PRINCE EDWARD ISLAND
Regulatory & Appeals Commission
Commission de réglementation et d'appels
ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: **March 10, 2026**
Docket: **LA25004**
Type: **Planning Act Appeal**

INDEXED AS: Charlie Hicken v. Town of Three Rivers
2026 PEIRAC 12 (CanLII)

Order No: LA26-03

BETWEEN:

Charlie Hicken

Appellant

AND:

Town of Three Rivers

Respondent

Great Wisdom Buddhist Institute

Developer

REASONS FOR DECISION

Panel Members:

Gordon MacFarlane, Commissioner
Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk
Island Regulatory and Appeals Commission

Contents

Written Submissions Filed by:

1. **For the Appellant:**

   Charlie Hicken

2. **For the Respondent:**

   Counsel:
   Ewan Clark, Cox & Palmer

3. **For the Developer:**

   No submissions filed

1. INTRODUCTION

1. This is an appeal of the decision of the Town of Three Rivers to approve a development permit for Great Wisdom Buddhist Institute (the "Developer") at 805 Brudenell Point Rd., Montague (the "Subject Property").

2. This Order considers a preliminary issue as to whether the Appellant is an "aggrieved person", as defined at section 27.1 of the *Planning Act*. The right to appeal to the Commission is a right created by statute and the Commission only has the jurisdiction that has been granted to it via its enabling and operating legislation. In other words, there is no inherent or common law right to appeal to the Commission. Therefore, the question of the Appellant's standing goes to the Commission's jurisdiction and whether the legislation authorizes the Appellant to bring this appeal before the Commission.

3. For the reasons that follow, the Commission has determined that the Appellant is not an "aggrieved person" as defined in the *Planning Act* and, therefore, the Commission lacks jurisdiction to hear this appeal. The appeal is dismissed.

2. BACKGROUND

4. On March 10, 2025, the Town of Three Rivers approved a development permit for the Developer to construct two dormitories, as well as associated services and site work, to be located at 805 Brudenell Point Rd. (PID 1107382) (the "Subject Property"). The Developer was notified of the approval via letter on March 12, 2025.

5. The Appellant, Charlie Hicken, filed a Notice of Appeal with the Commission on March 20, 2025. The Appellant's grounds of appeal include that dormitories are not an approved use per the zoning of the Subject Property, that a public meeting was required, and allegations about an Environmental Impact Assessment. The Commission stresses that merits of the Appellant's appeal are not at issue in this Order.

6. On April 10, 2025, the Town of Three Rivers delivered an Appeal Record to the Commission and the other parties, in accordance with the Commission's Practice Direction on Appeal Records. The Town delivered a Supplemental Appeal Record on April 29, 2025.

7. On June 6, 2025, the Commission received an Application from Jan Matejcek, a property owner in Vernon Bridge, to be added as an Added Party Intervener. The Commission invited all parties to make submissions on the application, as provided for at Rule 18 of the Commission's Rules of Practice and Procedure. The matter of the Added Party Intervener Application was not decided by the Commission and will be addressed below.

8. Upon review and consideration of the Notice of Appeal filed by the Appellant, the Commission identified a preliminary issue with respect to the Commission's jurisdiction and the Appellant's standing to bring the appeal as an "aggrieved person", as defined at section 27.1 of the *Planning Act*. In particular, the Appellant's Notice of Appeal lists his mailing address as being some distance away from the Subject Property, located at 805 Brudenell Point Rd., Montague. This raises a question for the Commission as to how the decision will adversely affect the reasonable enjoyment of the Appellant's property, per clause 27.1(d) of the *Planning Act.*

9. By letter dated November 17, 2025, the Commission advised the parties of the preliminary issue and requested written submissions from all parties on the matter.

