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May 1, 2023

Via email: [Daniel.mills@cic.gc.ca](mailto:Daniel.mills@cic.gc.ca)

Daniel Mills  
Senior Assistant Deputy Minister, Operations Sector  
Immigration, Refugees and Citizenship Canada  
365 Laurier Avenue West  
Ottawa ON K1A 1L1

Dear Mr. Mills:

**Re: Applying for a permanent resident card from outside of Canada**

I write on behalf of the Immigration Law Section of the Canadian Bar Association (CBA Section) to comment on recent changes in the interpretation of law and policy by Immigration, Refugees and Citizenship Canada which preclude applicants outside of Canada from applying for a Permanent Resident card.

The CBA is a national association of approximately 37,000 members, including lawyers, notaries, academics and students across Canada, with a mandate to seek improvements in the law and the administration of justice. The CBA Section has approximately 1,200 members across Canada practicing in all areas of immigration, refugee and citizenship law.

IRCC recently expanded the functions of the PR Representative Portal to enable representatives to file online PR card applications on behalf of their clients. We applaud this measure and thank you for enabling legal representatives to serve their clients more efficiently. However, the PR Representative Portal does not permit online PR card applications for individuals outside of Canada. The Portal directs them to Permanent Resident Travel Document (PRTD) applications instead.

Question 2.6 of both the online PR card and PRTD applications requires the applicant's current Canadian residential address. The field is mandatory in the PR card application but can be left blank in the PRTD application. In the latest version of the paper application form IMM 5444, IRCC also forces applicants to first choose whether they are in Canada or outside of Canada. Applicants who select "I am in Canada" are only given the option to apply for a PR card. Applicants who select "I am outside Canada" are only given the option to apply for a PRTD. To overcome this obstacle, applicants must "misrepresent" their location and include a letter explaining that while they are checking that they are "in Canada", they are in fact outside of Canada wishing to apply for a PR card.

This novel interpretation of subsections 56(2) and 57(1) for PR card application requirements is reflected elsewhere across recent IRCC resources:

1. Program guidance on IRCC's website states:

*You can only renew your card in Canada. We don't send PR cards to non-Canadian addresses and we don't allow third parties to get them for you.*

*If you're outside Canada and don't have a valid PR card, you need a [permanent resident travel document \(PRTD\)](#) to return to Canada.<sup>1</sup>*

2. PR card Application Instructions state:

*To be eligible for a PR card, you must:*

- *be a permanent resident of Canada;*
- *be physically present in Canada;*
- *meet the residency requirement (see [Appendix A: Residency obligation](#));*
- ***not** be under an effective removal order;*
- ***not** be a Canadian citizen; **and***
- ***not** be convicted of an offense related to the misuse of a PR card<sup>2</sup>*

3. In Immigration Representative's responses to questions about the change of interpretation, such as the one appended.<sup>3</sup>

IRCC relies on subsection [56\(2\)](#) of the *Immigration and Refugee Protection Regulations* (IRPR), which simply states that an application for a PR card "must be made in Canada" and stipulate the applicant's mailing address. To support the interpretation, IRCC further refers to subsection [57\(1\)](#) of the IRPR which states that the PR card applicant must make and sign their application on their own behalf. IRCC maintains that "the applicant and the application" must be in Canada for the submission of their PR card application.

In our view, this interpretation by IRCC is both legally incorrect and unjustified.

While the *IRPR* require the "application" be made in Canada, they do not require that the applicant be physically present or residing in Canada when the application is made. When submitted by an authorized representative located inside Canada and a Canadian mailing address is available, the conditions of subsection 56(2) of the IRPR are met, even when the applicant is located outside the country. This is consistent with IRCC's interpretation for the last 20 years as exhibited by positive processing of PR card applications for applicants located outside of Canada.

There is no justification for effectively denying PR cards to permanent residents who currently reside outside of Canada. Numerous non-resident PRs are fully compliant with the residency requirements of section 28 of the *Immigration and Refugee Protection Act* (IRPA). Requiring those people to relocate to Canada to apply for new PR cards is a waste of both personal and Government resources.

