

Court File No: S1-GS-28988

SUPREME COURT OF PRINCE EDWARD ISLAND  
(GENERAL SECTION)

BETWEEN:

ATTORNEY GENERAL OF PRINCE EDWARD ISLAND



AND:

PERSONS UNKNOWN

RESPONDENTS;

AND:

ISLAND REGULATORY AND APPEALS COMMISSION

INTERVENOR (MOVING PARTY).

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MOTION RECORD FILED IN WRITING  
BY THE MOVING PARTY  
ISLAND REGULATORY AND APPEALS COMMISSION  
(Intervention as Friend of the Court)

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Lawyer for the Moving Party,  
Island Regulatory and Appeals  
Commission

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A

SUPREME COURT OF PRINCE EDWARD ISLAND  
(GENERAL SECTION)

BETWEEN:

ATTORNEY GENERAL OF PRINCE EDWARD ISLAND

APPLICANT;

AND:

PERSONS UNKNOWN

RESPONDENTS;

AND:

ISLAND REGULATORY AND APPEALS COMMISSION

INTERVENOR (MOVING PARTY).

**NOTICE OF MOTION IN WRITING**  
**(Intervention as Friend of the Court)**

The Moving Party, Island Regulatory and Appeals Commission, will make a motion in writing pursuant to Rule 37.11(1) to a judge sitting in Chambers on a date to be fixed at the Sir Louis Henry Davies Law Courts, 42 Water Street, Charlottetown, Queens County, Prince Edward Island;

THE MOTION IS FOR:

- (a) an order granting the Moving Party leave to intervene as a friend of the court pursuant to Rule 13.02 of the *Rules of Court*;
- (b) an order abridging the time for serving and filling this notice of motion, including the affidavit on behalf of the Moving Party in support of the motion, and, if granted leave, the time for serving and filing a factum of argument on the merits of the application pursuant to Rule 3.02(1) of the *Rules of Court*;
- (c) an order fixing the date and time for the Moving Party to serve and file its factum of argument on the merits of the application pursuant to Rule 1.05 of the *Rules of Court*; and

- (d) an order that no costs be awarded against the Moving Party in relation to this motion or the application pursuant to Rule 57.01(4)(a) of the *Rules of Court*.

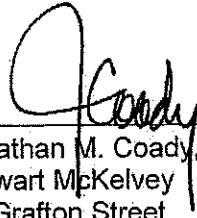
THE GROUNDS FOR THE MOTION ARE:

- (a) the Moving Party did not receive notice of the application;
- (b) the Moving Party has an interest in the application;
- (c) the Moving Party is named in the relief sought in the application and may be directly affected by an order in the proceeding;
- (d) the Moving Party has expertise in the field of residential tenancy in Prince Edward Island;
- (e) based on a review of the application record filed with the court, the submissions of the Moving Party would be useful and different than those presented by the Applicant;
- (f) the submissions of the Moving Party would not delay or prolong the proceeding; and
- (g) the motion is unopposed by the Applicant and may be heard in writing pursuant to Rule 37.11(1) of the *Rules of Court*.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) affidavit of J. Scott MacKenzie, Q.C., being the Chair and Chief Executive Officer of the Moving Party;
- (b) notice from counsel for the Applicant dated March 30, 2020 that this motion is unopposed; and
- (c) such further or other documentary evidence as this Honourable Court may allow in this proceeding.

DATED at Charlottetown, Queens County, Province of Prince Edward Island, this 31st day of March, 2020.



