation. Here, the Appellant has no statutory right of appeal and therefore the Commission lacks jurisdiction to consider the appeal.

Therefore, it is submitted that the Appellant has not met the burden of demonstrating that he is an aggrieved person, and that the appeal should be dismissed without proceeding to a hearing.

Response to Grounds of Appeal

Should it be determined that a right of appeal does exist, the Town reserves the right to provide substantive submissions on the various grounds of appeal at a later date, and at this point submits only that none of the grounds of appeal support a successful appeal. In sum:

- **Professional Qualifications / Use of a Registered Planner**

The Town’s Development Officer is duly authorized to administer the Town’s Official Plan and Development Bylaw, which authority has been exercised appropriately.

- Land Consolidation and External Investigations

Concerns related to land consolidation, alleged moratoria, and external investigations fall outside the scope of municipal land use planning authority and are governed by separate legislative and regulatory processes. The Development Officer is authorized to approve consolidations in accordance with the Development Bylaw.

- Procedural Concerns Regarding Prior Decisions

The timing and method of consolidation approval issues relate to separate administrative decisions not under appeal. The Commission's role is to assess the decision currently before it, and not prior decisions.

- Zoning Compliance and Multiple Buildings

The existing buildings on the property were established prior to the adoption of the Town's planning framework and are representative of a legally non-conforming situation. The Development Bylaw provides for the continuation of such development. In the present case, the relevant consideration is whether the proposed visitor centre complies with current zoning provisions as an accessory use to the permitted institutional use, which it does.

- Accessory Building / Dwelling and Yard Requirements

The Development Bylaw clearly distinguishes between accessory buildings and dwellings and prohibits the use of accessory buildings for human habitation. The approved use is a visitor centre accessory to the monastery, and any future change in use would require separate approval. The location of the building complies with applicable yard and setback requirements and raised no issue in the proposal.

- Drawings and Professional Seals

The absence of seals or signatures on submitted drawings is not a requirement of the Development Bylaw for the type of application in question.

- Servicing, Percolation Tests, and Access

Matters such as percolation, 'perc' testing and entrance approvals are addressed through separate regulatory processes and they may be applied as conditions of approval where required and relevant. The Development Bylaw does not require all such approvals to be in place prior to the issuance of a development permit, and it is known that this site features multiple points of access to the highway.

Further, the site features existing private well and septic systems constructed prior to the Town's planning framework being adopted. Accordingly, these matters fall outside the scope of the current appeal and do not demonstrate any direct impact on the Appellant.

- Environmental Concerns and Impact Assessment

Concerns regarding environmental impact assessments and groundwater impacts fall under provincial jurisdiction and are not within the authority of the Town or the Commission. This position has been clearly affirmed in LA25-09 (*Sorrey v. Town of Three Rivers*), where the Commission confirmed that it does not have the authority to require or adjudicate environmental assessments.

- Neighbourhood Impacts and Precedent

Concerns regarding precedent, property values, and broader neighbourhood impact issues are generalized and speculative. Planning decisions are based on the specific merits of an application and its conformity with the Development Bylaw. As affirmed in LA26-03, general disagreement with a development or concern about its scale does not establish that a person is aggrieved.

- Council Process and Decision-Making

While the Appellant opines that the current decision reflects inadequate consideration or poor planning judgment. The Town disagrees and respectfully points out that the role of the Commission is to assess compliance with the applicable statutory and regulatory framework, not to evaluate the extent of debate or deliberation. The development permit was issued in accordance with the Town's Official Plan and Development Bylaw, and no error has been identified that would result in a direct impact on the Appellant.

Response to Appellant's April 6/26 Submissions Concerning Standing

The Commission's correspondence of March 31 afforded the Appellant an opportunity to provide further submissions in response to the question of how he meets the standard of an "aggrieved person."

In response, the Appellant submitted the following materials:

- Planning Appeal Form for GEBIS #1 – Signed Final Copy
- Aggrieved Person
- Land Holdings and Corporate Interconnects
- Shared Leadership and Overlapping Directors

- Corporate and PID Connections Uncovered
- Procedural Matters – Service of Notice of Appeal

As another preliminary issue, the Town notes that there are two versions of the Notice of Appeal: one dated March 30, 2026, and one dated April 6, 2026 and described as a “signed final copy.” Neither of these versions were properly served on the Town Council, as required by section 28(6) of the Act, within seven days of filing an appeal with the Commission, which same service requirement is contained in section 3.9(5) of the Town’s Development Bylaw.

