

From: Philip Rafuse
To: "Hooley, David (Charlottetown)"; Andrea Battison; "aforbes@charlottetown.ca"; "DeptSDH@gov.pe.ca"
Cc: Hughes, Maggie (Charlottetown); Walsh-Doucette, Michelle (Charlottetown); Jessica Gillis; Janine MacLean
Subject: RE: Docket LA23-009 Andrea Battison v. City of Charlottetown - matter of Reconsideration
Date: Tuesday, April 18, 2023 2:06:46 PM
Attachments: [cover_email_requesting_abeyance.pdf](#)
[image001.png](#)
Importance: High

Good afternoon,

While the Notice of Appeal itself did not contain a request for an abeyance pending reconsideration, Ms. Battison's cover email requested that the appeal be held in abeyance pending the City's reconsideration process. I have attached a PDF of the cover email.

The Commission agrees to hold the appeal in abeyance to allow the reconsideration process to proceed. During this time, provision of the record is optional and thus the City is free to file the record for this matter with the Commission. The date for the filing of the record previously noted should be considered as a guide only and thus non-binding. The date for a reply is waived as the matter is now in abeyance.

I would ask that the City advise the Commission when the reconsideration process is complete and the outcome of that process. This is to avoid any unnecessary delay.

Just to provide the parties with a simple overview so they can plan ahead, I would note the following:

- In the event the reconsideration is allowed, we would then close the appeal file.
- In the event the reconsideration is denied, we would then require the City's record [if not previously filed], the City's formal reply to the Notice of Appeal, possible clarification of appeal grounds and remedy from the Appellant [depending on nature of City's reply], the setting of a hearing date, witness lists with will-says and any expert reports with supporting documents.

Here is a link to the Commission's Rules of Practice and Procedure:

<https://irac.pe.ca/wp-content/uploads/rulesofpracticeandprocedure-hearings.pdf>

Sincerely,

Philip

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

T. 902.892.3501
D. 902.368.7850
1.800.501.6268
F. 902.566.4076
irac.pe.ca/about/contact/

From: Hooley, David (Charlottetown) [mailto:dhooley@coxandpalmer.com]
Sent: Monday, April 17, 2023 4:41 PM
To: Andrea Battison <andrea@crustipath.com>; Janine MacLean <jmaclean@irac.pe.ca>; 'aforbes@charlottetown.ca' <aforbes@charlottetown.ca>; 'DeptSDH@gov.pe.ca' <DeptSDH@gov.pe.ca>
Cc: Philip Rafuse <PJRafuse@irac.pe.ca>; Hughes, Maggie (Charlottetown) <Maggie.Hughes@coxandpalmer.com>; Walsh-Doucette, Michelle (Charlottetown) <mwalsh-doucette@coxandpalmer.com>
Subject: RE: Docket LA23-009 Andrea Battison v. City of Charlottetown

Hello Andrea. I understand you've asked IRAC to place the appeal on hold pending a decision on your reconsideration request. Section 3.15.7 of the ZD Bylaw states as follows:

3.15.7 The City shall not consider an application for reconsideration if, at the same time, there is an appeal filed with the Island Regulatory and Appeals Commission; **but the City may proceed with reconsideration if the applicant has instructed the Island Regulatory and Appeals Commission in writing to hold the appeal in abeyance, and the Commission has agreed in writing to hold their appeal until the appellants has exhausted the recourse of reconsideration with the City.**

This Bylaw provision is not binding on the Commission, but you can discuss this with Philip Rafuse and seek a letter from the Commission.

In the meantime, the record for the reconsideration and for the appeal are not very different, - so it may be most efficient /practical to compile a dual-purpose record. Back to you and the others on this detail after I discuss with Alex.