While we support the need to prevent fraud, painting all non-resident PR card applicants as likely fraudsters is unwarranted. As with all areas of immigration processing, greater efficiency and wiser expenditure of resources can be achieved with more nuanced screening. High risk or suspect cases can be called in for interviews or required to provide further supporting documentation.

<sup>1</sup> IRCC, Government of Canada, Immigration, Refugees and Citizenship Canada, "I am outside Canada and do not have a PR card. How can I return to Canada?" 2022, [online](#).

<sup>2</sup> IRCC, Guide IMM 5445 - Applying for a permanent resident card (PR card), 2022, [online](#).

<sup>3</sup> See Appendix A.

## RECOMMENDATION

### 1. We recommend that IRCC interpret subsection 56(2) of the IRPR as requiring that the PR card *application* be made in Canada.

The distinction is important because there are many reasons why an applicant may be physically outside of Canada at the time of the application. Some frequently encountered reasons include:

- They are accompanying their Canadian citizen spouse or common-law partner on a long-term absence (and thus in compliance with their residency obligation based on subparagraph 28(2)(a)(ii) of the IRPA);
- They are on a long-term business or work assignment abroad with a Canadian employer (and are thus in compliance with their residency obligation based on subparagraph [28\(2\)\(a\)\(iii\) of the IRPA](#));
- They are tending to a sick family member abroad.

In these cases, the appropriate application is for PR cards, not PRTDs. The latter are typically issued for single entries, when individuals plan to travel infrequently to Canada. Though IRCC has stated they will issue PRTDs for periods of longer duration, that has not been the experience of CBA Section members.

It's an unreasonable burden for a permanent resident working for Canadian employers on an assignment abroad or married to a Canadian residing abroad, for example, to return to Canada uniquely to submit a PR card application. We believe this is overly onerous and the requirement is not supported by the IRPR.

As indicated above, IRCC has long facilitated the practice of counsel in Canada submitting applications for a PR card for applicants residing outside of Canada:

- IRCC's Operational Processing Manual on Permanent Residency Status Determination ([OP 10](#)) confirms that it is possible for an applicant to apply for a PR card from outside of Canada. The PR card is not mailed to the PR applicant abroad. Rather, applicants who are resident abroad can submit a PR card application in Canada through an authorized representative and provide a mailing address in Canada to receive correspondence, such as an interview request<sup>4</sup> – the latter which is likely to be expected when the applicant is residing outside of Canada as indicated in their address and personal history on their PR card application form.
- Permanent residents outside of Canada have the right to apply for and be issued a PR card to facilitate their travel to Canada. OP 10 refers to the right of permanent residents to be issued a “status document” in compliance with paragraph 53(1)(a) of the IRPR, namely a PR card. The manual goes on to state that “the permanent resident card provides holders with a convenient document that facilitates their return to and entry into Canada.”<sup>5</sup> Contrast a PRTD, which is typically issued for a single-entry and six-month validity and merely takes the form of a Visa Counterfoil.

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<sup>4</sup> OP 10 – Permanent Residency Status Determination, Immigration, Refugees and Citizenship Canada, Section 5.2 “The permanent resident card as a status document”, page 13, [online](#).

<sup>5</sup> *Ibid.*

- IRCC's Enforcement Manual on Permanent Resident cards [ENF 27](#) contains a sample letter for a PR card applicant who is residing outside of Canada.<sup>6</sup>

The email referenced in Appendix A further alleged that "a PR card cannot be mailed outside Canada by a third party as per A122." In our view, this is a misinterpretation of [section 122](#) of the IRPA. Section 122 does not prohibit the mailing of valid status and travel documents. Immigration applicants regularly ship their passports to third party Visa Application Centres and directly to IRCC offices without any violation of section 122.

The email also suggests an IRCC interpretation that the place of the applicant's signature is the place of submission of the application. In our view, when an application is submitted via the PR Representative Portal, the place of application should be considered the location of the Representative at the time of submission.

