



**THE ISLAND REGULATORY AND
APPEALS COMMISSION**

Prince Edward Island
Île-du-Prince-Édouard
CANADA

**Docket LT16009
Order LT17-01**

IN THE MATTER of an appeal by
Edward Donahoe of a November 24, 2016
referral decision of the Minister of Finance.

BEFORE THE COMMISSION
on Wednesday, the 4th day of October, 2017.

J. Scott MacKenzie, Q.C., Chair
M. Douglas Clow, Vice-Chair
John Broderick, Commissioner

Order

Compared and Certified a True Copy

A handwritten signature in blue ink, appearing to read "Philip J. Rafuse".

Philip J. Rafuse
Appeals Administrator
Corporate Services and Appeals Division

IN THE MATTER of an appeal by
Edward Donahoe of a November 24, 2016
referral decision of the Minister of Finance.

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IN THE MATTER of an appeal by
Edward Donahoe of a November 24, 2016
referral decision of the Minister of Finance.

Parties to the Appeal

1. Appellant

Edward Donahoe, representing himself

2. Respondent

**Minister of Finance, as represented by Elizabeth Gaudet, Provincial
Tax Commissioner**

IN THE MATTER of an appeal by
Edward Donahoe of a November 24, 2016
referral decision of the Minister of Finance.

Reasons for Order

1. Introduction

(1) This is an appeal under the *Real Property Assessment Act*, R.S.P.E.I. 1988, Cap. R-4, (the “**Act**”) filed by Edward Donahoe (the Appellant). The appeal pertains to a referral decision dated November 24, 2016 issued by the Respondent Minister of Finance (the “Minister”).

(2) The Appellant had previously attempted to file an appeal with the Commission on October 18, 2016; however the Commission had dismissed that appeal for want of jurisdiction pursuant to subsection 22(1) of the **Act** as there was no referral decision from the Department of Finance at that time. The Appellant requested a referral decision from the Minister on November 4, 2016 and the Minister responded with the November 24, referral decision. The Commission deems the Appellant’s appeal to have been filed on December 9, 2016, the date on which the Appellant provided the Commission with a copy of the Minister’s November 24, 2016 referral decision.

(3) On January 16, 2017, the Commission received a detailed written submission with supporting documentation from Elizabeth Gaudet, Provincial Tax Commissioner (the “Tax Commissioner”), representing the Minister of Finance. This letter indicated that a copy was provided to the Appellant. The Commission sent a copy of this letter to the Appellant on February 2, 2017 to ensure that the Appellant would have the Tax Commissioner’s letter.

(4) The Commission requested on several occasions that the Appellant respond in writing to the Tax Commissioner’s letter of January 16, 2017. Specifically, the Commission contacted the Appellant on February 2 [letter], March 7 [email], April 5 [email] and April 25, 2017 [both email and letter], requesting a written response to the Tax Commissioner’s January 16, 2017 letter. The Commission received no response from the Appellant.

(5) On June 1, 2017 the Commission sent a further letter to the Appellant formally served via personal service that same day.

(6) In the Commission’s June 1, 2017 letter, the Commission again requested a response to the Tax Commissioner’s January 16, 2017 letter. The deadline stated for this response was June 30, 2017. The Commission’s letter further stated:

After the deadline has passed, the Commission will meet to review your response to Ms. Gaudet's letter. If you have not responded, the Commission may determine that you have abandoned your appeal.

If the Commission determines that you have abandoned your appeal, your appeal will be dismissed and the file closed.

(7) On June 26, 2017 the Appellant called the Commission and spoke with Commission staff. He indicated that he would file a response by June 30, 2017. He indicated that he seemed to have lost the copies of Ms. Gaudet's letter sent to him and indicated that either he or his wife might contact staff looking for another copy of Ms. Gaudet's letter.

