



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: October 2, 2025
Dockets: LA23010, LA23023
and LA23026
Type: Planning Appeals

INDEXED AS: Pitre v. City of Summerside
2025 PEIRAC 49 (CanLII)

Order No: LA25-06

BETWEEN:

Randy Pitre

Appellant

AND:

City of Summerside

Respondent

Strategic Holdings Inc.

Developer

REASONS FOR DECISION

Panel Members:

Pamela Williams, K.C, Chair
Cynthia McCardle, Commissioner
Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk
Island Regulatory and Appeals Commission

Contents

Appearances & Witnesses	0
1. INTRODUCTION	1
2. BACKGROUND.....	1
3. ISSUE	5
4. DISPOSITION.....	5
5. EVIDENCE	5
6. ANALYSIS.....	6
City's Position	7
Developer's Position.....	8
Appellant's Position.....	8
Commission's Finding.....	9
7. CONCLUSION.....	11

Appearances & Witnesses

1. For the Appellant:

Randy Pitre

2. For the Respondent:

Counsel:

Iain McCarvill, Key Murray Law

Witnesses:

Kristen MacDonald, Director of Finance, City of Summerside

Linda Stevenson, Development Officer, City of Summerside

Sandra MacNeill, Title Searcher

3. For the Developer:

Counsel:

Andrew Campbell, K.C., Cox & Palmer

Andrew Sharpe, Cox & Palmer

1. INTRODUCTION

1. This matter involves three appeal dockets: LA23010, LA23023, and LA23026. Each of these appeals was brought by the Appellant, Randy Pitre, against land-use planning decisions of the City of Summerside made in favour of the Developer, Strategic Holdings Inc.
2. This Order follows a hearing by the Commission on September 10, 2025, of a motion made by City of Summerside seeking to have the appeals dismissed for lack of jurisdiction on the basis that the Appellant is not “a person who is dissatisfied” pursuant to subsection 28(1.1) of the *Planning Act*, as it read at the time each of the appeals were filed.
3. The City’s argument in support of their motion includes that the Appellant is not, and was not at the time the Appeals were filed, a resident of the City of Summerside, nor does he have a legitimate personal interest in the land-use planning aspects of the decisions being appealed.
4. The *Planning Act* was amended in November 2023 to change who has standing to make an appeal to the Commission; however, this Order specifically considers the former provision of “a person who is dissatisfied” as it read when the appeals were filed.

2. BACKGROUND

5. The Appellant filed three appeals with the Commission related to development in the City of Summerside (the “Appeals”):
 - i. Docket LA23010 was filed on April 24, 2023, and appeals an April 4, 2023, decision of the City of Summerside to amend the future land use plan and the zoning of PID 1118009 located at 690 Water Street in Summerside from commercial to high-density residential;
 - ii. Docket LA23023 was filed on October 6, 2023, and appeals the September 18, 2023, decision of the City of Summerside to approve two zoning amendments in respect of PIDs 72421 and 73536 and a preliminary approval for a major subdivision over a portion of PID 72421 in order to permit development of apartments and row housing; and
 - iii. Docket LA23026 was filed on October 30, 2023, and appeals the October 19, 2023, decision of the City of Summerside to approve a preliminary site plan approval for a 59-unit apartment development at 678 Water Street East, PID 72421.¹
6. The Commission exercised its discretion to consolidate these dockets in accordance with Rule 36 of the Commission’s Rules of Practice and Procedure.
7. Upon receipt of Docket LA23010, the Commission identified a preliminary jurisdictional issue respecting the Appellant’s grounds of appeal and relief sought. The parties were invited to, and did, make submissions on this issue. On June 17, 2024, the Commission advised the parties of its intention to determine the jurisdictional issue respecting Docket LA23010 in writing.

¹ Docket LA23026 also involved a Notice of Appeal in respect of a decision to grant a Partial Building Permit approving the “foundation only” for the 59-unit apartment development. That portion of the appeal was disposed of by the Commission in Order LA25-03.

