

May 1, 2025

Via Electronic Mail (jgillis@irac.pe.ca)

Jessica M. Gillis
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National Bank Tower
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Dear Ms. Gillis:

**Re: LA24-014 - Victoria Business Association and Victoria Village Friends of the Park
v. Rural Municipality of Victoria**

We thank the Commission for its correspondence of 17 April 2025. We reiterate, with respect, that this appeal ought to be dismissed because the intended appellants have failed to discharge their burden of establishing that they are “aggrieved persons” as defined in s. 27.1 of the *Planning Act*.

In our view, the Commission should dismiss the appeal on the basis of the submissions already filed. No further submissions should be permitted or required. The Commission has already provided the intended appellants with ample opportunity to discharge their burden of proving that they are aggrieved persons. The intended appellants have simply failed or refused to do so. Further cost and delay should be avoided.

Chronology

The following chronology will provide context for our submissions.

- In August 2024, the notice of appeal was filed. In response, the Commission invited submissions on preliminary issues.
- In September 2024, the Municipality raised the preliminary issue of standing, arguing that the intended appellants are not aggrieved persons as required by the *Planning Act*.
- On 8 November 2024, the Commission set deadlines for written submissions on whether the intended appellants are aggrieved persons.
- On 19 November 2024, submissions were filed on behalf of the “Victoria Business Association”. These submissions conceded that the “Victoria Business Association” is not an aggrieved person as defined in s. 27.1 of the *Planning Act*.

- On 20 November 2024, the Municipality filed supplemental submissions emphasizing that the intended appellants are not aggrieved persons as defined in s. 27.1 of the *Planning Act*.
- On 27 November 2024, the Developer filed submissions arguing that the intended appellants are not aggrieved persons as defined in s. 27.1 of the *Planning Act*.
- On 11 December 2024, the deadline for submissions from the intended appellants expired. The intended appellant named as the “Victoria Village Friends of the Park” failed to file submissions by this deadline.
- On 13 December 2024, Commission staff asked for clarification on whether the “Victoria Village Friends of the Park” intended to file submissions on the issue of standing.
- On 8 January 2024, Commission staff again asked for clarification on whether the “Victoria Village Friends of the Park” intended to file submissions in response on the issue of standing. Commission staff requested that any such submissions be filed by 15 January 2025.
- On 28 January 2025, approximately six weeks after the initial deadline, submissions were filed on behalf of the “Victoria Village Friends of the Park”. These submissions appeared to concede that the “technicality” of the law prevents the “Victoria Village Friends of the Park” from “actively pursuing the issue at hand”.
- On 2 April 2024, the Commission requested further submissions from the intended appellants on the issue of standing. Specifically, the Commission requested that the intended appellants provide further submissions on s. 27.1(f) of the *Planning Act*.
- On 14 April 2024, submissions on s. 27.1(f) of the *Planning Act* were filed on behalf of the “Victoria Business Association”.
- On 16 April 2024, submissions on s. 27.1(f) of the *Planning Act* were filed on behalf of the “Victoria Village Friends of the Park”.

Appeal ought to be dismissed

Intended appellants have failed to establish that a majority of their members are individuals

To qualify as an aggrieved person under s. 27.1(f) of the *Planning Act*, an intended appellant must establish that a majority of its members are individuals.

27.1 Definition

In this Part, “aggrieved person” means, in respect of a decision of the Minister under subsection 28(1) or the council of a municipality under subsection 28(1.1),

...

*(d) an **individual** who in good faith believes the decision will adversely affect the reasonable enjoyment of the **individual's** property or property occupied by the **individual**;*

...

*(f) an organization, the majority of whose members are **individuals** referred to in clause (d)*

Here, the intended appellants have failed to establish that they satisfy this requirement.

The submissions filed on behalf of the “Victoria Village Friends of the Park” simply assert, without evidence or explanation, that this intended appellant is a “group of individuals”. The submissions do not provide the members’ names, addresses, or other identifying information. As a result, nine months into this appeal, we still do not know who or what purports to be a member of this group.

The submissions filed on behalf of the “Victoria Business Association” effectively concede that a majority of this group’s members are not individuals. According to these submissions, this group has 17 members, of which seven are incorporations and two are partnerships. But a corporation is not an individual, and neither is a partnership. By definition, a partnership consists of two or more “persons”.¹ In the result, at least nine of this group’s 17 members are not individuals.