(8) On June 28, 2017 the Commission received an email from the Appellant, attaching a response "to Ms. Gaudet's letter dated October 26, 2017." [sic]

(9) On June 29, 2017, Commission staff emailed the Appellant the substance of which reads:

Thank you for your letter in response to Beth Gaudet's October 26, 2016 letter – however, that is not what the Commission has requested from you. The Commission has requested on several occasions since February 2017, and most recently on June 1, 2017, that you provide a response to Beth Gaudet's January 16, 2017 letter. For your ease of reference, I have scanned and attached a copy of her January 16, 2017 letter and the documents she enclosed with that letter.

Please file a response to Beth Gaudet's January 16, 2017 letter, addressing the points she made in that particular letter.

The deadline is tomorrow June 30, 2017 – however if you ask me for an extra week or two I will present your extension request to the Commission panel. If the Commission were agreeable to the request to extend the deadline it would likely be only for the specific purpose of you providing the Commission with a thorough and complete response to Beth Gaudet's January 16, 2017 letter.

(10) Later on June 29, 2017, the Commission received an email from the Appellant requesting a two-week extension of the deadline, indicating that this would allow "for proper time to formulate an appropriate response to the letter you have attached above. I apologize for the delay in responding."

(11) On June 30, 2017, Commission staff advised the Appellant via email that the Commission had agreed to an extension to provide a full reply to the points raised in the Tax Commissioner's January 16, 2017 letter. The Appellant's new deadline was July 21, 2017.

(12) The Commission has not received any response of any kind from the Appellant since the above noted email was sent.

2. Findings

(13) In the present appeal, the Tax Commissioner filed a very detailed written submission setting out numerous points and providing supporting documentation. The Commission sought a response from the Appellant in order to give him the opportunity to specifically address these points and provide support for his appeal. As the Appellant was not represented by legal counsel, the Commission gave him the benefit of the doubt, extended the deadline on numerous occasions, made use of various forms of letter delivery including personal service, and provided copies of the Tax Commissioner's January 16, 2017 letter to him on several occasions.

(14) The Commission finds that, by not filing his response by July 21, 2017, or indeed at any time thereafter, the Appellant has abandoned his appeal. Accordingly, this appeal is dismissed.

3. Disposition

(15) An Order dismissing the appeal the appeal follows.

IN THE MATTER of an appeal by
Edward Donahoe of a November 24, 2016
referral decision of the Minister of Finance.

Order

WHEREAS the Appellant Edward Donahoe appealed a November 24, 2016 referral decision of the Minister of Finance;

AND WHEREAS the Commission received a detailed written submission dated January 16, 2017 from the Provincial Tax Commissioner, representing the Minister of Finance, pertaining to this appeal;

AND WHEREAS the Commission requested a written response from the Appellant addressing the points raised in the Provincial Tax Commissioner's January 16, 2017 written submission;

AND WHEREAS the Commission never received a written response from the Appellant pertaining to the Provincial Tax Commissioner's January 16, 2017 written submission, despite the Commission's repeated requests and deadline extensions;

AND WHEREAS the Commission has issued its findings in this matter in accordance with the Reasons for Order issued with this Order;

NOW THEREFORE, pursuant to the *Island Regulatory and Appeals Commission Act* and the *Real Property Assessment Act*,

IT IS ORDERED THAT

1. The Appellant is deemed to have abandoned his appeal.
2. The appeal is hereby dismissed.

DATED at Charlottetown, Prince Edward Island, this 4th day of October, 2017.

BY THE COMMISSION:

(Sgd.) *J. Scott MacKenzie*

J. Scott MacKenzie, Q.C., Chair

(Sgd.) *M. Douglas Clow*

M. Douglas Clow, Vice-Chair

(Sgd.) *John Broderick*

John Broderick, 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 33 and 34 of the *Real Property Assessment Act* provide 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.

34. The rules and practices of the Supreme Court respecting appeals apply with the necessary changes to any appeal.

NOTICE: IRAC File Retention

In accordance with the Commission'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.

IRAC142A(2009/11)