8. In respect of Dockets LA23023 and LA23026, those appeals were filed in October 2023. The City of Summerside filed appeal records in both matters by December 2023 and parties made written submissions respecting the merits of the appeals. On June 17, 2024, Commission staff emailed all parties with direction on moving the matters forward. The direction to the parties at the time (in respect of Dockets LA23023 and LA23026) indicated that the Commission intended to deal with the matters in writing, invited further written submissions from the parties by set deadlines, and advised that upon receipt of final submissions the Commission may make a final determination with or without an oral hearing.
9. Submissions were requested from the Appellant by July 3, 2024. On June 26, 2024, the Appellant indicated that he would not be able to meet that deadline and it was extended to July 10, 2024. Over the course of the next few weeks, the Appellant continued to advise that his submissions would be filed. On July 15, 2024, he made partial submissions, but indicated further material would be filed the next day. On July 23, 2024, the Commission emailed the Appellant to state that if submissions were not received by the end of day, the Commission would proceed to a decision based on the information previously filed by the Appellant. Despite his response that his full submissions would be delivered to the Commission the next day, no further substantive submissions were received from the Appellant respecting the merits of Dockets LA23023 and LA23026.
10. In the weeks that followed, the Appellant continued to email that submissions were “forthcoming” or submit correspondence not related to the merits of Appeal Dockets LA23023 and LA23026. On August 14, 2024, the Commission advised the Appellant that any submissions or documents provided after 4:00 p.m. on July 23, 2024, would be accepted or rejected at the sole discretion of the Commission.
11. The City of Summerside and Developer both provided written submissions in response to the merits of appeal dockets LA23023 and LA23026 on August 2, 2024.
12. On December 9, 2024, the City of Summerside filed a Notice of Motion with the Commission seeking an Order pursuant to Rule 31(2) of the Commission’s Rules of Practice and Procedure dismissing the Appeals for lack of jurisdiction (the “City’s Motion”). In particular, the City’s Motion argues that the Appellant is not a “person who is dissatisfied” pursuant to subsection 28(1.1) of the *Planning Act*, as it read at the time each of the three appeals were filed, such that the Appellant did not have standing to file the appeals with the Commission.
13. On January 2, 2025, the Developer provided an initial submission in response to the City’s Motion.
14. On January 20, 2025, the Appellant also provided an initial response to the City’s Motion and requested until February 3, 2025, to make a full submission. On that same day, the Appellant provided an email with attachments including allegations of conflicts of interest of various individuals affecting both himself and his company, the Little Poultry Company Inc.
15. The Appellant was given until February 3, 2025 to respond to the City’s Motion. However, via email of January 27, 2025, the Appellant advised the Commission and other parties of his position that there was no requirement for the Commission to hear the City’s Motion because of his intention to bring a court proceeding in respect of allegations of conflict of interest regarding the City’s legal counsel. Therefore, the Appellant did not provide any initial response to the City’s Motion.

16. On June 27, 2025, the Commission issued Order LA25-04 - Direction Regarding Procedure, which scheduled the Appeals for a hearing on the merits on September 10, 2025 (the "Procedural Direction"). The Procedural Direction also set timelines for further submissions from the parties with respect to the City's Motion.
17. In accordance with the Procedural Direction, the City of Summerside filed a Motion Record, including a factum and authorities, on July 18, 2025. The Developer also provided additional written submissions in response to the City's Motion on July 30, 2025.
18. The Appellant did not provide any evidence or substantive response to the City's Motion as directed in Order LA25-04. He did, however, deliver to the Commission on July 25, 2025, a Notice of Appeal to the PEI Court of Appeal and accompanying documents in which he sought to appeal the Procedural Direction.² The Appellant also provided email correspondence to the Commission dated July 16, 2025, and July 31, 2025, which raised allegations about Commission staff in relation to their handling of the Appeals.
19. Upon review of the materials filed by all parties in respect of the City's Motion, by letter dated August 8, 2025, the Commission advised the parties that they were varying the process directed in Order LA25-04 and that only the City's Motion would be heard on September 10, 2025 (the "Motion Hearing"). The Commission's reasons for doing so were stated as follows:

The Hearing Panel notes that it has not received any substantive response from the Appellant, Mr. Pitre, to the City's Motion, including evidence or submissions. The Hearing Panel acknowledges that the Appellant may have understood that the [Appeals] would not proceed as a result of the Notice of Appeal to the PEI Court of Appeal, given some of his comments in [his correspondence] and Notice of Appeal.

