

From: [gorden Perry](#)
To: [Philip Rafuse](#)
Subject: Re: Consolidated Appeal LA21022 and LA21023 Goops & Laurena Wooldrige / Robin Boutilier & Brian Chandler v. City of Charlottetown
Date: Friday, November 26, 2021 3:43:26 PM
Attachments: [Untitled.msg](#)
[Reply from Appellants dated Nov-22-2021.pdf](#)
[D. Hooley's letter re jurisdiction.pdf](#)
[image001.png](#)
[image001.png](#)

Good Afternoon Phillip,

I would like to make a submission on behalf of Mr.Perry in regards to the jurisdiction and timeline of the appeals filed October1/2021 by Goops & Laurena Wooldrige ,Robin Boutilier & Brian Chandler. Mr.Perry does not agree that the Commission or the Appellants have sufficient grounds to commence with the appeals based on the following factors.

(1)-As per the Planning Act Section 28-1.4- The Planning Act clearly states... Any council decision that requires a Minster's Approval: For greater certainty where a person is dissatisfied by the decision of a council of a municipality to adopt a amendment to a bylaw, the 21 day period for filing a notice of appeal under this section commences on the date where the council gave final reading to the amendment to the bylaw. If you review the record filed by the City of Charlottetown Tab 21 it clearly states at the bottom of the page that this was the First Reading of the Zoning & Development Bylaw dated September 13/2021.

(2)-Planning Act Section 19 Procedure: A bylaw shall be made in accordance with the following procedure:

(A)- It is read and formally approved by the majority of councillors on TWO occasions at meetings of council held on different days.

(B)- After it is read a second time , it is formally adopted by resolution of the council

(C)- It is signed by the Mayor or chairman, the administrator and the Minister and formally declared to be passed and sealed with the corporate seal of the municipality.

If you refer to Tab 24 there is no signature of the Mayor, chairman, administrator or Minister The Amendment was not signed or sealed until the Second Reading on October12/2021 therefore amending the bylaw officially. Tab 32 states this is the certified and true copy.

So in regards to this I feel like October12/2021 should of been the official date of the amended bylaw and the 21 day appeal period should of commenced then. I understand there has been a few clerical errors made in regards to Mr.Perrys application and information of dates on the City's website were in accurate but it still does state for Public record Approved to proceed to the second reading.Irregardless of a couple minor typos all paperwork was presented in a timely manner and was in accordance with the Planning Act. I do sympathize with the Appellants in this matter but Mr.Perry has filed all the correct paper work and applications since the start of this process and feel it should not reflect upon him that errors were made by others and that the appellants didn't understand the process of filing an appeal. I myself have taken the time to carefully read the Planning act, the Zoning & Development bylaws and The future of the City of Charlottetown throughout this whole process and when we were in doubt of procedures we made phone calls to clarify our questions. Therefore the Appellants could of easily done the same as for these reasons I do believe that the appeal should not proceed because it is over the time limit and really has no merit based on the fact that Mr.Perry has followed all procedures and steps and has earned the Site Exemption Amendment.

Thank you.

Kim Wood Office Manager
GJP Automotive, 22A Exhibition Dr.
Charlottetown, PE
(902) 892-2438

On Monday, November 22, 2021, 02:38:18 p.m. AST, Philip Rafuse <pjrafuse@irac.pe.ca> wrote:

Attached is a letter from Goops and Laurena Wooldridge to add to the email from Robin Boutilier and Brian Chandler [also attached].

We also have a letter from David Hooley Q.C. which he circulated to everyone. For convenience, I attached it as well.

The three submissions received so far all request that the Commission find that it has jurisdiction and allow the consolidated appeal to continue.

Mr. Perry is welcome to submit an email submission on jurisdiction prior to 4 pm November 26, 2021.

Sincerely,

Philip

From: Philip Rafuse

Sent: Monday, November 22, 2021 10:21 AM

To: 'Robin Boutilier' <b.j.robbins@hotmail.com>

Cc: 'Goops Wooldridge' <goops@pei.sympatico.ca>; David (Charlottetown) 'Hooley' <dhooley@coxandpalmer.com>; 'McKenna, Melanie (Charlottetown)' <mmckenna@coxandpalmer.com>; 'gorden Perry' <gjpaautomotive@yahoo.com>; Alex Forbes (aforbes@charlottetown.ca) <aforbes@charlottetown.ca>

Subject: RE: Consolidated Appeal LA21022 and LA21023 Goops & Laurena Wooldridge / Robin Boutilier & Brian Chandler v. City of Charlottetown

Importance: High

Good morning,

Thank you for your submission. I am copying the other parties so they will be aware.

I attached screenshots of the City's online Notice for both the 1st and 2nd reading decisions. The 1st reading Notice does identify the decision as "Approved to Proceed to Second Reading" but it cites a deadline to make an appeal of October 4, 2021.

I look forward to receiving submissions from the other parties.