Finally, the Consent and Declaration page of the PR card application in the PR Representative Portal includes an inherent discrepancy with the appended Immigration Representatives' response<sup>7</sup> and seemingly new IRCC interpretation. The Consent and Declaration page asks "Are you currently out of Canada or have you left Canada since starting this application?" Applicants answering yes are told "If so, you must review and update your travel history under the "5. Residency Obligation" section of the IMM5444 webform (...) Once it has been updated, you may submit your application." The applicant must also list their city, province/district/state (if applicable) and country or territory.

Under this new interpretation, and based on how the online portal and newest version of the IMM 5444 PR card application form have been designed, permanent residents outside of Canada must either misrepresent their location in their application, or apply for a PRTD so they can travel to Canada to apply for a PR card. As noted, many permanent residents remain in compliance with their residency obligation while residing outside of Canada. Many do not maintain a residential address in Canada. Most do not have the luxury of traveling to Canada and remaining in Canada for 65 or more days while their PR card application is processed by IRCC and would have to return to their country of residence.

To return to Canada after applying for a PR card, if their PR card has expired, they would also need to apply for a PRTD. However, IRCC does not permit them to simultaneously apply for a PR card and PRTD online.

The PR card and PRTD applications are now virtually identical. They can both be submitted online using an identical form, virtually identical supporting documents, and an identical processing fee of \$50. However, the "place" indicated in the online application leads to different outcomes and substantially different costs for the applicant. According to IRCC's current interpretation, only permanent residents in Canada are eligible to apply for a PR card, a status document issued for five years. Permanent residents outside of Canada are expected to either apply for PRTDs every time they travel to Canada, or apply for a PRTD in order to travel to Canada to apply for a PR card, and then apply for a new PRTD to return to Canada to pick up their PR card in-person. It is contrary to IRCC's goal of reducing the backlog to force permanent residents who have met the residency requirement to have to submit a multitude of applications to regularly travel to Canada.

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<sup>6</sup> ENF 27 – Permanent Resident Card, Immigration, Refugees and Citizenship Canada, Section 7.4 "Procedures at ports of entry", page 56, [online](#).

<sup>7</sup> See Appendix A.

## RECOMMENDATIONS

2. **The CBA Section recommends that IRCC remove the warnings about applying for a PR card from Outside Canada in the online PR Representative Portal, the paper application form IMM 5444, and on the IRCC website, as these warnings reflect an incorrect interpretation of the IRPA and IRPR.**
3. **The CBA Section recommends that IRCC remove the requirement that applicants include a Canadian residential address at 2.6 of the online PR application form.**
4. **The CBA Section recommends that permanent residents be permitted to pay for urgent processing of their PR cards. We also recommend that processing times of PR cards be in line with the processing times for Canadian passports.**
5. **Where a permanent resident is applying for a PR card from outside of Canada and their PR card has expired or will expire within the next six months, the CBA Section recommends that IRCC systematically process PRTDs so the applicant is able to travel to Canada to attend an interview where required, and pick up their PR card.**
6. **The CBA Section recommends that, if IRCC continues with the practice of issuing PRTDs to permanent residents applying from outside of Canada, they be issued for five years, regardless of passport expiry.**

## Conclusion

We thank you again for the opportunity to share our comments and to collaborate with your team. Should you wish to discuss this matter further, the CBA Section Officers will be in Ottawa from May 31 to June 4 and would welcome an opportunity to meet in person.

Kind regards,

*(original letter signed by Véronique Morissette for Lisa Middlemiss)*

Lisa Middlemiss  
Chair, Immigration Law Section

## Appendix A

Good afternoon,

The Regulations R56 (2) state that an application for a permanent resident card must be made in Canada. Further, R57 (1) states that every person who applies for a permanent resident card must make and sign the application on their own behalf. The applicant and application are both explicitly clear in that the applicant and application must be in Canada for its submission. The expectation by our Regulations is the applicant will submit the application in Canada prior to leaving the country. Furthermore, client must provide a Canadian address as per R55 and the PR card cannot be mailed outside Canada by a third party as per A122.

If there are discrepancies with the submission of the permanent resident application due to a client's location or residency obligations, the client will likely be invited to an interview by IRCC to address those concerns.

Regards,

The Immigration Representatives Mailbox