The City's Motion is novel and the question raised has not previously been addressed by the Commission in any substantive way. Further, the relief sought in the City's Motion could be determinative of the Appellant's appeals and whether they proceed to a hearing on their merits. The Hearing Panel acknowledges that Rule 61 of the Commission's Rules of Practice and Procedure [does] not require affidavit evidence to be filed in support of a motion; however, in this case given the nature of the question at issue, the Hearing Panel must be thoroughly satisfied, based on both evidence and legal submissions of all parties, that the relief sought is appropriate in the circumstances.
20. The letter went on to set timelines for the submission of evidence by the City of Summerside and the Developer. It also requested that the Appellant respond to the City's Motion with written submissions and affidavit evidence in support of his position, or submit a witness list and 'will-say' statement to present testimony at the Motion Hearing by Wednesday, August 27, 2025.
21. On August 19, 2025, the City of Summerside filed three affidavits with the Commission. These affidavits will be discussed in more detail below.

² A revised Notice of Appeal to the PEI Court of Appeal and accompanying documents was delivered to the Commission July 28, 2025.

22. On September 4, 2025, the Appellant requested that the Commission issue seven (7) subpoenas compelling the attendance of certain witnesses, including Commission staff, to give evidence at the Motion Hearing. His request stated that he would “pose [his] questions regarding the files in question and the unlawful interferences and actions related to them.”
23. By letter to the Appellant dated September 5, 2025, the Commission advised that they would not be issuing subpoenas in respect of Commission staff. However, the Appellant was invited to provide further information with respect to the evidence he expected the remaining three individuals would offer that would assist him in successfully responding to the question of his standing as a “person who is dissatisfied”. Those three individuals were: Dan Kutcher, Mayor of the City of Summerside, Gordon MacFarlane, former CAO of the City of Summerside, and Derek Key, K.C., Lawyer.
24. The Appellant made further written submissions on September 8, 2025. Some of the Appellant’s submissions were a substantive response with his position and argument respecting the City’s Motion. However, the information he submitted did not answer the question of how his proposed witnesses would assist him in responding to the City’s Motion. Therefore, via letter of the same date, the Commission denied the Appellant’s request to issue subpoenas.
25. The Motion Hearing took place on September 10, 2025, commencing at 9:30 a.m. The record before the Commission at the hearing was in respect of the City’s Motion only (the “Exhibit Book”). The Exhibit Book included the City’s Motion Record and affidavits, the submissions of the Developer, and email correspondence and other communications from the Appellant in respect of the City’s Motion. It also included correspondence from the Commission and Commission staff. The Exhibit Book did not include, however, the City’s appeal records nor any party’s submissions on the merits of the Appeals.
26. At the beginning of the Motion Hearing, the Commission acknowledged that these Appeals were filed over two years ago; however, the Commission was not aware of any prejudice suffered by any party to date with respect to any delay in getting these matters to this hearing.
27. The Appellant raised two preliminary matters at the Motion Hearing. The first was with respect to service of the Commission’s Exhibit Book. The Exhibit Book was provided to parties by Commission staff the day before the hearing, on September 9, 2025. The Appellant submitted that this was unfair as he did not have adequate time to review the Exhibit Book in preparation for the Motion Hearing. In respect of this issue, the Panel Chair assured the Appellant that the Exhibit Book did not contain any new evidence or submissions and, instead, was simply a consolidation of all materials previously filed by the parties in relation to the Motion Hearing and was prepared by Commission staff for the convenience of the Panel.
28. Second, the Appellant alleged that there was an appeal docket missing that is directly related to the Appeals. He referred to a Notice of Appeal that was delivered to the Commission on April 4, 2024, and submitted that he has not received any decision in respect of this Notice of Appeal since that time. The Panel Chair addressed this preliminary issue with reference to an email from Commission staff to the Appellant dated April 5, 2024, advising him that because the Notice of Appeal sought to appeal building permits, which are outside the jurisdiction of the Commission, the appeal would not be accepted by the Commission for filing.
29. The Motion Hearing then proceeded to hear evidence and submissions of the parties.

