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Via Electronic Mail (chogan@irac.pe.ca)

Island Regulatory and Appeals Commission
134 Kent Street, #501
Charlottetown, PE C1A 7L1

Attention: Charity Hogan

Dear Ms. Hogan:

Re: LA22012 – Willemina and Floyd Squires v. Minister of Agriculture and Land

We have been retained by Willemina and Floyd Squires in connection with the captioned appeal. I understand that the Commission is currently considering the issue of jurisdiction and had asked the parties to provide submissions in that regard. While the Notice of Appeal, dated June 17, 2022 does make reference to the “boundary is in dispute”, this document was prepared by a lay party who upon request of the Commission clarified her position which in essence was that a permit was granted without adequate attention to side yard requirements. The Appellants made a subsequent attempt to provide further clarification in an email dated September 21, 2022 where the Appellants confirmed they were not asking the Commission to rule on property lines and understand that it is not what the Commission does. The Appellants, lay litigants, were attempting to appropriately characterize their appeal of a development permit approval without sufficient regard to property setbacks from boundaries. A review of the Record of Decision filed by the Minister illustrates the issue. At Tab 2, there is a sketch accompanying the Application. While the sketch shows a 28 ft side yard from the “community boundary/property line,” there is no indication of any point of reference to define where that line is in space.

Tab 5 of the Record shows a copy of a survey plan prepared by Bernard Land Surveys with the boundary between the Appellants and the Developer pinned. The sketch included with the Application makes no reference to the survey, the survey pins or any other monument. The Development Permit issued makes no reference to the plan or the survey markers. The Minister erred in issuing the Development Permit based upon an inadequate or erroneous sketch which was apparent when viewed in conjunction with the survey plan at Tab 5 of the Record.

This is not a boundary line dispute to be decided by the Commission. A licensed professional land surveyor has identified the location of the boundary. The Appellants seek to ensure that a permit is issued which requires compliance with setbacks from an identified monument so that a structure is not placed within the required setback.

Subsequent to the filing of the Appeal and the inquiry with respect to jurisdiction, a further issue regarding encroachment has arisen in that Morris Geomatics Inc. has prepared a new survey which located a public road between the Appellants’ property and the property of the Developer. This road was not shown on the sketch nor on the Bernard Land Surveys plan. It appears the

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Department of Transportation was not aware of the location of the road as they would have inspected the site and Application to confirm adequate site distances.

The building was commenced in September based on a sketch which had been submitted for the Development Permit, which did not reference any monuments. The building does not meet the required setbacks from the Bernard Survey Plan line. The Developer's boundary is even further east than the Bernard Survey Plan showed and the Building appears to be within the margin of the recently discovered public right-of-way.

The Appellants in their two responses to the Commission in lay terms properly identified that the Commission does have jurisdiction to deal with appeal of the issuance of a Development Permit in the absence of incorrect or inadequate application materials.

Please address any further correspondence in connection with this Appeal to my attention.

Yours truly,

Stewart McKelvey



Geoffrey D. Connolly, K.C.*

GDC/hs

Enclosure

c. Willemina and Floyd Squires

*Law Corporation