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Lawyer for the Moving Party,  
Island Regulatory and Appeals Commission

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Lawyer for the Applicant

BETWEEN: )  
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ATTORNEY GENERAL OF PRINCE )  
EDWARD ISLAND )  
 )  
APPLICANT; )  
AND: )  
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PERSONS UNKNOWN )  
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RESPONDENTS; )  
AND: )  
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ISLAND REGULATORY AND APPEALS )  
COMMISSION )  
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INTERVENOR )  
(MOVING PARTY). )  
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SUPREME COURT  
OF  
PRINCE EDWARD ISLAND  
  
(General Section)

Proceeding Commenced  
At  
Charlottetown, Queens County,  
Prince Edward Island

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NOTICE OF MOTION  
(Intervention as Friend of the Court)

---

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SM23486-65

**B**



SUPREME COURT OF PRINCE EDWARD ISLAND  
(GENERAL SECTION)

BETWEEN:

ATTORNEY GENERAL OF PRINCE EDWARD ISLAND

APPLICANT;

AND:

PERSONS UNKNOWN

RESPONDENTS;

AND:

ISLAND REGULATORY AND APPEALS COMMISSION

INTERVENOR (MOVING PARTY).

**AFFIDAVIT**  
**(Intervention as Friend of the Court)**

I, J. Scott MacKenzie, Q.C., of Charlottetown, Prince Edward Island, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Chair and Chief Executive Officer of the Island Regulatory and Appeals Commission (the "Commission"), and I have reviewed the application record filed by the Attorney General of Prince Edward Island (the "Attorney General") in Court File No. S1-GS-28988 (the "Application"). The Commission is the statutory appellate body under the *Rental of Residential Property Act*, R.S.P.E.I. 1988, c. R-13.1, and the Director of Residential Rental Property (the "Director") is appointed under the *Rental of Residential Property Act* by the Commission. Orders issued by the Director may be appealed to the Commission under the *Rental of Residential Property Act* and, in some instances, orders issued pursuant to the *Rental of Residential Property Act* are registered in the Supreme Court of Prince Edward Island. As such, I have personal knowledge of the matters sworn herein except for information that arises from sources other than my own personal knowledge and, as to that information, the sources are identified and I verily believe the information to be true.

2. By virtue of its appellate function under the *Rental of Residential Property Act* and its institutional relationship with the Director, the Commission has both experience and expertise in the field of residential tenancy in Prince Edward Island.

#### **Application and grounds for intervention**

3. On March 27, 2020, the Commission learned by way of a public statement about an application by the Attorney General regarding the suspension of eviction orders issued pursuant to the *Rental of Residential Property Act*.
4. On March 30, 2020, the Commission obtained a copy of the Application from the public record at the Supreme Court of Prince Edward Island.
5. Upon review of the Application, including the relief being sought by the Attorney General, the Commission has an interest in the Application and may be directly affected by any order issued by the Supreme Court of Prince Edward Island in this proceeding.
6. Given the experience and expertise of the Commission in the field of residential tenancy in Prince Edward Island, the Commission wishes to intervene as a friend of the Supreme Court of Prince Edward Island in the Application. The Commission has no adverse interest or position in this proceeding. Finally, in my considered view, legal submissions from the Commission would be useful to the Supreme Court of Prince Edward Island and different than those presented by the Attorney General.

#### **Scope of intervention**

7. If granted leave to intervene as a friend of the Supreme Court of Prince Edward Island in this proceeding, the Commission:
  - (a) will make legal submissions in writing on the subjects of the inherent jurisdiction of a superior court, the *Rules of Court*, the interpretation of the *Rental of Residential Property Act*, and the practices of the Commission and the Director under the *Rental of Residential Property Act* for the sole purpose of assisting the Supreme Court of Prince Edward Island;
  - (b) if requested by the Supreme Court of Prince Edward Island, will make its legal counsel available to make submissions orally, and answer any questions arising, at any hearing before the Supreme Court of Prince Edward Island;
  - (c) will not seek the adjournment of any hearing that is scheduled by the Supreme Court of Prince Edward Island in this proceeding and adhere to

any deadlines fixed by the Supreme Court of Prince Edward Island for the service, filing, or delivery of legal submissions orally or in writing in this proceeding; and

(d) will not delay or prolong this proceeding in any way.

8. The Commission does not seek any legal costs in relation to this motion or the Application and asks that no such awards be made against the Commission.

