

**BEFORE THE ISLAND REGULATORY AND APPEALS COMMISSION**

IN THE MATTER OF an appeal pursuant to s.28 of the *Planning Act*, RSPEI 1988 c. P-8 by Parry Aftab and Allan McCullough with respect to the denial of an application for an Amended Development Permit at PID #877647 located at Bessie Willow Land, Point Prim, Queens County, Prince Edward Island

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**APPELLANTS' BOOK OF EXHIBITS**

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**Thomas B. Keeler  
McInnes Cooper  
141 Kent Street, Suite 300  
Charlottetown, PE  
C1A 1N3**

**Counsel for the Appellants,  
Parry Aftab and Allan McCullough**

Christiana Tweedy  
Legal Services  
Justice and Public Safety  
95 Rochford Street, PO Box 2000  
Charlottetown, PE

Counsel for the Respondent, the Department  
of Housing, Land and Communities

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**Exhibit**

Letter from the Honourable Bloyce Thompson to Michael G. Drake, Legal  
Counsel for the Appellants, dated June 3, 2021

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# **EXHIBIT 1A**



Agriculture  
and Land

Agriculture  
et Terres



Office of the Minister  
PO Box 2000, Charlottetown  
Prince Edward Island  
Canada C1A 7N8

Bureau du ministre  
C.P. 2000, Charlottetown  
Île-du-Prince-Édouard  
Canada C1A 7N8

June 3, 2021



Michael G. Drake  
McInnes Cooper  
141 Kent Street, Suite 300  
Charlottetown PE C1A 1N3

Dear Mr. Drake:

**RE: Your File 182762 – Parry Aftab and Alan McCullough; Point Prim PID 877647**

We are in receipt of your correspondence dated March 26, 2021 on behalf of your clients Parry Aftab and Alan McCullough (hereinafter referred to as the “Applicants”) regarding Point Prim PID 877647.

For clarification purposes, the above letter stated that it be considered as an application pursuant to s. 9 of the Subdivision and Development Regulations (“Regulations”) under the *Planning Act*. This form of application is not satisfactory as normally a request for a non-compliance situation to be approved would be submitted as part of an application for a development permit. The criteria for the application of s. 9 are not applicable to this situation, as the development should otherwise be compliant except for the variance sought. Your client’s development is not otherwise compliant.

There are many elements of process and enforcement associated with this file that have been discussed in previous correspondence between the Department and the Applicants. For your reference, key points will be addressed which have transpired since the July 13, 2017 issuance of Development Permit M-2017-0119 (hereinafter referred to as “M-2017-0119”) for a residential summer cottage.

On July 20, 2018, Provincial Planning staff (hereinafter referred to as “staff”) met with the Applicants on-site in an attempt to resolve the non-compliance issues associated with the summer cottage which had been identified early in the construction phase, including changed location, increased square footage and additional storeys beyond that approved in M-2017-0119.

At that time, the Applicants acknowledged the changes being made to the residential summer cottage were not in keeping with the issued development permit but indicated that they intended to submit a new application for these changes upon completion of the construction. The Applicants were made aware that they were stepping outside the bounds of the issued development permit.

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Staff informed the Applicants that should a decision be rendered to issue a new development permit, they could commence with construction based on the information provided in the new development application. Staff requested that construction be ceased until they submitted a new application with their revised development plan and to wait for a decision. However, the Applicants continued to proceed with construction of the summer cottage without a new development permit, despite having been told by staff that this was not the correct process. A "cease construction letter" was issued and then staff issued a subsequent letter revoking M-2017-0119 for the summer cottage because of non-compliance with the "cease construction letter".

Staff provided your client with a letter dated January 27, 2021, and sent a follow-up email of February 18, 2021, providing the Applicants with an Alternative Resolution and accompanying dates as a means of addressing the matter of the third storey. The third storey does not conform to the application for a development permit submitted on November 5, 2018 (M-2018-0281), which specified the number of stories to be constructed as 2, not 3. Furthermore, the Applicants statement of how they intend to use the third storey is secondary to it being constructed as a third storey within the meaning of the Regulations, therefore constituting non-compliance with M-2017-0119. Therefore, your request on behalf of the Applicants for relief sought for the inclusion of three storeys as opposed to two storeys, is hereby denied.

Your letter stated that the Applicants did not intend for the third storey to be a "storey" in the true sense, ie. as a floor for living space, accommodations or daily use, stating that it is intended as an attic for storage and mechanical purposes. However, the space is equipped with an egress door for fire emergency escape and large windows facing the coastline.

This matter needs to be resolved. A discussion needs to be held between the parties regarding the implementation of the previously stated Alternative Resolution. If a meeting cannot be arranged, staff intend to proceed with the filing of an application with the Supreme Court or, alternatively, staff will deny Development Permit M-2018-0281.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Thompson', with a long horizontal flourish extending to the right.

Hon. Bloyce Thompson

Minister of Agriculture and Land

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Thomas B. Keeler  
McInnes Cooper  
141 Kent Street, Suite 300  
Charlottetown, PE C1A 1N3  
Tel: 902 368 8473  
tom.keeler@mcinnescooper.com

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