10. Both the Appellant and the Town of Three Rivers made submissions in writing to the Commission in response to the preliminary issue. The Developer did not make any submissions. The Commission is satisfied that the parties' submissions were comprehensive and, therefore, in accordance with Rule 41 of the Commission's Rules of Practice and Procedure, the Commission exercised its discretion to determine this preliminary matter without an oral hearing.

3. ISSUES

11. The question for the Commission to consider at this preliminary stage is whether the Appellant is an "aggrieved person" as defined at section 27.1 of the *Planning Act*, RSPEI 1988, P-8.

12. The Commission, as an administrative tribunal, is only authorized to hear and decide appeals within the jurisdiction that has been assigned to it by legislation. Therefore, the question of whether the Appellant is an "aggrieved person" goes to the Commission's jurisdiction and whether the Appellant had standing to bring this appeal before the Commission pursuant to subsection 28(1.1) of the *Planning Act.*

4. DISPOSITION

13. The appeal is dismissed. The Appellant is not an "aggrieved person" as defined at section 27.1 of the *Planning Act*. The Commission is not satisfied that the adverse affects the Appellant has alleged he will suffer as a result of the decision meet the burden to establish that he is an "aggrieved person". As a result, the Commission lacks jurisdiction to hear the appeal. The appeal is dismissed.

5. ANALYSIS

A. *Planning Act* amendments – "aggrieved person"

14. In November 2023, section 28 of the *Planning Act* was amended to change who has standing to make an appeal to the Commission. Formerly, the *Planning Act* authorized a "person who is dissatisfied" to appeal certain decisions of the Minister or a council of a municipality to the Commission. The November 2023 amendments introduced a requirement that prospective appellants be "aggrieved person[s]" (rather than dissatisfied). The *Act* was also amended to include a definition of "aggrieved person" at section 27.1.

15. The Commission first considered the standing of a prospective appellant as an "aggrieved person" in Order LA25-10, *Victoria Village Friends of the Park v. Rural Municipality of Victoria*. In that Order, the Commission accepted that the former standard of "dissatisfied" and the newly amended standard of "aggrieved" are different standards and that the interpretation of "aggrieved" is narrower than the interpretation of "dissatisfied".[1]

[1] Order LA25-10, *Victoria Village Friends of the Park v. Rural Municipality of Victoria,* at para 17, citing Order LA25-07, *Randy Pitre v. City of Summerside*, at para 64.

16. The Commission also accepted that the burden of proof is on the challenged appellant to show that they are an aggrieved person. The burden must be shown on a balance of probabilities.[2]

17. In Commission Order LA95-19, the Commission held that when trying to determine the meaning of "aggrieved" in any particular case the courts have reviewed the purpose of the legislation to help identify the type of interests that are relevant in the analysis of "aggrieved". In Order LA25-10, the Commission accepted that this approach is consistent with the modern principle of statutory interpretation which provides that words of a statute must be read "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the *Act*, the object of the *Act*, and the intention of Parliament".[3]

18. In conclusion, following the 2023 amendments to the *Planning Act*, the Commission must foremost consider whether a prospective appellant is an "aggrieved person" in light of the application and interpretation of the definition found at section 27.1. However, we accept that this analysis is to be informed by the context and purpose of the statutory scheme overall.

B. Application to the Present Case

19. Section 27.1 of the *Planning Act* defines "aggrieved person" as including various different persons. In the present case, the relevant definition is:

> **27.1 Definition**
>
> In this Part, "aggrieved person" means, […]
>
> (d) an individual who in good faith believes the decision will adversely affect the reasonable enjoyment of the individual's property or property occupied by the individual;

20. The Commission will consider whether the Appellant, Charlie Hicken, is an individual who in good faith believes the decision under appeal is one that will adversely affect the reasonable enjoyment of his property or property occupied by him. In undertaking this analysis, the Commission must be careful to not conflate a prospective appellant's standing to bring the appeal with the merits of the appeal. In other words, the Commission will not consider the merits of the Appellant's appeal in this Order.

i. Parties' submissions

21. The Appellant submits that he is an aggrieved person as defined at clause 27.1(d) of the *Planning Act*. A summary of the Appellant's submissions in support of his standing as an aggrieved person is as follows:

- The development may affect the Appellant's groundwater supply and soil, and there may be water contamination from the development's large septic system.

