

**IN THE MATTER OF** an appeal by Martin and Leslie-Ann Ruben from a decision by the Rural Municipality of Victoria to grant a development permit to Ralph and Faye MacDonald on October 28, 2022 - IRAC APPEAL #LA22-020.

---

**RESPONSE PREPARED ON BEHALF OF  
THE RURAL MUNICIPALITY OF VICTORIA**

---

**J. CURTIS DOYLE  
Stewart McKelvey  
65 Grafton Street  
Charlottetown, PE C1A 8B9  
cdoyle@stewartmckelvey.com  
Lawyer for the Rural Municipality  
of Victoria**

**IN THE MATTER OF** an appeal by Martin and Leslie-Ann Ruben from a decision by the Rural Municipality of Victoria to grant a development permit to Ralph and Faye MacDonald on October 28, 2022.

*Reply to Grounds Listed in Notice of Appeal*

1. On October 28, 2022, the Rural Municipality of Victoria (“Municipality”) issued a development permit to Ralph and Faye MacDonald for a development on PID 1057959 (“permit”).
2. On November 30, 2022, the appellants filed a notice of appeal in respect of the decision to issue the permit.
3. The appellants express concern that the Official Plan and the Development Bylaw provide “insufficient protection for property owners in the Dunrovin Shores subdivision”. This is not a valid ground of appeal. The standards prescribed in the Official Plan and Development Bylaw represent the legislative choices of the residents of the Municipality. If certain residents feel that these choices are insufficient, the appropriate remedy is to lobby for legislative amendments.
4. The appellants state that “[a]ll properties in the Dunrovin Shores subdivision are subject to the same restrictive covenants” and that these covenants “provide assurance to the property owners that their views of the sea will be maintained and that properties will be developed to a certain standard”. This is not a valid ground of appeal. Covenants are private matters. The Municipality does not enforce private covenants.
5. The appellants express concern that the permit did not respect coastal buffer zones and that the auxiliary building “is far too large for the size of lot in our subdivision”. This is not the case. The conditions attached to the permit ensure that the development will comply with sound planning principles and with all relevant size, setback, and siting requirements.

*Jurisdiction*

6. The Municipality respectfully submits that, in any event, the Commission does not have jurisdiction to hear this appeal because the notice of appeal was filed beyond the applicable limitation period.
7. The appellants state that the Municipality “failed to provide notice to the residents by way of requirements set out in s. 23 that requires noti[ce] on the website within 7 days of the decision” (emphasis added). This is not the case. The *Planning Act* requires that notice be posted on “an Internet website accessible to the public”.<sup>1</sup> On November 3, 2022, the Municipality posted notice of the decision on the Provincial Planning Decisions website.<sup>2</sup>
8. It is clear, moreover, that the appellants received actual notice of the decision to issue the permit within the statutory appeal period: on November 12, 2022, one of the appellants emailed the Municipality inquiring about the decision to issue the permit. The Municipality cannot say whether

---

<sup>1</sup> Planning Act, R.S.P.E.I. 1988, c. P-8, s. 23.1(c) (emphasis added).

<sup>2</sup> On November 3, 2022, the Municipality posted this electronic notice on the old Provincial Planning Decisions website, which has since become inaccessible to the public. The old Provincial Planning Decisions website remained accessible to the public until approximately December 13, 2022. This means that this website was accessible to the public for the entirety of the statutory appeal period.

the appellants received actual notice of the decision even earlier than November 12, 2022. The answer to this question lies with the appellants.

9. For these reasons, the Municipality respectfully requests that the appeal be dismissed.

January 20, 2023  
Rural Municipality of Victoria