



Date Issued: May 29, 2026
Docket: LT25-04
Type: Real Property
Assessment Act Appeal

INDEXED AS: Holden and Fullerton v. Minister of Finance
2026 PEIRAC 27 (CanLII)

Order No: LT26-01

BETWEEN:

Jordan Holden and Kathryn Fullerton

Appellant

AND:

Minister of Finance and Affordability

Respondent

REASONS FOR DECISION

Panel Members:

Kerri Carpenter, Vice Chair
Gordon MacFarlane, Commissioner

Contents

- 1. INTRODUCTION 3
- 2. BACKGROUND..... 3
- 3. ISSUES 4
- 4. DISPOSITION..... 4
- 5. ANALYSIS..... 5
- 6. CONCLUSION..... 7
- 7. ORDER..... 7

Appearances & Witnesses

1. For the Appellants:

Jordan Holden

Kathryn Fullerton

Witness:

Glen Fullerton

2. For the Respondent

Counsel:

Stephen Flanagan, Legal Services, Department of Justice
and Public Safety

Witnesses:

Boyce Costello, Manager, Real Property Services,
Department of Finance

Dean MacKinnon, Supervisor, Non-Commercial Property,
Department of Finance

1. INTRODUCTION

1. This is an appeal by Jordan Holden and Kathryn Fullerton of the assessment made by the Minister of Finance and Affordability in respect of their property at 33 Scotiaview Heights, Stratford, PE (PID 298877) for the 2025 tax year. The Minister's assessment was made pursuant to the *Real Property Assessment Act* (the "Act").
2. Upon receipt of the Notice of Appeal, the Minister raised a preliminary issue about the jurisdiction of the Commission to hear this appeal as, in their submission, it was filed outside of the statutory appeal timeline prescribed by the *Act*.
3. On Tuesday, March 10, 2026, the Commission heard the preliminary issue at a public hearing. Upon hearing the preliminary issue, the Commission determined that that the Notice of Appeal was not served in accordance with the provisions of the *Real Property Assessment Act*, and therefore the Commission did not have jurisdiction to hear the appeal. The Commission delivered its decision with a written order to follow. This is the Order that follows that decision.

2. BACKGROUND

4. On June 3, 2025, the Appellants requested a review of their 2025 property assessment and taxes by the Minister. On their referral form, the Appellants submitted that the taxable value of their home is far more than they paid for it and continued to increase.
5. By letter dated July 15, 2025, the Minister advised the Appellants that their assessment had been reconsidered in accordance with subsection 20(3) of the *Act*, and that the market value assessment for the property was confirmed at \$581,800.00 on the basis that the assessed value was not considered to be in excess of market value.
6. The Minister's decision letter includes notice that, in the event the Appellants were not satisfied with the decision, they had the right to make a formal appeal under section 22 of the *Act*. The letter goes on to state:

Attached please find a copy of Form 3, prescribed by the *Real Property Assessment Act* Regulations, for serving a **Notice of Appeal** to the Island Regulatory and Appeals Commission (IRAC) and The (sic) Minister for the Department of Finance. You must complete this form and forward it by registered mail, to be received by the above noted parties, within 21 days of the mailing date noted on this decision letter. [emphasis in original]

7. The Commission received a Notice of Appeal from the Appellants, via regular mail, on August 8, 2025.
8. Commission staff sent a letter to the Appellants and Minister on August 12, 2025, attaching the Notice of Appeal and advising of the appeal process.
9. On August 13, 2025, the Minister's representative, Boyce Costello, emailed the Commission raising an issue of the Notice of Appeal being delivered outside the 21-day deadline as prescribed by subsection 22(2) of the *Act*.