3. ISSUE

30. The matter raised in the City's Motion is whether, in respect of Appeals LA23010, LA23023 and LA23026, the Appellant is a "person who is dissatisfied" per subsection 28(1.1) of the *Planning Act* as it read at the time the Notices of Appeal were filed.
31. As a statutory tribunal with no inherent authority, this question goes to the Commission's jurisdiction and whether the Appellant could bring these appeals before the Commission in the first place.
32. In order to allow the City's Motion, the Commission must be satisfied, on a balance of probabilities, that the Appellant is *not* a "person who is dissatisfied".

4. DISPOSITION

33. The Commission allows the City's Motion. The Commission finds on a balance of probabilities that the Appellant is not a "person who is dissatisfied" pursuant to subsection 28(1.1) of the *Planning Act*, as it read at the time each of the three appeals were filed. The Appellant does not have any interest in the land-use planning aspects of the decisions being appealed.
34. As a result, the Commission lacks jurisdiction to hear the Appeals and the Appeals are dismissed.

5. EVIDENCE

35. The City of Summerside filed three affidavits in support of their motion. Linda Stevenson, the Development Officer for the City of Summerside, provided an affidavit stating that based on her review of the affected properties within 60 meters of the subject property, it does not appear the Appellant had a registered interest in lands within 60 meters of the subject property at the time the matter was being administered by the City. On cross-examination by the Appellant, Ms. Stevenson confirmed her search would not have revealed if the Appellant or his company had a "lease purchase" agreement with the Developer. She confirmed her review was based on property owner information, rather than property leasing.
36. Kristen MacDonald, the Director of Finance for the City of Summerside, provided an affidavit stating that based on her searches of the City's customer billing database for its electric, water and sewer services, there is no record of the Appellant or The Little Poultry Company Inc. having a utility account with the City of Summerside since at least 2021.
37. Finally, the City of Summerside provided an affidavit from Sandra MacNeill, a title searcher. Her affidavit states that based on her searches at the Prince County Registry Office of two online databases of provincial property registry documents, she did not find any records of the Appellant or The Little Poultry Company Inc. owning property in the City of Summerside back to 1995. On cross-examination, Ms. MacNeill confirmed she would not expect her search to find a "lease purchase" agreement if one were entered into by the parties she searched.
38. The Appellant provided direct testimony at the Motion Hearing. With respect to the location of his personal residence, the Appellant testified that he is currently unhoused; however, he did confirm that he has never lived in Summerside. He also testified that he had a business in Traveller's Rest, in the surrounding area of Summerside, called The Little Poultry Company Inc. The Appellant testified that through this company he was doing business directly in Summerside. When asked, he said the company was in manufacturing and meat.

39. The Appellant testified that he had a “lease purchase” agreement with the Developer in respect of The Little Poultry Company Inc. for the premises in Traveller’s Rest. He said his business was directly connected to the City and the Developer through this agreement. However, the lease purchase agreement itself was not produced in evidence. Further, the Appellant also confirmed that his business had moved to Hunter River at some point, though he could not confirm when. When asked, he confirmed that the Little Poultry Company Inc. was not currently operating.
40. The Appellant also testified to the fact that he has other ongoing litigation with the Developer and that he believes he is a “dissatisfied person” because he got caught up in all of the companies that the Developer is operating.
41. The Commission also permitted the Appellant to submit two exhibits at the Motion Hearing. One was a letter from the Financial and Consumer Services division of the Provincial Department of Justice and Public Safety dated March 24, 2023, confirming the corporate registry status of several entities, including Strategic Enterprises and Strategic Enterprises Inc. The second exhibit was a PEI Reservation Report indicating that the company name “Strategic Enterprises Inc.” is reserved. The Appellant testified that he reserved that company name.
42. The Developer did not provide evidence.