- The Appellant spoke at both Planning Board and Council meetings and his concerns were not addressed.

[2] Order LA25-10, *Victoria Village Friends of the Park v. Rural Municipality of Victoria,* at para 16.
[3] *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

- This development is part of the “GWBI Monastery Master Plan, Brudenell”, which is the largest development that the Town of Three Rivers will see in the Appellant’s lifetime. The development will impact every resident and taxpayer of the Town.

- The Appellant, his children and grandchildren, and every resident of the Town of Three Rivers is being affected in a negative manner by property values and lack of affordable housing.

22. The Appellant’s submissions also raise many general concerns, including with respect to the Town’s water and sewer infrastructure, the Provincial net zero plan, the possibility of rolling blackouts and electricity capacity, and lack of consultation with local watershed groups. He says neither the Town’s Planning Board nor Council have the knowledge or experience to deal with a project of this magnitude without the expertise of a professional licensed planner.

23. The Appellant further raised issues with respect to the environmental assessment process the development underwent, including an allegation that there was no public meeting in respect of an Environmental Impact Assessment, pursuant to the *Environmental Protection Act*. The Appellant submits that, as a result, he was denied the opportunity to participate in such public meeting.

24. In response, the Town of Three Rivers submits that the Appellant’s submissions do not provide any evidence to satisfy the threshold of “aggrieved person” established by the *Planning Act*. The Town submits that the Appellant’s mailing address as provided on the Notice of Appeal appears to be approximately 16 kilometers from the Subject Property, and that his submissions do not demonstrate how any of the issues raised will affect his reasonable enjoyment of his property. The Town submits that the Appellant’s appeal amounts only to “broad disagreement and personal dissatisfaction” by the Appellant.

25. The Town concludes that assertions about provincial utilities, culture, Island-wide impacts, housing affordability, watersheds or public policy do not meet the standard of an “aggrieved person” as defined in the *Planning Act*.

26. The Developer did not make any submissions on the preliminary matter.

ii. Adverse affects on the reasonable enjoyment of the Appellant’s property

27. The relevant definition specific to this Appellant is clause 27.1(d). It is not in dispute that the Appellant, Charlie Hicken, is an individual. However, the Commission must consider whether the Appellant believes in good faith that the decision under appeal is one that will adversely affect the reasonable enjoyment of his property.

28. As a reminder, when the Commission is asked to determine whether a prospective appellant meets the standard of an “aggrieved person”, the burden of proof is on the challenged appellant to show that they are an aggrieved person. That means the Appellant must prove that he is an aggrieved person in order for his appeal to continue. The burden must be shown on a balance of probabilities.

29. In Order LA26-01, the Commission found that an individual seeking to establish standing as an "aggrieved person" under PEI's *Planning Act* must have some reasonable basis for their belief about the adverse affects of the decision under appeal. The Commission accepted that an individual's "good faith belief" must be grounded in some measure of objectivity, in addition to the subjective aspect demonstrated by the sincerity of the individual's belief.

30. In the present case, the Appellant submits his proximity to the Subject Property puts him in the "affected geographical area". He suggests that the development may affect his groundwater supply and soil, and he suggests possible water contamination from the development's large septic system.

31. The Appellant's mailing address noted on the Notice of Appeal is said to be along Route 17, near the intersection with Route 316 (Whim Road). The Subject Property is some distance away on the Brudenell Point Road. According to the submission of the Town of Three Rivers, Google Maps calculates the driving distance between the Appellant's property and the Subject Property to be just over 16 kilometers. The Appellant, on the other hand, submits that his property is approximately 4.1 miles from the centre of the development. The Commission notes the Appellant's calculation appears to be "as the crow flies".