Additional Submissions Concerning Assessment of Standing

The Appellant’s additional submissions primarily relate to alleged non-compliance with various provisions of the Development Bylaw, and broader concerns regarding precedent, neighbourhood character, and future development risk. While such matters may relate to the merits of an appeal, they do not, establish that an Appellant is an aggrieved person in the absence of demonstrating a direct and adverse impact on their property, which is not the case here.

The Town respectfully offers the following comments in response.

- Bylaw non-compliance

The development in question complies with the Town’s Development Bylaw in all respects. The additional Bylaw provisions cited by the Appellant do not establish his standing under the Act, nor do they demonstrate a direct adverse impact on the Appellant’s property.

- Section 3.3(d): Development Agreement for Institutional Uses

Section 3.3 outlines circumstances in which a Development Agreement may be required. In this instance, the permit relates to an accessory building associated with an existing institutional use and a Development Agreement was not required.

- Sections 5.2.3 and 5.2.4(b): Accessory Buildings and Yard Requirements

These provisions have been incorrectly interpreted. The Development Bylaw permits accessory buildings where they are subordinate to the main use, and provides a framework under which such structures may be located within yard areas, including front yards. Here, the Town has previously confirmed that the proposed building did not constitute a front yard development based on the applicable definitions and site layout.

- Section 5.3.1: Buildings on a Single Lot of Record

The subject lands constitute a single lot of record, being PID 483404. This requirement is satisfied.

- Section 5.7: Entranceway Permit

Matters relating to entranceway permits and access approvals are addressed through separate regulatory processes. These matters do not affect the validity of the development permit.

- Sections 5.03 and 6.11.2: Permitted Uses in the Institutional Zone

There is no section 5.03 in the applicable planning documents. Section 6.11.2 identifies permitted main uses within the Institutional Zone, including places of worship. The monastery is a permitted use, and both the Official Plan and Development Bylaw permit accessory uses that are subordinate and incidental to that primary use. The proposed visitor centre falls within this definition.

- Sections 5.14 and 5.33: Main Buildings and Ancillary Uses

The proposed structure is an accessory building and is not subject to provisions limiting the number of main buildings on a lot in section 5.14. References to home-based business provisions in section 5.33 are not applicable to this permit.

While the Appellant's references various Bylaw provisions, he does not demonstrate that the Development Bylaw has been misapplied in a manner or that the approval in question results in a direct adverse impact on the Appellant's property.

- Neighbourhood Character and Future Development Risk

The Appellant's submissions regarding neighbourhood character, precedent, and the potential for future development are speculative and relate to hypothetical future scenarios, not the development under consideration. In all events, such do not establish that the Appellant is an "aggrieved person".

- Corporate and Landholding Documentation

The Appellant has submitted documents relating to corporate structures, land holdings, and organizational relationships, including:

- Land Holdings and Corporate Interconnects
- Shared Leadership and Overlapping Directors

- Corporate and PID Connections Uncovered

These materials do not relate to land use impacts arising from the development permit under appeal and fall outside the scope of the Commission's consideration under the Act. Neither do they provide objective evidence demonstrating how the Appellant's property is adversely affected by the proposed development.

The Town further notes that the materials appear to rely on aggregated or secondary sources and are not supported by verifiable evidence relevant to the planning considerations before the Commission. As such, they do not assist in establishing the Appellant's standing.

Conclusion

The Appellant has not demonstrated, on a balance of probabilities, that the decision to issue the development permit will adversely affect the reasonable use or enjoyment of their property. The concerns raised are speculative, generalized, or outside the jurisdiction of the Commission, and are consistent with concerns previously found insufficient to establish standing, including in LA26-03 (Hicken v. Town of Three Rivers).

Accordingly, it is respectfully submitted that the Appellant does not meet the definition of an aggrieved person under the Planning Act, and that the appeal should be dismissed without proceeding to a hearing on the merits.

Yours very truly,

fol:

Ewan W. Clark
EWC/ng

c.c. Charlie Hicken
Great Enlightenment Buddhist Institute