

'Natural Justice' Crap

I'm officially a CDB (certified development bully). If you don't believe me, head to the Prince Edward Island Regulatory Appeals Commission (IRAC) website and read their most recent decision. Why am I worthy of this great honour? That's a good question. To borrow a line from one of my boys when explaining some trouble, "*it all started when...*" someone uttered the words "natural justice". That's when the fight broke out.

I guess I was naïve to think it might be possible to work within the framework of Charlottetown's official plan to propose a downtown hotel development to fit all local stakeholders' needs.

Our proposed project is in a heritage district involving major modifications to two existing heritage structures, so we sought professional advice on the architecture, consulted with local heritage advocates and met with the city's heritage officer before releasing our plans.

Once all our property options were secured, before submitting our formal development application, the hotel scheme was announced to the public so citizens would have open disclosure on our planned project and could express their concerns.

With our "i's" dotted and our "t's" crossed, the formal application was submitted to the city and notices were mailed to 72 neighboring property owners inviting them to raise concerns about the development to the city. An "open house" was conducted for the public to review our plans so they could express concerns directly to us or forward them to the city. Plans were then sent for review to the city's Heritage Board, a group of individuals with a proven heritage preservation commitment to the city.

After some changes, the development was unanimously approved and sent from the Heritage Board to the city's Planning Board. That group of about 20 concerned citizens examined our plans in detail, listened to minor concerns from neighbours and reviewed various planning reports. Again, our plans were unanimously approved. The city's professional planning staff compiled a report with a recommendation and presented it to City Council to vote on and plans again were unanimously approved.

I was just about to take the red VW microbus, the shovels and rakes and implements of destruction and head on toward the scene of the crime when two ladies called upon

Officer Obie at IRAC, stopping us dead in our tracks with conjecture of vibrating houses and snow-packed streets. (Borrowed from *Alice's Restaurant*)

These ladies appealed our permit with their frivolous claims and IRAC followed the process of scheduling a formal hearing 10 weeks out so they could have their right to "natural justice". This despite the previous four stages of unanimously approved review.

Never mind any benefits this \$25-million venture would bring to Charlottetown. Who cares about the developers' timing obligations under various due diligence agreements related to the land assembly?

I'm tired of people trying to impede the development process with frivolous appeals. So, when these ladies requested a two-week postponement on the opening day of the hearings I decided enough was enough and had them served with a civil action. That didn't sit very well with IRAC's vice-chair Allan Rankin. In fact, in his closing remarks I thought Officer Obie was having me sent directly to the police officer's station for my sanctimonious disregard for his dutifully appointed station in life.

IRAC has since denied the ladies' appeal and it's clear from their order the lack of understanding the commissioners have as to what an independent quasi-judicial tribunal should be able to do. Perhaps that's because in PEI the full-time commissioners are political appointments with zero legal or planning credentials.

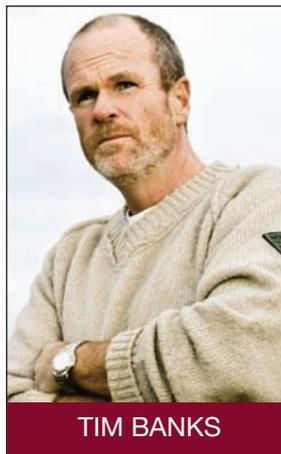
Simply put, the commission had the legal discretion to not hear this matter because of its frivolous nature. Instead they drew their attention to a man attempting to build some-

thing in his community. They had a prime opportunity to show leadership and they blew it.

"Yes, sir, Officer Obie, I cannot tell a lie, I put that envelope under that garbage." (Arlo Guthrie)

On PEI, you even have to get IRAC's approval to open a simple gas bar, among other things. Don't worry about free enterprise's ability to measure the potential success of a gas bar. We have the wisdom of IRAC racking up applicants' fees for lawyers, accountants and consultants for the privilege of pumping some gas.

It's time to review our regulatory system or, at the very least, see that the people appointed to run it are qualified. Now that would be "natural justice." | ABM



TIM BANKS

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As CEO of APM, Tim Banks is well-known businessman and blogger in his PEI community. You can visit his blog at ABMonline.ca and timbanks.ca. Since 1980 APM has provided construction and design-build services that include construction management, engineering and general contracting. APM operates across Canada with offices in Charlottetown, Halifax, Toronto and Calgary, providing construction services to local, regional and national clients. The views expressed in this column are those of the author and not necessarily those of *Atlantic Business Magazine*. Feedback: dchafe@atlanticbusinessmagazine.com