6. ANALYSIS

43. As a starting point, the Commission is aware that section 28 of the *Planning Act* was amended in November 2023 to change who has standing to make an appeal to the Commission. The amendments introduced a requirement that a prospective appellant be an “aggrieved person”.
44. However, that is not the standard we are considering in this Order. Instead, we are asked to consider whether the Appellant in these Appeal Dockets is a “*person who is dissatisfied*” per the language of section 28(1.1) of the *Planning Act* as it read at the time the Appellant filed these appeals with the Commission in April and October 2023.
45. The standard of a “person who is dissatisfied” existed in the *Planning Act* for over 30 years, in some form or another, before its amendment in November 2023, but the question of exactly *who* was dissatisfied such that they had standing to bring appeals before the Commission was not directly considered by the Commission in the past.
46. In its submissions, the City acknowledged that historically a practice had developed whereby the phrase “any person who is dissatisfied” was interpreted by all participants in the land-use planning process as meaning, in essence, “*anyone at all*”. However, the City now submits that this practice was incorrect at law. The City suggested that this question has not clearly been placed before the Commission in the past, and part of that reason is that parties have commonly been “obviously” interested in the proceedings in one way or another—they have had a genuine interest. For example, many appellants were either the developer themselves or a neighbour or community member. There were few examples of appellants with no connection at all to the impugned decision. But the City submits that in the present case, the Appellant’s connection, or lack thereof, is a genuine concern and, hence, they brought this motion.

47. The right to appeal to the Commission is a right created by statute and the Commission only has the jurisdiction that has been granted to it via its enabling legislation.³ In other words, there is no inherent or common law right to appeal to the Commission. Further, acquiescence and waiver have no application when determining the jurisdiction of a statutory tribunal.⁴
48. In order to know whether a right to appeal has been granted, one must examine the particular statutory provision.⁵ In this case, subsection 28(1.1) stated at the material time:

Appeals from decisions of council

- (1.1) Subject to subsections (1.2) to (1.4), any person who is dissatisfied by a decision of the council of a municipality

[...]

may appeal the decision to the Commission by filing with the Commission a notice of appeal.

[emphasis added]

49. The statutory provision is clear that an appeal may be made by any person “who is dissatisfied”. We acknowledge that it is somewhat unusual to consider this standard for the first time after the *Act* has been amended. However, the Commission accepts that, with respect to matters that commenced before November 29, 2023, it was only granted the jurisdiction to accept and hear appeals made by persons who are dissatisfied. Therefore, this Commission must determine *who* is a dissatisfied person and whether the Appellant meets that standard such that these Appeals can proceed to a hearing on their merits.

City’s Position

50. With respect to who is dissatisfied, the City acknowledges that the phrase “any person who is dissatisfied” could be interpreted broadly. However, they argue that the language chosen by the legislature does not mean “any person in the whole world” nor does it mean “any resident of Prince Edward Island”. Instead, the City suggests that the correct interpretation is more middle of the road.
51. The City relies on prior interpretations of Canadian courts that considered the meaning of “dissatisfied” in the context of statutory rights to appeal to conclude that a “person dissatisfied” is a person with a direct personal interest in the subject matter of the proceedings and the result.⁶ In fact, the City submits that the phrase “any person who is dissatisfied” means essentially the same thing as an “aggrieved person”.⁷ In the case of the *Planning Act*, the City submits that a person dissatisfied with a decision must have some direct personal interest in the land-use planning aspects of the decision under appeal. They submit that, generally, this will require some relationship of proximity to the subject property.

³ See *Re Island Regulatory and Appeals Commission* (1997), 153 Nfld & PEIR 287 (PESCAD) at paras. 8 and 10: The Commission “does not have unfettered discretion or unbridled power to deal with and decide appeals as it likes.”

⁴ See Sara Blake, *Administrative Law in Canada*, at §4.01

⁵ *Big John Holdings Ltd. v. Island Regulatory and Appeals Commission* (1993), 111 Nfld & PEIR 29 (PEISCTD), at para. 14.

⁶ See, for example: *Global Marine Products Inc., Re*, 1996 CanLII 5436 (NSSC); *Kern Agencies, Limited (Re)*, 1931 CanLII 264 (SKCA).

