

VIA E-mail: ([pjrafuse@irac.pe.ca](mailto:pjrafuse@irac.pe.ca) )

Prince Edward Island Regulatory and Appeals Commission  
Attention: Mr. P. Rafuse  
Suite 501,134 Kent Street  
Charlottetown, PE

October 17, 2024

RE: Order #LA24-07

Dear Mr. Rafuse,

I am respectfully requesting the Commission use its absolute discretion under Section 12 of the Island Regulatory and Appeals Commission Act and choose to review Order #LA24-07 regarding the question *“Do demolition permits meet the definition of “development permit” under the Planning Act such that they can be appealed to the Commission per subsection 28 (1.1) of that Act?”*.

#### **REASONS FOR THE REVIEW:**

- 1) The argument presented by the Commission in granting the motion of dismissal is that a Building Permit under the Building Codes Act is equivalent to a Demolition Permit. Consequently, as Building Permits, issued under the Building Codes Act, are not appealable under the Planning Act, Demolition Permits issued under the Buildings Code act are similarly not appealable. The Appellant challenges the Commission’s opinion of equivalency of a Building Permit and a Demolition Permit as follows:
  - i) The Commission’s opinion that as both Building and Demolition Permits are included under the definition for permits in the Building Codes Act, they are equal and interchangeable. Paragraph 35, Order #LA24- 07 states *“Considering the above, in the Commission’s opinion, a “Building Permit” as referred to in the definition of “Development Permit” at subsection 1 (d) the Planning Act must be interpreted to mean: a permit issued under the Building Codes Act in respect of a building, and includes both a permit to construct a building and a permit to demolish a building.”*
  - ii) As the Commission cannot hear an appeal on a Building Permit, it is the Commission’s opinion it therefore cannot hear an appeal on a Demolition Permit.

- iii) However, the Commission failed to consider that an **occupancy permit** is similarly “*a permit issued under the Building Codes Act in respect of a building*” in the Building Codes Act (Sections 1.s; 2.1(a); and 2.1(b)). Using the Commission’s opinion [paragraph 35, #LA24-07], it must similarly conclude that “Development Permit” [section 1.d Planning Act] includes a permit to construct a building, a permit to demolish a building, and a permit to occupy a building.
- iv) Occupancy permits can be appealed to the Commission under the Planning Act [Section 28.1.1.a.(ii)]. Sections 28.1.1.a.(i) and 28.1.1.a (ii) would be in conflict if the Commission's opinion [paragraph 35, #LA24-07] was used i.e., a Building Permit is also an Occupancy Permit and so the Commission would not be able to hear an appeal on Occupancy Permits. It follows, the Commission's opinion on this matter must be in error.
- v) Section 35.3.b(i) under Consequential Amendments in the Building Codes Act clearly removes the option for a broad interpretation of the word “permits” within the Planning Act. It reads: “*by the deletion of the word “permits” wherever it occurs and the substitution of the words “Development Permits”, ...*”.
- vi) Consequently, the Commission cannot dismiss appeal #LA23-009 on a jurisdictional issue using the argument that Building Permits are Demolition Permits. (Paragraphs 37 and 38 in Order #LA24-07). Nor can it dismiss the arguments made by the Appellant involving Demolition Permits.
- vii) As Demolition Permits cannot be considered Building Permits (see i-v above) it cannot be concluded that the Planning Act expressly excludes Demolition Permits as part of Development Permits [Section 1.e.1] (See order LA24-07, paragraph 26). The Commission may hear the appeal under Section 28.1.1.a.(i) of the Planning Act.

**RELIEF SOUGHT:**

1. The Commission reverse its decision in Order #LA24-07 and not dismiss Appeal #LA23-009 on a jurisdictional issue.
2. The Commission hear Appeal #LA23-009.

Thank you for considering my request.

Sincerely,

Andrea Battison