

25 August 2026

VIA EMAIL

Island Regulatory and Appeals Commission
National Bank Tower, Suite 501
134 Kent Street
Charlottetown, PE C1A 7L1

Our File: 51910LM

Attn: Michelle Walsh-Doucette

Dear Ms. Walsh-Doucette:

**RE: Appeal LA26010 – Frances Sheila Gallant v. Rural Municipality of North Shore
PID 421834**

We write further to the Commission's letter dated 23 July 2026, in which the Commission requested the Rural Municipality of North Shore (the "**Municipality**") to file a Record and a reply to the Notice of Appeal filed by Frances Sheila Gallant (the "**Appellant**") on 21 July 2026 (the "**Appeal**"). Please accept this correspondence as the Municipality's preliminary response to the Notice of Appeal.

NATURE OF THE APPEAL

The Appellant challenges the Municipality's 30 June 2026 decision to "*amend the Official Plan, Zoning Map and Land Use Bylaw*".¹ The grounds reflect a general allegation of failure to follow the Official Plan, the *Planning Act*, and the Land Use Bylaw, and raises section 3.10 of the Land Use Bylaw regarding a failure to provide adequate notice.² In the result, the Appellant seeks that the Municipality's decision be quashed.³

DECISION UNDER REVIEW

On June 30th, 2026, the Municipality adopted textual amendments to its Official Plan and Land Use Bylaw to create a Resort (RES) Zone for resort-oriented mixed-use developments, with

¹ Notice of Appeal dated 21 July 2026.

² *Ibid.*

³ *Ibid.*

associated housekeeping amendments. The Municipality also updated its Future Land Use Map and the Land Use Bylaw Zoning Map to rezone several PIDs to apply the Resort (RES) zoning designation to lands comprising the Blackbush Resort development.

According to the Planner's Report on the Record, the Blackbush Resort lands have a planning history that predates the incorporation of the Municipality. However, when the Municipality adopted its first planning documents in 2021 (approved by Minister in April 2022), a Resort land use designation and Resort zone was not included. As a result, the existing planning framework did not contain policy or regulatory tools necessary to accommodate the construction of the resort development previously approved by the Province of PEI prior to the approval of the Municipality's Official Plan and Land Use Bylaw. The amendments adopted by the Municipality on June 30th, 2026 were intended to address that gap.

RESPONSE TO APPEAL

- **Aggrieved Person**

The Appellant has not identified the grounds by which the Municipality or the Commission can assess whether the Appellant is an "aggrieved person" as defined under section 27.1 of the *Planning Act*.⁴ In particular, the Appellant has not provided a basis for its good faith belief that the decision will adversely affect the reasonable enjoyment of their property.

- **Jurisdiction**

As a statutory tribunal, the Commission's jurisdiction is found within the enabling statute – in this case the *Planning Act*. Section 28(1.1) of the *Planning Act* defines the types of municipal decisions which are subject to appeal to the Commission.⁵

A textual amendment to an Official Plan is not one of the types of municipal decisions which the *Planning Act* authorizes the Commission to adjudicate.⁶ Accordingly, the Municipality requests that the present Appeal be dismissed to the extent that it proposes to challenge any textual amendment to the Municipality's Official Plan.

The Municipality's decision of 30 June 2026 included amending the Official Plan and Land Use Bylaw to accommodate a new Resort Zone, and also rezoned several properties, including PID 421834, to that new Resort Zone.

The Notice of Appeal is not clear whether the Appellant challenges the enactment of the new Resort Zone *in toto*, or whether the Appeal is limited to the rezoning of PID 421834.

In ***Kent MacLean and Patti Sue Lee v. Rural Municipality of North Shore, 2023 PEIRAC 6 (CanLII)***, the Commission confirmed that section 28(1.1)(b) of the *Planning Act* pertains to bylaw amendments made as an administrative, rather than a legislative, function of a municipality.⁷

⁴ *Planning Act*, RSPEI 1988, c P-8 at s. 27.1.

⁵ *Planning Act*, RSPEI 1988, c P-8 at s. 28(1.1).

⁶ *Ibid.*

⁷ [*Kent MacLean and Patti Sue Lee v. Rural Municipality of North Shore, 2023 PEIRAC 6 \(CanLII\)*](#) at para 16.

Thus, where a municipality adopts a new Resort Zone applicable to the entire municipality, this decision is not subject to appeal to the Commission. Conversely, where the bylaw amendment decision is administrative – in that it affects the rights, privileges, or interests of an individual⁸ – then such a decision is appealable to the Commission under section 28(1.1)(b).

In other words, the Commission has jurisdiction to adjudicate an appeal by an aggrieved person of the rezoning of one or more parcels of land. The Commission does not have jurisdiction to adjudicate the enactment of a new Resort Zone applicable to the entire municipality. To the extent that the Appeal seeks to challenge the enactment of a new Resort Zone, the Municipality requests that the Appeal be dismissed.

- **Adequate Notice**

The Notice of Appeal alleges that the Municipality failed to provide the Appellant with adequate notice of the proposed changes. Section 3.10(13) of the Land Use Bylaw establishes the right to notice prior to holding a public meeting to solicit input on a proposed application. Generally speaking, a written notice is delivered to all owners within 150m of the boundaries of the subject lot, and the details of the public meeting are posted at least seven (7) clear days prior to the public meeting in the newspaper and by placing a sign on the land subject to the rezoning.

The Record includes a letter from York Postmaster, Ericka Dyson, confirming that the Municipality's CAO dropped off letters to be mailed out to residents on June 10th, 2026.⁹ An advertisement was published in *The Guardian* newspaper on June 10th, 2026¹⁰, and signs were posted in locations on the subject property.¹¹ Thus, adequate notice of the matter and the opportunity to provide feedback was provided to the public.

CLOSING

The Municipality submits that it successfully undertook the exercise of enacting a new Resort Zone and rezoning associated properties. The Municipality requests further particulars of the Appellant's grounds related to the alleged failures to follow the Official Plan, Land Use Bylaw, and the failure to provide adequate notice.

The Municipality reserves the right to provide additional evidence and argument at a hearing of this matter.

Yours very truly,
KEY MURRAY LAW



Iain M. McCarvill

⁸ *Martineau v. Matsqui Institution*, 1979 CanLII 184 (SCC) at pg 623. See also: *Cardinal v. Director of Kent Institution*, 1985 CanLII 23 (SCC) at para 14.

⁹ Record, PDF pg 348

¹⁰ Record, PDF pg 140.

¹¹ Record, PDF pgs 141-143.