⁷ *Kern Agencies, Limited (Re)*, 1931 CanLII 264 (SKCA), at paras 23-28, 05.

52. The City also supports their interpretation through a contextual analysis of the *Planning Act*. They submit that public participation rights under the *Planning Act* are not unlimited and instead contemplate a relationship of proximity between those with meaningful participation rights and the lands being considered.⁸ In their submission, this requires there be some kind of territorial proximity between the subject matter of the decision being appealed and the dissatisfied person.
53. Finally, the City submits that permitting appeals by individuals with no demonstrable connection to the matter in dispute directly undermines the purpose of the *Planning Act* to provide for efficient planning at the provincial and municipal levels.
54. With respect to the present case, the City submits that because the Appellant appeared to be a resident of Stratford (at the time the Appeals were filed) with no apparent connection to the City of Summerside or the development under appeal, the Appellant does not have any legitimate personal interest in the land-use planning aspects of the matters under appeal. Thus, they conclude, that he does not meet the standard of “any person who is dissatisfied” and lacks standing to appeal a land-use planning decision of the City of Summerside.

Developer’s Position

55. The Developer supported the City’s position on the motion.
56. The Developer submits that the legislation never intended that a dissatisfied person include those without proximity or connection to the decision at issue. In particular, the Developer highlights that the Appellant did not reside in or own property in the City of Summerside when the Appeals were filed. Further, they point out that the Appellant has not submitted any evidence to demonstrate that the City’s land-use decisions being appealed impact him in any way. For these reasons, the Developer submits that the Appellant lacks standing as a “person who is dissatisfied” such that he cannot bring these appeals before the Commission.

Appellant’s Position

57. For his part, the Appellant also urged the Commission to take a middle of the road approach. He submits that he has a genuine concern to bring forward to the Commission in relation to these Appeals and that he is a legitimate party, not because of his personal residence, but because he does business in the City of Summerside and surrounding area. For example, the Appellant submitted that his business operating in Traveller’s Rest was three minutes from the City of Summerside, and therefore, he is within the territorial proximity advocated for by the City.
58. The Appellant submits that the language “any person who is dissatisfied” used in subsection 28(1.1) of the *Planning Act* (as it read at the time) does not mean anyone in the whole world, but instead means any person in Prince Edward Island. He submits that he is a person in Prince Edward Island who is dissatisfied with the decisions under appeal and, therefore, had a right to appeal them to the Commission. He points out that the *Planning Act* does not say that an appellant must live in the neighbourhood of the development they are appealing.

⁸ See, for example, *Planning Act*, s. 18, which requires municipalities to give an opportunity to “residents and other interested persons” to make representations before making a land-use bylaw; the section also directs notice of a public meeting regarding the proposed bylaw be published in a newspaper “circulating in the area”.

59. As support for his position, the Appellant relied on a news article from CBC, dated November 7, 2023, wherein the then Minister of Housing, Land and Communities commented on the amendments to the *Planning Act*. The article states that “under the current act [sic], anyone can appeal.” The Appellant attributes this comment to the Minister and submits that it was the position of the Minister at the time the Appellant filed the appeals that “anyone” could appeal decisions under the *Planning Act*. The Appellant further says that to believe the argument of the City would mean that there was no need for the Act to be amended to limit who can appeal.
60. Throughout the hearing, the Appellant also made submissions respecting the corporate name of the Developer. He alleged that the Developer’s applications to the City were in the name of “Strategic Enterprises” rather than Strategic Holdings Inc. The Commission notes that there is no evidence before us to support the Appellant’s allegations in this regard. Nevertheless, the Appellant submitted the Developer’s applications were invalid for this reason. He also referenced the Reservation Report he submitted as an exhibit at the hearing and seemed to suggest that because he reserved the corporate name “Strategic Enterprises”, the Developer, Strategic Holdings Inc., could not validly come before the Commission and ask for the Appeals to be dismissed. We note here that the Commission does not accept this submission.

