

Notice of Appeal

(Pursuant to Section 28 of the *Planning Act*)



TO: The Island Regulatory and Appeals Commission
National Bank Tower, Suite 501, 134 Kent Street
P.O. Box 577, Charlottetown PE C1A 7L1
Telephone: 902-892-3501 Toll free: 1-800-501-6268
Fax: 902-566-4076 Website: www.irac.pe.ca

NOTE:
Appeal process is a public process.

TAKE NOTICE that I/we hereby appeal the decision made by the Minister responsible for the administration of various development regulations of the *Planning Act* or the Municipal Council of N/A (name of City, Town or Community) on the 12 day of October, 2023, wherein the Minister/Community Council made a decision to determine that it lacks jurisdiction to approve or deny Application 55257 and that the Rural Municipality of West River is the appropriate Authority Having Jurisdiction.

(attach a copy of the decision).

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, the grounds for this appeal are as follows: (use separate page(s) if necessary)
see Schedule "A"

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, I/we seek the following relief: (use separate page(s) if necessary)
see Schedule "A"

EACH APPELLANT MUST COMPLETE THE FOLLOWING: (print separate sheets as necessary)

Name(s) of Appellant(s): Maureen Leunes Signature(s) of Appellant(s): [Signature]
Please Print

Mailing Address: Cox & Palmer - 97 Queen Street, Suit City/Town: Charlottetown

Province: PE Postal Code: C1A 4A9

Email Address: mmckenna@coxandpalmer.com Telephone: 902-628-1033

Dated this 31 day of October, 2023.
day month year

IMPORTANT

Under Section 28.(6) of the *Planning Act*, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be.

Service of the Notice of Appeal is the responsibility of the Appellant

Information on this Form is collected pursuant to the *Planning Act* and will be used by the Commission in processing this appeal.
For additional information, contact the Commission at 902-892-3501 or by email at info@irac.pe.ca.

NOTICE OF APPEAL (continued)
Pursuant to section 28 of the Planning Act

TAKE NOTICE that Maureen Leunes (the “Appellant”) hereby appeals the decision of the Minister responsible for the administration of various development regulations of the *Planning Act* (the “Minister”) on the 12th day of October, 2023, wherein the Minister determined that it lacks jurisdiction to approve or deny Application Case 55257 (the “Application”)

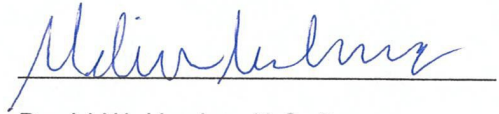
AND FURTHER TAKE NOTICE that in accordance with section 28(5) of the *Planning Act*, the grounds for this appeal are as follows:

- the Minister erred in finding that it lacks jurisdiction to approve or deny the Application;
- the Minister erred in finding that as of July 20, 2023, the Application must be determined by the Rural Municipality of West River (the “Municipality”) in accordance with its Official Plan;
- the Minister erred in providing the Appellants two options, both of which fail to consider the common law principle of vested rights, which dictates that the Application must be determined by the applicable law in force at the time the Application was made (see: *Ottawa (City) v Boyd Builders Ltd.*, [1965] SCR 408, *Dalhousie University v Halifax (City)*, 1974 CarswellNS 165, and *Dikranian v. Quebec (Procureur général)*, 2005 SCC 73);
- the Minister failed to provide sound reasons for their decision;
- the Minister acted arbitrarily and violated its common law duty of procedural fairness and the principles of natural justice; and,
- such further or other grounds as may be revealed upon review of the full record as produced by the Minister

AND FURTHER TAKE NOTICE that in accordance with section 28(5) of the *Planning Act*, the Appellants seeks the following relief:

- the Appellants request that the Commission allow this appeal and remit the Application back to the Minister to decide said Application in accordance with the *Planning Act* and Regulations;
- or, in the alternative,
- the Appellants request that if the Commission determines that the Municipality has jurisdiction over the Application, that the Municipality shall apply the *Planning Act* and Regulations to the Application, and more specifically, the Municipality shall not apply its Land Use Bylaw and Official Plan.

DATED this 31st day of October, 2023.

A handwritten signature in blue ink, appearing to read "David W. Hooley", is written over a horizontal line.

David W. Hooley, K.C. &
Melanie McKenna
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