32. Upon review, the Commission is not satisfied that the Appellant has demonstrated that his proximity to the Subject Property puts him in a "geographical area" to be adversely affected by the proposed development. While the question of proximity will not always be determinative of a prospective appellant's standing (see, for example, Commission Order LA26-01, *Louise Aalders v. City of Charlottetown*), the Commission accepts that the definition of "aggrieved person" at clause 27.1(d) does imply some element of proximity to the development at issue by requiring an individual believe the decision will adversely affect the enjoyment of their property.

33. In this case, the Commission cannot reasonably accept that the Appellant is in such close proximity to the proposed development that his property will be affected by contaminated water or soil. First, the Appellant has provided no evidence to support this claim. Further, his property is at such a distance away from the Subject Property that the Commission cannot even reasonably infer those adverse affects. Therefore, the Commission cannot accept this as a basis to consider the Appellant "aggrieved".

34. The Appellant also submitted that the proposed development, being part of the "GWBI Monastery Master Plan, Brudenell", is the largest development that the Town of Three Rivers will see in the Appellant's lifetime, and that development will impact every resident and taxpayer of the Town. On the Commission's review, this submission appears to be generally related to the overall Master Plan, rather than specific decision under appeal. In Order LA26-01, the Commission accepted that it is the decision an individual seeks to appeal that must give rise to the adverse affects in order for that individual to be considered an aggrieved person. Therefore, the Commission cannot accept the Appellant's submissions about the Master Plan as a basis to consider the Appellant an "aggrieved person".

35. With respect to the Appellant's submission that himself, his children and grandchildren, and every resident of the Town of Three Rivers is being affected in a negative manner by

property values and lack of affordable housing, the Commission finds that this submission is a mere assertion that lacks a basis in objectivity. The Appellant has not provided any objective evidence to support this assertion and the Commission cannot accept this as a basis to consider the Appellant "aggrieved".

36. Finally, the Appellant raised concerns about the Town's permit process. Similar to the finding above, the Commission cannot accept this ground as a basis to consider the Appellant "aggrieved". The Appellant's overall concerns about the Town's lack of diligence during the permitting process are not concerns that will adversely affect his reasonable enjoyment of his property. The Town's compliance, or non-compliance, with its planning documents (e.g. Official Plan and Development Bylaw) are matters that go to the merits of the appeal and whether the Town properly issued the permit.

37. Before concluding, we wish to also briefly comment on the Appellant's submissions surrounding an Environmental Impact Assessment, or lack thereof. While the Commission must be mindful to not conflate the merits of the appeal with whether the Appellant is an "aggrieved person", the matter of an Environmental Impact Assessment under the *Environmental Protection Act* is not something the Commission can consider on an appeal pursuant to the *Planning Act* (see Order LA25-09, *D. Blair Sorrey v. Town of Three Rivers*).

6. CONCLUSION

38. For the reasons above, the Commission is not satisfied that the Appellant has met the burden to establish that he is an "aggrieved person" as defined at section 27.1 of the *Planning Act*. As a result, the Appellant does not have standing to bring this appeal before the Commission pursuant to subsection 28(1.1) of the *Act* and the Commission lacks jurisdiction to hear the appeal. Accordingly, the appeal is dismissed.

39. As the Commission has dismissed this appeal, the Commission finds no need to make any determination on the Application for Added Party Intervener filed by Jan Matejcek.

7. ORDER

40. The appeal is dismissed.

DATED at Charlottetown, Prince Edward Island**, March 10, 2026.**

BY THE COMMISSION:

[sgd. Gordon MacFarlane]
Gordon MacFarlane, Commissioner

[sgd. Murray MacPherson]
Murray MacPherson, Commissioner

NOTICE

Section 12 of the ***Island Regulatory and Appeals Commission Act*** reads as follows:

> *12. 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.*

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13(1) and 13(2) of the ***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.