

15 November 2023

VIA EMAIL

Island Regulatory and Appeals Commission
Attention: Jessica Gillis, General Counsel
National Bank Tower, Suite 501
134 Kent Street
Charlottetown, PE C1A 7L1

Our File: 15042-268dk

Dear Ms. Gillis:

RE: Appeal LA#23026 – Randy Pitre v. City of Summerside

We write further to two Notices of Appeal filed by Randy Pitre (the “**Appellant**”) on 30 October 2023 (the “**Appeals**”). Please accept this correspondence as the City’s submissions on the Commission’s jurisdiction.

BUILDING PERMIT APPEAL

One of the Appeals filed relates to a building permit (City File Reference 2023-9-0332). Per the Commission’s decision in *Clare Fagan v. City of Summerside*, Order No LA22-02, the Commission has determined that it “*has no statutory jurisdiction to hear and determine any appeal in relation to [a] building permit issued by the City*” (*Fagan, supra*, at para 13).

Thus, the City respectfully requests that the appeal be dismissed.

PRELIMINARY SITE PLAN APPEAL

The second Appeal filed relates to a “preliminary site plan approval” (City File Reference 2023-10-0356), which is authorized by section 9.4 of the City’s *Subdivision and Site Development Bylaw*.

In the City’s respectful submission, a “preliminary site plan approval” meets the definition of a “development permit” under the *Planning Act*, as it authorizes the Applicant to commence development and apply for a building permit. “Final Site Plan Approval” must be granted prior to

the issuance of an occupancy permit. The matter is thus within the Commission's jurisdiction to review and decide.

COMMENTS ON RELIEF SOUGHT

In the City's view, the Appellant's request for relief in the development permit appeal ought to be limited to the question of whether the "preliminary site plan approval" be quashed.

The other relief requested, including,

- an interlocutory order preventing the City from accepting any further or future applications from Nathan Kember or his companies; and
- investigation of members of Council for "misfeasance" and "malfeasance";

are, in the City's respectful submission, not within the Commission's jurisdiction to provide in the context of an appeal under the *Planning Act*.

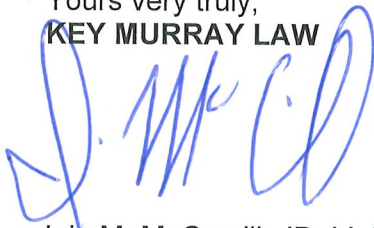
CONSOLIDATION

The City does not oppose consolidating Mr. Pitre's outstanding appeals against the City of Summerside pursuant to section 36 of the Commission's *Rules of Practice and Procedure*, as all the appeals relate essentially to one development.

In the City's respectful view, it would not be appropriate to consolidate Mr. Kember's 5 June 2023 appeal, as that matter was withdrawn by Mr. Kember, who was the Appellant in that matter.

Yours very truly,

KEY MURRAY LAW



Iain M. McCarvill, JD, LL.M

cc. Randy Pitre, Appellant
Gordon MacFarlane – CAO, City of Summerside
Nathan Kember, Developer
Derek D. Key, K.C.