Philip

Philip J. Rafuse, LL.B, NSBS
Appeals Administrator

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From: Robin Boutilier [<mailto:b.j.robbins@hotmail.com>]
Sent: Saturday, November 20, 2021 11:37 AM
To: Philip Rafuse <PJRafuse@irac.pe.ca>
Subject: Re: Consolidated Appeal LA21022 and LA21023 Goops & Laurena Wooldridge / Robin Boutilier & Brian Chandler v. City of Charlottetown

November 18, 2021

On the issue of jurisdiction as it pertains to the notice of appeal for 247 Royalty Rd. (PID 404632) and Subsections 28(1.3) and (1.4) of the Planning Act.

There was a mistake made by the appellants Brian Chandler and Robin Boutilier in believing that the first reading on September 13, 2021 was the final reading of the Municipal Council of Charlottetown. Therefore, we mistakenly filed our notice of appeal prematurely believing that the notice had to be filed before October 4, 2021.

We hope that the Commission will recognize that this was a mistake made due to lack of understanding on the part of the appellants and that we would absolutely have filed after the approval on October 12, 2021 and before the November 2, 2021 deadline if we had better knowledge of the process of city record filing.

We also hope that the Commission will decide not to dismiss the appeals for lack of jurisdiction.

Please let us know if you need this submission in hard copy.

Thank you for your consideration,
Brian Chandler and Robin Boutilier

From: Philip Rafuse <PJRafuse@irac.pe.ca>
Sent: November 18, 2021 10:40 AM
To: goops@pei.sympatico.ca <goops@pei.sympatico.ca>; 'gorden Perry' <gjpautomotive@yahoo.com>; 'Robin Boutilier' <b.j.robbins@hotmail.com>; David (Charlottetown) 'Hooley' <dhooley@coxandpalmer.com>; 'McKenna, Melanie (Charlottetown)' <mmckenna@coxandpalmer.com>

Cc: Charity Hogan <chogan@irac.pe.ca>; Collette Vessey <CVessey@irac.pe.ca>
Subject: Consolidated Appeal LA21022 and LA21023 Goops & Laurena Wooldridge / Robin Boutilier & Brian Chandler v. City of Charlottetown

Good morning everyone,

I have reviewed Mr. Hooley's November 17, 2021 response to the Notice of Appeal.

Following a review of the Record this morning I have identified a jurisdictional issue.

My review of the Record indicates the following:

- First reading – September 13, 2021
- Two Notices of Appeal –both filed with the Commission on October 1, 2021
- Second reading and Approval – October 12, 2021

Subsections 28(1.3) and (1.4) of the *Planning Act* read:

Notice of appeal and time for filing

(1.3) A notice of appeal must be filed with the Commission within 21 days after the date of the decision being appealed.

Council decision that requires Minister's approval

*(1.4) For greater certainty, where a person is dissatisfied by the decision of a council of a municipality to adopt an amendment to a bylaw, the 21-day period for filing a notice of appeal under this section commences on the date that the council gave **final reading to the amendment to the bylaw.***

Emphasis added

I have further reviewed the two Notices of Appeal filed with the Commission. I see nothing on either Notice of Appeal or the attachments to indicate that the September 13, 2021 decision was merely a first reading.

The City's Record was filed with the Commission on November 12, 2021. That Record does contain the Minutes and Resolutions adopted by Council on September 13 and October 12, 2021.

The time to file an appeal of the City's October 12, 2021 decision expired at 4:00 p.m. on November 2, 2021.

Prima facie the Commission has no jurisdiction to hear these appeals as the two Notices of Appeal were filed prematurely and do not comply with the requirements of the *Planning Act* requiring an appeal of the final reading of the amendment to the bylaw.

There are two options:

- In order to provide the parties with an opportunity to be heard, the parties may

file written submissions on the issue of jurisdiction, with a deadline of **November 26, 2021 at 4:00 p.m.** Following receipt of those submissions, the Commission would make a decision whether to dismiss the appeals for lack of jurisdiction, and if so issue an Order dismissing the appeals, or:

- The four appellants may withdraw their appeals. No Order would be issued.

I look forward to hearing from you.

Sincerely,

Philip



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From: Walsh-Doucette, Michelle (Charlottetown) [<mailto:mwalsh-doucette@coxandpalmer.com>]

Sent: Wednesday, November 17, 2021 2:47 PM

To: Philip Rafuse <PJRafuse@irac.pe.ca>

Cc: goops@pei.sympatico.ca; gjpautomotive@yahoo.com; b.j.robbins@hotmail.com;

Hooley, David (Charlottetown) <dhooley@coxandpalmer.com>; McKenna, Melanie

(Charlottetown) <mmckenna@coxandpalmer.com>

Subject: Response to Appeal LA21022 and LA21023

Good afternoon,

Please see attached response.

M

Direct 902 629-3945 Fax 902 566 2639 Web coxandpalmerlaw.com
Address Dominion Building, 97 Queen Street, Suite 600, Charlottetown PEI C1A 4A9

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Sincerely,

Philip



Philip J. Rafuse, LL.B, NSBS
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Subject: Response to Appeal LA21022 and LA21023

Good afternoon,

Please see attached response.

M

Michelle Walsh-Doucette | Cox & Palmer | Litigation Paralegal

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