David Hooley
he/him
Senior Counsel - PEI | Cox & Palmer
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Dominion Building, 97 Queen Street Suite 600, Charlottetown, PE C1A 4A9

"Nothing in the world can take the place of persistence. Talent will not; nothing is more common than unsuccessful men with talent. Genius will not; unrewarded genius is almost a proverb. Education will not; the world is full of educated derelicts. Persistence and determination alone are omnipotent." Former US President Calvin Coolidge

From: Andrea Battison <andrea@crustipath.com>
Sent: Monday, April 17, 2023 4:15 PM
To: Hooley, David (Charlottetown) <dhooley@coxandpalmer.com>; Janine MacLean <jmaclean@irac.pe.ca>; 'aforbes@charlottetown.ca' <aforbes@charlottetown.ca>; 'DeptSDH@gov.pe.ca' <DeptSDH@gov.pe.ca>
Cc: Philip Rafuse <PJRafuse@irac.pe.ca>; Hughes, Maggie (Charlottetown) <Maggie.Hughes@coxandpalmer.com>; Walsh-Doucette, Michelle (Charlottetown) <mwalsh-doucette@coxandpalmer.com>
Subject: Re: Docket LA23-009 Andrea Battison v. City of Charlottetown

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My concern is that having an active appeal will invalidate the opportunity for the reconsideration request; hence, the request to have the IRAC appeal held in abeyance when it was filed. This has been the procedure in previous reconsideration requests.

Thank you,

Andrea

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From: Hooley, David (Charlottetown) <dhooley@coxandpalmer.com>
Sent: Monday, April 17, 2023 3:59:47 PM
To: Andrea Battison <andrea@crustipath.com>; Janine MacLean <jmaclean@irac.pe.ca>; 'aforbes@charlottetown.ca' <aforbes@charlottetown.ca>; 'DeptSDH@gov.pe.ca' <DeptSDH@gov.pe.ca>
Cc: Philip Rafuse <PJRafuse@irac.pe.ca>; Hughes, Maggie (Charlottetown) <Maggie.Hughes@coxandpalmer.com>; Walsh-Doucette, Michelle (Charlottetown) <mwalsh-doucette@coxandpalmer.com>
Subject: RE: Docket LA23-009 Andrea Battison v. City of Charlottetown

Subject to having a conversation with Alex, since much of the same Record will be

required for the reconsideration under section 3.15(c) of the ZD Bylaw, the May 15th and May 23rd dates Mr. Rafuse set may still work. Back to all concerned after I have that conversation.

David Hooley
he/him
Senior Counsel - PEI | Cox & Palmer

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From: Andrea Battison <andrea@crustipath.com>
Sent: Monday, April 17, 2023 3:41 PM
To: Janine MacLean <jmaclean@irac.pe.ca>; 'aforbes@charlottetown.ca' <aforbes@charlottetown.ca>; 'DeptSDH@gov.pe.ca' <DeptSDH@gov.pe.ca>; Hooley, David (Charlottetown) <dhooley@coxandpalmer.com>
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Subject: RE: Docket LA23-009 Andrea Battison v. City of Charlottetown

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Hello Janine,

Thank you for this.

There was a request to hold this appeal in abeyance until the reconsideration request process has been completed.

I'm not sure if this will affect the due date for Records etc.

Thank you,

Andrea

-----Original Message-----

From: Janine MacLean <jmaclean@irac.pe.ca>

Sent: Monday, April 17, 2023 3:02 PM

To: Andrea Battison <andrea@crustipath.com>; 'aforbes@charlottetown.ca' <aforbes@charlottetown.ca>; 'DeptSDH@gov.pe.ca' <DeptSDH@gov.pe.ca>; Hooley, David (Charlottetown) <dhooley@coxandpalmer.com>

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

Subject: Docket LA23-009 Andrea Battison v. City of Charlottetown

Good afternoon,

Please find attached correspondence regarding Docket LA23-009 Andrea Battison v. City of Charlottetown.

1. Letter to the Parties

If you have questions, you can direct them to Philip Rafuse by telephone at 902-368-7850 or by email at PJRafuse@irac.pe.ca.

Kind regards,

Janine MacLean
Executive Assistant
Island Regulatory and Appeals Commission
134 Kent Street, Suite 51
Charlottetown, PE C1A 7L1
Tel. 902-368-7843
<https://irac.pe.ca>

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