



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: December 23, 2024

Docket: LA23009

Type: Request for Review

INDEXED AS: Andrea Battison v. City of Charlottetown
2024 PEIRAC 11 (CanLII)

Order No: LA24-10

BETWEEN:

Andrea Battison

Appellant

AND:

City of Charlottetown

Respondent

AND:

PEI Housing Corporation

Developer

REQUEST FOR REVIEW OF ORDER LA24-07

Panel Members:

M. Douglas Clow, Acting Chair
Kerri Carpenter, Commissioner

Compared and Certified a True Copy

(Sgd.) Philip Rafuse

Appeals Administrator
Island Regulatory and Appeals Commission

1. INTRODUCTION

1. This Order relates to a written request for review received from the Appellant, Andrea Battison, in respect of Order LA24-07, issued by the Commission on September 27, 2024.
2. For the reasons that follow, the Appellant's request for review is denied.

2. BACKGROUND

3. On September 27, 2024, the Commission issued Order LA24-07, which dismissed the Appellant's appeal of the decision of the City of Charlottetown to issue a demolition permit for a building located at 231 Richmond Street, Charlottetown, PE. The Commission dismissed the appeal on the basis that it does not have jurisdiction under the *Planning Act*¹ to hear an appeal of a demolition permit that was issued in accordance with the *Building Codes Act*.²
4. On October 17, 2024, the Commission received a formal request from the Appellant to review, vary or rescind Order LA24-07. The Appellant's request for review is pursuant to section 12 of the *Island Regulatory and Appeals Commission Act*.³
5. The Respondent, City of Charlottetown, made a brief comment in response on December 4, 2024, submitting that this is not an appropriate case in which the Commission ought to exercise its discretion to review.
6. A similar response was received from the Developer, PEI Housing Corporation on December 9, 2024.

3. ISSUES

7. The question for the Commission on this Request for Review is whether it should exercise its discretion to review, rescind or vary Order LA24-07.

4. ANALYSIS

Request for Review

8. The Appellant's request for review is pursuant to section 12 of the *Island Regulatory and Appeals Commission Act*.⁴ That section states:

12. Review, etc. of decisions

The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it, or rehear any application before deciding it.

¹ RSPEI 1988, P-8.

² RSPEI 1988, B-5.1.

³ RSPEI 1988, I-11, s. 12.

⁴ RSPEI 1988, I-11, s. 12.

9. The Commission has previously considered requests for a review of its decisions and commented on the “test” to be applied. In [Order LA97-11, Request by Keir & Marion Clark for a Review of Order LA97-08 \(Aug 27, 1997\)](#), the Commission stated (Chair, Linda Webber):

The Commission and its predecessor, the Prince Edward Island Public Utilities Commission, have considered in the past the minimum criteria an Applicant must meet before the Commission will exercise its absolute discretion in the matter of reviewing its decisions under s.12 of the Island Regulatory and Appeals Commission Act, and the identical predecessor to s.12, s.16 of the Public Utilities Commission Act. This test has been interpreted consistently by the Commission in its past decisions.

*As noted in previous decisions, **the onus rests upon the Applicant to show that a prima facie case exists which will entitle the Applicant to the review.** A prima facie case will be shown only where the function of review should be exercised **to correct an error of the Commission or to meet changed circumstances.***

*Changed circumstances may encompass either a **situation which has developed after the decision or where new evidence emerges which was not known or not available at the time the original evidence was adduced.** Changed circumstances will dictate a review **only if they are material.***

*Finally, the power to review is **discretionary** and will be exercised **sparingly.***
[emphasis added]

10. This test has continued to be interpreted by the Commission in subsequent orders⁵ and this Commission is satisfied that the test remains good authority on this question and the principles contained therein continue to apply.
11. In this case, the Appellant’s request for review “challenges the Commission’s opinion of equivalency of a building permit and a demolition permit”. For example, the Appellant submitted a series of arguments concluding with her opinion that the Commission can hear an appeal of a demolition permit. As relief, she has requested that the Commission reverse Order LA24-07 and hear her appeal.
12. Upon review of the Appellant’s request, the Commission is of the opinion that the Appellant’s grounds amount to a disagreement with the Commission’s findings in Order LA24-07. The Appellant has not demonstrated that there is an error in Order LA24-07 or changed circumstances material to the outcome that warrant a review of Order LA24-07.
13. For these reasons, the Commission finds that the Appellant has not met the test for a request for review. Accordingly, the Commission denies the request.

5. CONCLUSION

14. The request for review of Order LA24-07 is denied.

⁵ See, for example: [Order LA00-14](#); [Order LA07-04](#); [Order LA09-04](#); [Order LA10-03](#); [Order LA11-04](#); [Order LA11-06](#).

15. The Commission thanks the parties for their submissions in this matter.

IT IS ORDERED THAT

1. The request for review of Order LA24-07 is denied.

DATED at Charlottetown, Prince Edward Island, December 23, 2024.

BY THE COMMISSION:

(sgd. M. Douglas Clow)

M. Douglas Clow, Acting Chair

(sgd. Kerri Carpenter)

Kerri Carpenter, Commissioner

NOTICE

Sections 13(1) and 13(2) of the ***Island Regulatory and Appeals Commission Act*** provide as follows:

13(1) An appeal lies from a decision or order of the Commission to the Court of Appeal upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Court of Appeal within twenty days after the decision or order appealed from and the rules of court respecting appeals apply with the necessary changes.

NOTE: In accordance with IRAC's *Records Retention and Disposition Schedule*, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.