Commission’s Finding

61. As will be explained in the findings that follow, the Commission accepts a middle of the road interpretation of who is a “dissatisfied” person. However, on the evidence, the Commission is not satisfied that the Appellant is in that middle. Therefore, the City’s Motion is successful and the Appeals are dismissed.
62. As previously stated, the Commission has not considered exactly who is a dissatisfied person in any direct way in the past. However, in 1995 in Order LA95-19⁹ the Commission commented on its interpretation of a person who is dissatisfied versus one who is aggrieved. That decision involved a question about which section of the *Planning Act* in force at the time applied to the appeal at issue. Section 28 permitted an appeal of a decision in respect of the administration of bylaws by any “person who is *dissatisfied*”¹⁰ whereas section 37 authorized an appeal of a decision in respect of a major development by a “person *aggrieved*”.¹¹ Regarding this distinction, the Commission commented:

Clearly the intent of the legislation is to create a higher threshold limiting the right of appeal to any person *aggrieved* as opposed to any person who is *dissatisfied*.

[...]

The Commission believes that the intent of the legislation is to place a higher burden on those appealing under Section 37 than it places on those appealing under Section 28.

⁹ Order LA95-19, *Sobeys Inc. v. Department of Provincial Affairs and Attorney General*

¹⁰ Note: Section 28 of the *Planning Act* was amended in 2009, but the standard of an appeal by “any person who is dissatisfied” remained.

¹¹ The sections of the *Planning Act* respecting Major Developments were repealed in 1999.

63. As noted previously, the City has suggested that “dissatisfied” means essentially the same thing as “aggrieved”. They suggest that in adopting the new “aggrieved person” standard, the Legislature clarified the standard rather than substantively changed the scope of the right.¹²
64. However, in this Commission’s opinion, Order LA95-19 serves as support for an interpretation that “dissatisfied” and “aggrieved” are, in fact, different standards. In particular, we accept a broader interpretation of the word “dissatisfied”. However, that does not mean we agree that it means “anyone in Prince Edward Island”.
65. In 2003, the PEI Supreme Court accepted that a “dissatisfied person” (in the context of an appeal pursuant to the *Bankruptcy and Insolvency Act*) is one with “a present interest in the outcome of the proceedings”.¹³ The PEI Supreme Court went on to cite *Global Marine Products Inc., Re*,¹⁴ for the proposition that a person with only a potential or contingent interest in the proceedings is not sufficient to permit the bringing of an appeal. Rather, the Supreme Court of Nova Scotia said in more detail:¹⁵
- ... I do accept that “a person dissatisfied” means or includes someone other than one of the parties to the proceeding, who must have an interest in the proceeding and the result...
- [...]
- I do not think that “a person dissatisfied” means anybody in the whole wide world who may not like the decision sought to be appealed; if that meaning was intended, the Act could easily have said so. In my view, the intention of the Act is that “a person dissatisfied” is a person with a present interest in the outcome of the bankruptcy proceeding.
66. While these decisions were made in the context of a different legislative scheme, they nevertheless consider a party’s statutory standing to appeal.
67. In light of the above, the Commission accepts that a “person who is dissatisfied” for the purpose of section 28 of the *Planning Act* (as it read at the material time) is someone who has an interest in the land-use planning aspects of the decision under appeal. We do not necessarily think that person must be a neighbour, for example, but that person must have some interest in the outcome or result of the development or proposed land use that is the subject of the decision being appealed.
68. In our opinion, this interpretation is consistent with both the context and purpose of the *Planning Act*, as put forward by the City. We accept that the context of the Act contemplates participation rights of “residents and other interested persons”.¹⁶ We also agree that the purposes of the *Planning Act* regarding efficient planning and public participation are balanced through an interpretation that requires prospective appellants to have some genuine interest in the land-use planning aspects of the decision they seek to appeal.

¹² The City relies on subsection 16(2) of the *Interpretation Act*, RSPEI 1988, c I-8.1, which says an amendment to an enactment does not imply a change in the law.

¹³ *Gillis v. Gillis*, 2003 PESCTD 91, at para 7; citing Houlden and Morawetz, *Bankruptcy and Insolvency Law of Canada*, at p. 7-48.

