



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: July 17, 2026
Docket: LA24021
Type: Request for Review

INDEXED AS: Jerry Woolfrey v. City of Charlottetown
2026 PEIRAC 46 (CanLII)

Order No: LA26-12

BETWEEN:

Jerry Woolfrey

Appellant

AND:

City of Charlottetown

Respondent

Royalty Maples Properties Inc.

Developer

REQUEST FOR REVIEW OF ORDER LA26-08

Panel Members:

Pamela J. Williams, K.C., Chair
Gordon MacFarlane, Commissioner
Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk
Island Regulatory and Appeals Commission

1. INTRODUCTION

1. This Order relates to a written request for review received from the Appellant, Jerry Woolfrey, in respect of Order LA26-08, issued by the Commission on June 8, 2026.
2. For the reasons that follow, the Appellant's request for review is denied.

2. BACKGROUND

3. On June 8, 2026, the Commission issued Order LA26-08, which denied the Appellant's appeal of the decision of the City of Charlottetown to issue a Building & Development Permit to Royalty Maple Properties Inc. (the Developer) to construct "foundation only for cottages" at 18 Trainor Street, in Charlottetown, PE.
4. The Commission denied the Appellant's appeal on the basis that the Commission was satisfied that the City discharged its duty of fairness in processing and reviewing the permit application and approving the Foundation Permit. The Commission was also satisfied that the decision to approve the Foundation Permit was made in accordance with the Bylaw and sound planning principles.
5. On June 18, 2026, the Commission received a formal request from the Appellant to review, vary or rescind Order LA26-08 pursuant to section 12 of the *Island Regulatory and Appeals Commission Act*.¹
6. The Respondent, City of Charlottetown, provided a response to the request on July 10, 2026. The City of Charlottetown submits that the Appellant has not demonstrated a case for review exists. The City submits that each of the grounds of review raised by the Appellant give rise to an error in Order LA26-08, nor has there been a material change in circumstances that warrants a review of the Order.
7. The Developer did not provide submissions.

3. ISSUES

8. The question for the Commission on this Request for Review is whether it should exercise its discretion to review, rescind or vary Order LA26-08.

4. ANALYSIS

9. The Appellant's request for review is pursuant to section 12 of the *Island Regulatory and Appeals Commission Act*.² 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, I-11, s. 12.

² RSPEI 1988, I-11, s. 12.

10. 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]

11. This test has continued to be interpreted by the Commission in subsequent orders³ and this Commission is satisfied that the test remains good authority on this question and the principles contained therein continue to apply.
12. In this case, the Appellant’s request for review states that the request is grounded in critical new evidence, as well as clear errors of law, jurisdiction and procedural fairness. In particular, the Appellant submits that the hearing panel failed to adjudicate core arguments raised during the hearing.
13. First, the Appellant submits that new evidence establishes that the two municipal planning staff members who processed, evaluated, and purported to authorize the permit for this development were not legally appointed under section 20 of the *Planning Act* and section 2.1 of Charlottetown’s *Zoning and Development Bylaw*. He submits their appointments were not made by Council until March 10, 2026—approximately fifteen months after Development Permit 304-BLD-24 was purportedly approved and five weeks after the Commission’s hearing concluded.
14. In respect of this ground, the Commission notes this ground was raised by the Appellant and considered by the Commission at para 44 of Order LA26-08, where the Commission said:

First, though neither MacDonald nor Gundrum could comment on whether there was a delegation from Council per section 2.1.1 of the Bylaw, the

³ See, for example: [Order LA24-09](#) and [Order LA24-10](#).

Commission is not satisfied that this kind of technical error invalidates the City's decision in these circumstances.

[emphasis added]

15. The Appellant's request for review argues that the Commission's finding that this was a "technical defect" is an error of law. On the Commission's review, this ground amounts to a disagreement with the Commission's findings in respect of this issue. However, the Commission is not satisfied the Appellant has demonstrated an error in Order LA26-08 or changed circumstances material to the outcome that warrant a review of Order LA26-08 as described in the test set out above.