10. Commission staff raised this jurisdictional issue with the parties via letter dated August 21, 2025, and requested submissions and evidence from both the Appellants and Minister on the matter of whether the Notice of Appeal had been filed in accordance with sections 22 and 23 of the *Act*. Commission staff posed follow up questions to both parties via email over the next couple of months.
11. On November 27, 2025, the Commission scheduled the appeal to be heard via public hearing on February 26, 2026. The Commission's letter advised that upon review and consideration of the submissions and evidence of both parties to date, the Commission was not satisfied it had enough evidence to determine the preliminary issue of jurisdiction. Therefore, the Commission advised that the preliminary issue of whether the Notice of Appeal was filed within the statutory timeline would be heard at the hearing.
12. At the request of the Appellants, the hearing was rescheduled to March 10, 2026. Both of the Appellants attended at the hearing, accompanied by one witness. The Minister was represented at the hearing by legal counsel, Stephen Flanagan. Boyce Costello, Manager of Real Property Services ("Costello") and Dean MacKinnon, Supervisor of Non-Commercial Property, were also present on behalf of the Minister.
13. The hearing began with the parties' submissions and evidence on the preliminary matter. At the conclusion of those submissions, the Commission deliberated and, as a matter of efficiency, delivered its decision with respect to the preliminary issue with a written decision to follow.

3. ISSUES

14. There is one main issue for the Commission to decide:

Did the Appellants institute the appeal in accordance with sections 22 and 23 of the *Real Property Assessment Act*?

15. In other words, the Commission must decide whether it has jurisdiction to hear this appeal.

4. DISPOSITION

16. The appeal is dismissed. Upon consideration of the evidence and submissions of the parties on the preliminary issue, the Commission is satisfied that the Notice of Appeal did not comply with sections 22 and 23 of the *Real Property Assessment Act*.
17. In coming to this decision, the Commission notes that it is a statutory tribunal and is confined by the provisions of its enabling and operating legislation. That means the Commission can only hear and decide appeals that clearly fall within its jurisdiction. To put it simply: the Commission has no power to overlook a mandatory provision of the legislation under which it is authorized to hear appeals, including the *Real Property Assessment Act*. The Commission, as an administrative tribunal, has neither the authority nor discretion to change the *Act* or suspend its application.

5. ANALYSIS

18. As a starting point, it is helpful to consider the wording of the appeal provisions of the *Act*:

22. Appeals to Appeals Board

(1) Where an assessment has been referred to the Minister under section 20, and after the Minister has notified the person making the reference of the decision, the person making the reference may appeal to the Commission to have the assessment vacated or varied.

Limitation of action

(2) An appeal under subsection (1) may be made by the person assessed

- (a) within twenty-one days of the mailing of the notice referred to in subsection 20(3); or
- (b) where the Minister has not notified the person of the decision within the time specified by subsection 20(3), within twenty-one days after the time for mailing the notice has expired.

23. Appeal to be begun by

(1) An appeal to the Commission shall be instituted by serving a notice of appeal in the form approved by the Minister

- (a) upon the Minister by mailing a copy of it by registered mail;
- (b) upon the chairman by mailing a copy of it by registered mail; and
- (c) upon any other person that the Minister directs by notice in writing to the appellant.

19. The Minister submits that the Commission only has jurisdiction to hear an appeal under the *Act* where a notice of appeal has been properly served on both the Minister and the Commission in accordance with these sections.

20. First, the Minister submits that the appeal period expired on August 5, 2025, being 21 days from the mailing of the referral decision letter, which was July 15, 2025. Therefore, the Minister submits that the Notice of Appeal was not made in accordance with clause 22(2)(a) of the *Act*.

21. At the hearing, Costello testified that the date on the referral decision letter – July 15, 2025 – is the date the letter was mailed. He explained that mail from Real Property Services is sent to the King’s Printer each day, and is mailed that same day as long as it is there by 2:00 p.m. He testified that if a letter is prepared and not sent out that same day, the date of the letter is revised. Costello also testified that it is the practice of Real Property Services to stamp every piece of mail that is received, and that the Notice of Appeal was received and stamped on August 8, 2025.