Intended appellants have failed to establish that their members believe in good faith that the rezoning decision will adversely affect the reasonable enjoyment of their property

To qualify as an aggrieved person under s. 27.1(f) of the *Planning Act*, an intended appellant must also establish that its individual members believe, in good faith, that the decision under appeal will adversely affect the reasonable enjoyment of property that they own or occupy.

27.1 Definition

*In this Part, “aggrieved person” means, in respect of a **decision** of the Minister under subsection 28(1) or the council of a municipality under subsection 28(1.1),*

...

*(d) an individual who in good faith believes **the decision** will adversely affect the reasonable enjoyment of the individual's property or property occupied by the individual;*

...

(f) an organization, the majority of whose members are individuals referred to in clause (d).

¹ [Partnership Act](#), RSPEI 1988, c P-1, s 3.

Here, the intended appellants have failed to satisfy this requirement for at least three reasons.

First, they have failed to connect their grounds of appeal to the specific decision under appeal. The decision identified in the notice of appeal is a decision to approve a rezoning. The intended appellants have not established that a decision to approve a rezoning, on its own, could adversely affect the reasonable enjoyment of their property. This flaw alone is fatal to their attempt to qualify as aggrieved persons under s. 27.1(f) of the *Planning Act*.

Second, the submissions filed on behalf of the “Victoria Village Friends of the Park” indicate that the members of this group are concerned about the enjoyment of a “park” and of the “natural environment” generally. These submissions do not establish or even assert that the members believe, in good faith, that the rezoning decision will adversely affect the reasonable enjoyment of property that the members’ themselves own or occupy.

Third, the submissions filed on behalf of the “Victoria Business Association” expressly decline to identify which of its members believe what, and why. This is significant because these submissions expressly concede that at least seven of the group’s members did not vote to support the group’s attempt to commence this appeal.

Additional concerns relating to the identity of the intended appellants

The submissions filed on behalf of the intended appellants reveal additional concerns relating to their standing to appeal.

First, the submissions filed on behalf of the “Victoria Village Friends of the Park” concede that its membership is not solely comprised of individuals residing within the Municipality. To the contrary, these submissions state that the group’s membership consists of a “group of individuals from Victoria, South Shore community and beyond”.² Unnamed individuals from “beyond” the Municipality cannot establish a good-faith belief that a rezoning decision in the Municipality will adversely affect the reasonable enjoyment of their property. On a similar note, the submissions filed on behalf of the “Victoria Business Association” state that only 15 of the group’s 17 members “are residents of the Village of Victoria”.³

Second, both of the intended appellants appear reluctant to reveal the specific beliefs of their specific members. As noted, the submissions filed on behalf of the “Victoria Village Friends of the Park” neglect even to reveal the identity of its members. And the submissions filed on behalf of the “Victoria Business Association” expressly decline to reveal which of its members voted to support this attempted appeal. These omissions are fatal to the intended appellants’ standing to appeal. Section 27.1(f) of *Planning Act* requires that the members of the “organization” hold a good-faith belief that the decision under appeal will affect the reasonable enjoyment of property they own or occupy. The Commission cannot assess the “good faith” of the members’ beliefs when the Commission does not know who the members are or what they individually believe.

² Submissions dated 16 April 2025.

³ Submissions dated 14 April 2025.

Third, neither of the intended appellants has offered submissions on how it qualifies as an “organization” under 27.1(f) of the *Planning Act*. The text of the *Planning Act* suggests that not every conglomeration of persons will qualify as an “organization”.⁴

Conclusion

The “aggrieved person” requirement was added to the *Planning Act* in 2023. The MLAs who voted to enact this amendment were told that its specific purpose was to allow the Commission to make expeditious preliminary decisions on whether an intended appellant has standing to appeal:

Megan Williams: *[The amendment is] going to provide clarity for IRAC when it comes to the types of appeals that they can see. It will give them a little bit more discretion when it comes to saying, “Okay, you’re not considered an aggrieved person.”*

*The appeals, when they come in, they won’t have to go through that whole process. **Someone will be able to look at the appeal request and say: “You’re not considered an aggrieved person. We’re not going to consider your appeal.” So, that will speed up the process on that end.***⁵

In the present matter, the intended appellants have been offered nearly nine months to establish that they are aggrieved persons. They have failed or declined to do so. Further submissions are not warranted. We ask that the appeal be dismissed at this stage and on the basis of the submissions already provided.

Yours truly,

Stewart McKelvey



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⁴ See for instance s. 6(g), which appears to distinguish between “organizations” and “groups”.

⁵ [Debates of the Legislative Assembly of Prince Edward Island, 22 November 2023, page 2234.](#)