16. Next, the Appellant submits that although the hearing panel found that the City failed to provide proper public notice, it did not address or remedy the resulting prejudice to residents, including the Appellant. The Appellant submits this was also an error of law by the Commission to allowing the development permit to stand despite expressly finding that the City's public notice requirement was not met.

17. In Order LA26-08, the Commission said the following about the City's failure to post timely notice of the permit approval at para 37:

With respect to this procedural issue, the Commission understands the position of the Appellant that the City's error in posting notice of the decision impacted the residents' timeline to consider whether to seek reconsideration. However, the Commission is not of the opinion that this error is of such a nature to overturn the City's decision. The Appellants were not prejudiced, for example, in bringing this appeal and having this opportunity for review of the City's decision. That said, the Commission does remind the City that timely notice of decisions is a requirement of both the *Planning Act* and the City's Bylaw.

18. The Appellant's grounds for review do not bring forward new evidence or material change in circumstances. Rather, the Commission, once again, finds that this ground amounts to a disagreement with the Commission's findings in respect of this issue.

19. The Appellant's remaining grounds for review are as follows (paraphrased):

- i) The panel erred by accepting Gundrum's evidence that he did not consult the City's Official Plan because it was "not regulatory." The Appellant argues that, in doing so, the panel ignored the Official Plan's statutory supremacy and argues the Commission's reasons on this point contain an internal contradiction: the Commission cited its standard two-part planning appeal guidance, which requires conformity with the municipality's Official Plan, but then failed to apply that requirement to the facts of this case.
- ii) The panel failed to address or rule on the Appellant's central argument that a continuous Land Use Buffer was legally required. Instead, it accepted staff evidence that the presence of sufficient open space could satisfy the requirements of sections 6.6.1 and 6.6.2 of the *Zoning and Development Bylaw*.
- iii) The Commission erred in law by repeatedly referring to Building and Development Permit 304-BLD-24 as a "Foundation Permit" in its Reasons for Decision.

20. Similar to the Commission's findings above, the Commission is not satisfied that these grounds for review meet the test established by the Commission to warrant a review.
21. The matters raised by the Appellant were each dealt with in some detail at the appeal hearing. In this request for review, the Appellant has presented the Commission with further argument based on his interpretation of the evidence already presented at the hearing. In respect of each of these issues, the Commission considered the evidence and submissions of the parties at the hearing and exercised its adjudicative discretion to make a finding in respect of the grounds of appeal.
22. In the Commission's opinion, the Appellant has not presented any new evidence or information for it to consider beyond new legal arguments that could have been submitted at the original appeal hearing.
23. An application seeking review is not an opportunity to reargue an appeal. Nor is it intended to be a substitute for the right to appeal set out at section 13 of the *IRAC Act*. The Commission's authority to review its decisions is available as a somewhat extraordinary measure to correct obvious errors or to accommodate new evidence or a material change in circumstances which, had it been before the original panel, may have resulted in a different decision.
24. As the Commission said in Order LA97-11, the review power should be used sparingly – because the Commission gives serious consideration to all of its decisions, it will not review any decision without a reasoned case being made.
25. Upon consideration of the Appellant's grounds for review, the Commission finds that the Appellant has not met the test for a request for review. The submissions of the Appellant do not demonstrate that there is an error in Order LA26-08 or changed circumstances material to the outcome such that the Commission should exercise its discretion to re-open Order LA26-08. Instead, the Appellant's submissions appear to be an attempt to relitigate the grounds of appeal and raise new legal arguments that could have been raised at the hearing of this appeal, only now with the benefit of the Commission's findings in Order LA26-08.
26. Accordingly, the Commission denies the request.

5. CONCLUSION

27. The request for review of Order LA26-08 is denied.
28. The Commission thanks the parties for their submissions in this matter.

IT IS ORDERED THAT

1. The request for review of Order LA26-08 is denied.

DATED at Charlottetown, Prince Edward Island, July 17, 2026.

BY THE COMMISSION:

[sgd. Pamela J. Williams, K.C.]

Pamela J. Williams, K.C., Chair

[sgd. Gordon MacFarlane]

Gordon MacFarlane, Commissioner

[sgd. Murray MacPherson]

Murray MacPherson, 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.