### Conclusion

9. I make this affidavit in support of a motion for leave to intervene pursuant to Rule 13.02 of the *Rules of Court* and for no other or improper purpose.

SWORN TO at Charlottetown, in the  
Province of Prince Edward Island, this 31st  
day of March, 2020 before me:

  
A Barrister of the Supreme Court of  
Prince Edward Island

  
J. Scott MacKenzie, Q.C.



C

**From:** Mitchell O'Shea [mailto:mxoshea@gov.pe.ca]  
**Sent:** Monday, March 30, 2020 5:11 PM  
**To:** Jonathan Coady <jcoady@stewartmckelvey.com>  
**Cc:** Meaghan Hughes <meaghanshughes@gov.pe.ca>  
**Subject:** S1-GS-28988

Hi,

I have received instructions that our client the Attorney General does not oppose the intervention of IRAC in the above noted court matter and consents to the Motion being made in writing.

Mitch

**Mitch O'Shea**  
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Justice and Public Safety  
Legal Services  
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BETWEEN: )  
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EDWARD ISLAND )  
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APPLICANT; )  
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AND: )  
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SUPREME COURT  
OF  
PRINCE EDWARD ISLAND  
  
(General Section)

Proceeding Commenced  
At  
Charlottetown, Queens County,  
Prince Edward Island

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NOTICE  
FROM THE  
RESPONDING PARTY

---

Jonathan M. Coady, Q.C.  
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SM23486-65

D



SUPREME COURT OF PRINCE EDWARD ISLAND  
(GENERAL SECTION)

THE HONOURABLE JUSTICE \_\_\_\_\_

March 31, 2020

BETWEEN:

ATTORNEY GENERAL OF PRINCE EDWARD ISLAND

APPLICANT;

AND:

PERSONS UNKNOWN

RESPONDENTS;

AND:

ISLAND REGULATORY AND APPEALS COMMISSION

INTERVENOR (MOVING PARTY).

**ORDER**  
**(Intervention as Friend of the Court)**

THIS MOTION made by the Moving Party, Island Regulatory and Appeals Commission, for an order pursuant to Rule 13.02 of the *Rules of Court* was heard in writing this day at the Sir Louis Henry Davies Law Courts, 42 Water Street, Charlottetown, Prince Edward Island.

UPON READING the materials filed by the Moving Party;

AND UPON NOTING that the motion was unopposed by the Applicant;

AND UPON BEING SATISFIED THAT (i) the Moving Party has an interest in this proceeding, (ii) the Moving Party may be directly affected by an order in this proceeding, (iii) the Moving Party has experience and expertise in the field of residential tenancy, (iv) the submissions of the Moving Party would be useful and different than those presented by the Applicant, and (v) the submissions of the Moving Party would not delay or prolong this proceeding;

1. THIS COURT ORDERS THAT the motion is hereby granted pursuant to Rule 13.02, and the Moving Party is hereby granted leave to intervene in this proceeding as a friend of the Court.

2. THIS COURT ALSO ORDERS THAT:

- (a) the written legal submissions of the Moving Party in this proceeding shall be served on the Applicant by electronic mail to its legal counsel and filed electronically with the Court on or before Wednesday, April 1, 2020 at 9:30 a.m.;
- (b) the Moving Party may appear through its legal counsel, and make oral submissions, at the hearing of this proceeding by teleconference on Wednesday, April 1, 2020 at 1:30 p.m.; and
- (c) costs shall not be awarded in favour of or against the Moving Party in this proceeding.

3. THIS COURT FURTHER ORDERS THAT any time in the *Rules of Court* for the service and filing of any document in support of this motion by the Moving Party shall be abridged, and all subsequent documents in this proceeding shall be served and filed by the Moving Party in accordance with any order or other direction issued by the Court.

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J.

Proceeding Commenced  
At  
Charlottetown, Queens County,  
Prince Edward Island

ORDER  
(Intervention as Friend of the Court)

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