



Date Issued: May 29, 2026
Docket: LA26004
Type: Planning Act Appeal

INDEXED AS: Charlie Hicken v. Town of Three Rivers
2026 PEIRAC 28 (CanLII)

Order No: LA26-07

BETWEEN:

Charlie Hicken

Appellant

AND:

Town of Three Rivers

Respondent

Great Enlightenment Buddhist Institute Society

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

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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 in favour of Great Enlightenment Buddhist Institute Society (the “Developer”) at 2661 Heatherdale Rd, pertaining to PIDs 483404, 253666, 759001 and 729939 located in Three Rivers, PE.
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 11, 2026, the Town of Three Rivers approved a development permit for the Developer to construct a visitor centre, to be located at 266 Heatherdale Rd. (PID 1107382) (the “Subject Property”).
5. The Appellant, Charlie Hicken, filed a Notice of Appeal with the Commission on March 30, 2026. The Appellant’s grounds of appeal include that the permit was granted without any discussion of issues raised by the public, showing a lack of good planning and sound judgment. The Commission stresses that merits of the Appellant’s appeal are not at issue in this Order.
6. 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 2661 Heatherdale Rd., in Three Rivers. This raised 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*.
7. By letter dated March 31, 2026, the Commission advised the parties of the preliminary issue and requested written submissions from all parties on the matter.
8. 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

9. 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.
10. 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

11. 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 Appellant has established any adverse affects as a result of the decision. Therefore, he has not met 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* – “aggrieved person”

12. In previous orders, the Commission has 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.¹
13. 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”.²
14. In conclusion, 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 of the *Act*. However, the Commission accepts that this analysis is to be informed by the context and purpose of the statutory scheme overall.

B. Application to the Present Case

15. 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

¹ Order LA25-10, *Victoria Village Friends of the Park v. Rural Municipality of Victoria*, at para 16.

² *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

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;

16. 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

17. The Appellant’s Notice of Appeal states that he believes he is an affected person, it goes on to say:

If this permit is allowed to stand there are three houses across the road from my home and there will be nothing to stop each one from putting a doghouse in the front yard, then adding an accessory building. Once built they only need to add a bed to it & we will have two homes on each lot. The property values, lifestyle & neighbourhood atmosphere will be forever changed

18. The Appellant’s written submissions include the following additional rationale (paraphrased):

- Impact on neighbourhood character: the lack of compliance with the bylaw sets a precedent that can be exploited by neighbouring properties, fundamentally and permanently altering the character of the neighborhood.
- The precedent of not following bylaws could pose a risk in respect of the future development of a property within 97 meters of the Appellant’s property, owned by a third party closely affiliated with the Developer.

19. The Appellant’s submissions also raise general concerns, including that the approval is not compliant with the Town’s bylaws. His Notice of Appeal 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. Lots were consolidated and do not meet bylaws

20. The Appellant’s written submissions also address topics such as the Developer’s directors, connected properties, and “key institutional links”.

21. In response, the Town of Three Rivers requests that the appeal be dismissed on the basis that the Appellant is not an aggrieved person. The Town submits that the Appellant’s mailing address as provided on the Notice of Appeal appears to be approximately 14 kilometers from the Subject Property. Further, the Town submits that the Appellant has not identified any direct or specific impact arising from the development that would adversely affect the reasonable enjoyment of his property. The Town submits that the

concerns raised by the Appellant relate to speculative future scenarios, generalized and distant neighbourhood impacts, and matters outside the jurisdiction of both the Town and the Commission.

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

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

23. 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.

24. 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.

25. In the present case, the Commission has reviewed the Appellant's Notice of Appeal and written submissions and cannot identify any submissions that establish an objective good faith belief that the decision will impact the reasonable enjoyment of his property.

26. The Appellant seems to submit that the Town's non-compliance with its bylaws in approving this development could have some negative future impact on a different property nearby the Appellant's property. The Commission agrees with the Town that this submission is speculative and generalized.

27. With respect to the Appellant's submissions about the Developer's directors and other connected properties, those matters are not relevant to the Commission's determination about whether the *Appellant* is an aggrieved person in the context of the decision under appeal.

28. Finally, the Appellant raised concerns about the Town's permit process. Similar to the Commission's finding in Order LA26-03, *Charlie Hicken v. Town of Three Rivers*, 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.

6. CONCLUSION

29. 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.

7. ORDER

30. The appeal is dismissed.

DATED at Charlottetown, Prince Edward Island, **May 29, 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.