¹⁴ 1996 CanLII 5436 (NSSC).

¹⁵ *Ibid.*

¹⁶ *Planning Act*, RSPEI 1988, P-8, ss. 11(1), 11(2)(d), and 18(1)(a) (as it existed at the material time).

69. In this case, on a balance of probabilities, we are not satisfied that the Appellant meets that standard.
70. The Appellant's evidence is that he does business in Summerside and the surrounding area via his company The Little Poultry Company Inc. The Appellant testified that he had a "lease purchase" agreement with the Developer in respect of The Little Poultry Company Inc., and that his business was directly connected to the City and the Developer through this agreement. The Appellant did not submit a copy of the lease purchase agreement into evidence. When asked why at the Motion Hearing, the Appellant expressed a general concern with filing documents with Commission staff. He did say he could get a copy of it; however, the Commission has not received any further evidentiary submissions from the Appellant since the time of the hearing. In any event, we are not convinced the purported agreement is relevant in this case.
71. Further, as outlined above, on cross-examination the Appellant was questioned as to what year he moved his business to Hunter River. The Appellant could not provide a specific year, but did say it was after the premises he leased from the Developer in Traveller's Rest flooded. He also confirmed that The Little Poultry Company Inc. was not currently operating.
72. The Appellant's evidence at the Motion Hearing primarily centered on his business dealings with the Developer rather than the *development* itself. When asked directly by the Commission what interest he has in the apartment building at issue, the Appellant responded:

"To stop the perpetrator from committing more crimes."

73. The Commission does not accept this, nor the Appellant's other evidence, as evidence of a legitimate interest in the land-use planning aspects of the decisions under appeal. It seems to the Commission that the Appellant's real interest in these proceedings is collateral to his other issues with the Developer, including his ongoing litigation, which is unrelated to this development. The sum of the Appellant's evidence tends to confirm this conclusion.
74. As a final comment, throughout the Appellant's submissions he referred to the interests of both himself and The Little Poultry Company Inc. The Commission is not satisfied either has an interest in the development; however, we note that the Notices of Appeal filed in each of the three Appeals is in the personal name of the Appellant, Mr. Pitre. Therefore, The Little Poultry Company Inc. is not the appellant in these matters, even if we were satisfied the company had an interest in the land-use planning aspects of the decisions being appealed.
75. For the reasons outlined above, the Commission is satisfied that the Appellant is not a person who is dissatisfied per section 28(1.1) of the *Planning Act*, as it read at the material time, because he does not have an interest in the land-use planning aspects of the decisions under appeal.

7. CONCLUSION

76. A "person who is dissatisfied" for the purpose of section 28 of the *Planning Act* (as it read prior to its amendment in November 2023) is someone who has an interest in the land-use planning aspects of the decision under appeal. In this case, the Appellant does not meet that standard.
77. As a result, the Commission lacks jurisdiction to hear the Appeals and the Appeals are dismissed

IT IS ORDERED THAT

1. The City's Motion is allowed.
2. The Appellant is not a "person who is dissatisfied" pursuant to subsection 28(1.1) of the *Planning Act*, as it read at the time each of the three appeals were filed.
3. The appeals that are the subject of Docket LA23010, Docket LA23023 and Docket LA23026 are, therefore, dismissed.

DATED at Charlottetown, Prince Edward Island, October 2, 2025.

BY THE COMMISSION:

[sgd. Pamela J. Williams, K.C.]
Pamela J. Williams, K.C., Chair

[sgd. Cynthia McCardle]
Cynthia McCardle, Commissioner

[sgd. Murray MacPherson]
Murray MacPherson, Commissioner

NOTICE

Section 12 of the ***Island Regulatory and Appeals Commission Act*** reads as follows:

12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it, or rehear any application before deciding it.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13(1) and 13(2) of the ***Act*** provide as follows:

13(1) An appeal lies from a decision or order of the Commission to the Court of Appeal upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Court of Appeal within twenty days after the decision or order appealed from and the rules of court respecting appeals apply with the necessary changes.

NOTE: In accordance with IRAC's *Records Retention and Disposition Schedule*, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.