22. Second, the Minister’s evidence is that the Notice of Appeal was received by the Minister by regular mail (i.e. not registered mail) and that this was *not* valid service pursuant to clause 23(1)(a). Costello testified that the Notice of Appeal was received via regular mail. He testified that registered mail must be signed for by staff of Real Property Services. The

Minister's Appeal Record includes a photocopy of the envelope the Notice of Appeal was mailed in. It includes a postmark from a Stratford, PE, post office dated August 5, 2025.

23. The Minister relies on previous decisions of the Commission to support its position: in particular, Order LT23-01 *Killam Investments (PEI) Inc. v. Minister of Finance* and Order LT24-01 *Killam Investments (PEI) Inc. v. Minister of Finance*.
24. In response, the Appellants' evidence is that they mailed the Notice of Appeal on August 1, 2025, well within the 21-day appeal period. They submit that the few days' delay in delivery of the Notice of Appeal is negligible in the overall appeal process. The Appellants also questioned whether the referral decision letter was actually mailed July 15, 2025, and they argued it was not possible to know when the 21-day appeal period started to run.
25. The Appellants concede that they sent the Notice of Appeal via regular mail. They testified that they delivered it to the post office on August 1, 2025. They testified that the clerk at the post office advised them that their mail would not arrive any sooner via registered mail, so they opted for regular mail.
26. The Appellants submitted that the *Act* also gives the option, at subsection 25(1) to serve a document personally, but that option was not included on the referral letter. They testified that had they known personal delivery was an option, they would have done that instead of mailing the Notice of Appeal.
27. As previously stated, after hearing the evidence and submissions of the parties, the Commission determined that the Notice of Appeal was not served in accordance with the provisions of the *Real Property Assessment Act*, and therefore the Commission does not have jurisdiction to hear the appeal.
28. In particular, the Commission is satisfied with the evidence of Costello that the referral decision letter was mailed on July 15, 2025. Therefore, the 21-day appeal period expired on August 5, 2025. The Minister, and the Commission, received the Notice of Appeal on August 8, 2025 – three days after the expiry of the appeal period.
29. In a series of orders issued by the Commission in January 2022 (Orders LT22-01 through LT22-08) the Commission concluded that the act of mailing a notice of appeal is not service and a notice of appeal must actually be received by the Minister and Commission in order to be served. While subsection 25(2) of the *Act* does provide for deemed service where a document is sent via registered mail, that subsection cannot apply in this case because the Appellants mailed the Notice of Appeal via regular mail.
30. For this reason, the Commission finds that the notice of appeal was not served within 21 days of the mailing of the referral decision letter. The Commission does not have jurisdiction to hear this appeal. As an administrative tribunal, the Commission has neither the authority nor discretion to change the *Real Property Assessment Act* or suspend its application.
31. Having dismissed the appeal on the basis that it was not made within the 21-day appeal period, the Commission finds it is not necessary to specifically make a finding on the method of service of the Notice of Appeal. However, the Commission does take the opportunity to note, as submitted by the Appellants, that the *Act* also prescribes personal

delivery as sufficient service at clause 25(1)(a). In the Commission's opinion, the Minister's referral decision letter should bring this to people's attention. Personal delivery may be an efficient and less costly alternative to registered mail.

32. As a final comment, the Commission notes that the finding herein applies only to the Appellants' appeal of their 2025 assessment. This decision does not prevent the Appellants from filing an appeal of their 2026 assessment after completing the referral process prescribed by the *Act*.

6. CONCLUSION

33. The appeal is dismissed. The Commission does not have jurisdiction to hear this appeal.

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

7. ORDER

35. **The appeal is dismissed.**

DATED at Charlottetown, Prince Edward Island, **May 29, 2026.**

BY THE COMMISSION:

[sgd. Kerri Carpenter]

Kerri Carpenter, Vice Chair

[sgd. Gordon MacFarlane]

Gordon MacFarlane, 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.

Section 33 of the *Real Property Assessment Act* reads as follows:

33. Notwithstanding anything in any public or private Act, an appeal lies to the Supreme Court of the province from any order, decision, or award of the Commission, if notice of the appeal is given the other parties within forty-five days after the making of the order, or decisions sought to be appealed from.

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.