



David R. Donnelly, MES LLB
david@donnellylaw.ca

May 28, 2021

Jennifer Savini
Templeman LLP
205 Dundas St. E., Suite 200
Belleville ON K8N 5A2

Dear Ms. Savini,

**Re: Prince Edward County By-Laws 86-2021 and 87-2021
and OPA2-2018 and Z25-18 – Quinte Isle Campark**

Donnelly Law (“we” or “the Firm”) represents Friends of South Shore (“FOSS” or the “Client”) in the above-noted matter. We are in receipt of your letter dated May 21, 2021 advising us that on May 20, 2021 Council for Prince Edward County (“PEC”) rescinded By-Laws 62-2021 and 63-2021 (the “Old By-laws”) and enacted By-Laws 86-2021 and 87-2021 (the “New By-laws”) reconfirming the approval of OPA2-2018 and Z25-18 (Fourward Holdings Inc.).

On May 17, 2021 FOSS appealed the Old By-laws to the Local Planning Appeal Tribunal (“LPAT”) the Fourward Holdings’ Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBLA”). Our office has been advised by PEC FOSS must appeal the New By-laws, creating a significant waste of resources.

Most troubling is the fact that this second appeal appears on its face to be in violation of the *Planning Act* because FOSS did not address Council or make a submission concerning the New By-laws. Furthermore, Council appears to have violated the *Planning Act* sections concerning convening statutory public meetings before adopting new planning instruments. These are extremely serious breaches that appear to have the effect of denying FOSS and other residents the right of appeal. Council’s actions also appear to violate the PEC Procedural By-law governing Notice concerning Council Meetings and Special Meetings. Our client wishes to know why these actions were taken in such a rush, and executed without apparent regard for residents’ appeal rights?

Under sections 17 (Official Plan Amendments) and s. 34 (Zoning By-laws) of the *Planning Act*, statutory public meetings must be held before the adoption of an Official Plan Amendment or the passing of a zoning by-law.

It appears from the record that on May 20, 2021, Council went into a Special “Closed” Session of Council. You advise us that this was an attempt to fix PEC’s error in publishing May 25, 2021 as the correct date for filing the appeals of Notice for the OPA 86-2021 and ZBLA 87-2021 (instead of May 17th, the correct date).

However, the Council meeting of May 20, 2021 was held as a “Special Session” of Council, with little or no Notice to the public or even to Council Members. The Agenda for the Special Closed meeting posted on the PEC website provided no indication that Council would be dealing with Quinte Isle Campark (QIC) by stating as follows:

This Special Closed Meeting of Council was called for advice that is subject to solicitor-client privilege, including communications necessary for that purpose as per s.239(2) (f) of the *Municipal Act*.¹

PEC also did not post the revised QIC By-law on the agenda thus being in violation of its own Procedural By-law. The *PEC Procedural By-law 4402-2019* states that meeting agendas shall list all proposed by-laws for applications recommended for approval.

Upon receiving your revised Notice stating June 10, 2021 was the new date for filing LPAT appeals, I emailed PEC to inquire if the original OPA and ZBLA had been rescinded and received confirmation. This is significant as these Old By-laws were the subject of our written comments – and everyone else’s - to PEC and the statutorily required basis for our appeal to the LPAT.

As a result, Council’s actions at this special meeting have not only invalidated FOSS’s original appeal (now defunct) but it appears that my Client is now unable to appeal the New By-laws (being the OPA and ZBLA), as recently approved, to the LPAT by June 10, 2021 as you indicate in your notice letter.

Under both s. 34(19) for zoning by-law amendments and s. 17(36) for Official Plan amendments under the *Planning Act*, for FOSS or anyone to file an appeal with the LPAT, they must have written to Council or personally addressed Council to launch an appeal of a specific By-law or Official Plan Amendment. Though they deal with

¹ [Prince Edward County - Document Center \(civicweb.net\)](http://www.civicweb.net)

the same subject matter development, the rescinded OPA and ZBLA are two different legal instruments and each subject to these requirements under the *Planning Act*.

In rescinding the ZBLA and OPA pursuant to which my Clients made written submissions to Council, Council has now violated not only their obligations under the *Planning Act* but also my Client's right to an appeal to the LPAT. By neglecting to call a Public Meeting, or release the OPA or ZBLA in advance, no one can meet the requirement of the *Planning Act* for filing an appeal with the LPAT.

Council's covert actions to re-approve QIC's OPA and ZBLA gives rise to additional concerns regarding Council's transparency in this matter. Specifically, the *PEC Procedural By-law* governs notices to be provided to Council Members in the event that a Special Meeting is called and requires a minimum of 48 hours for a notice of a Special meeting, unless the meeting concerns an emergency.

Since we cannot find a Notice of the meeting on the website, there appears to have been insufficient notice of the meeting. Additionally, the QIC matter is hardly an emergency as that term is commonly understood. Again, why did Council choose to act in this matter, frustrating the rights of residents?

Conclusion

As we are unaware that such extraordinary circumstances have occurred anywhere else in Ontario, it is imperative that you explain how this mess will be resolved, with the full right of LPAT appeal extended to FOSS and residents.

It appears to us that the PEC Council has engaged in at least one breach of the *Planning Act* in failing to hold statutory public meetings for the New By-laws, which in turn likely prohibits anyone from filing an appeal of the new OPA an ZBLA. How does PEC respond? Needless to say, my Clients wish to see these matters resolved as quickly as possible, with the deadline to appeal of June 10, 2021 looming.

Please do not hesitate to contact me at 416-572-0464, or by email at david@donnellylaw.ca, cc'ing denisa@donnellylaw.ca and justine@donnellylaw.ca should you have any questions concerning this correspondence.

Yours Truly,



David R. Donnelly

cc: Client