



PRINCE EDWARD ISLAND
Regulatory & Appeals Commission
Commission de réglementation et d'appels
ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: December 11, 2025
Docket: LA24014
Type: Planning Act Appeal

INDEXED AS: Victoria Village Friends of the Park v. Rural Municipality of Victoria
2025 PEIRAC 63(CanLII)

Order No: LA25-10

BETWEEN:

Victoria Village Friends of the Park

Appellant

AND:

Rural Municipality of Victoria

Respondent

Amar Seafoods PEI Ltd.

Developer

REASONS FOR DECISION

Panel Members:

Kerri Carpenter, Vice-Chair
Gordon MacFarlane, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk

Island Regulatory and Appeals Commission

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Written Submissions Filed by:

1. For the Appellant:

Susan MacVittie

2. For the Respondent:

Counsel:

Curtis Doyle, Stewart McKelvey

3. For the Developer:

Counsel:

Gary Scales, K.C., McInnes Cooper

1. INTRODUCTION

1. This is an appeal of a decision of the Rural Municipality of Victoria to approve the application of Amar Seafoods PEI Ltd. to rezone 12.75 acres of PID 207290 from Agricultural (A1) to Light Industrial (M) for the purpose of constructing a fish farming plant on the subject property.
2. Upon receipt of the Notice of Appeal, the Municipality raised a preliminary issue of jurisdiction and submitted that the Appellant is not an “aggrieved person” per section 27.1 of the *Planning Act*. This Order determines that preliminary issue.

2. BACKGROUND

3. On August 13, 2024, a Notice of Appeal was filed with the Commission in respect of the Municipality’s decision to approve the rezoning application of the Developer, Amar Seafoods PEI Ltd. As noted above, the application sought approval to rezone 12.75 acres of PID 207290 from Agricultural (A1) to Light Industrial (M) for the purpose of constructing a fish farming plant on the subject property.
4. The Notice of Appeal was filed in the name of both Victoria Village Friends of the Park, by Susan MacVittie, and the Victoria Business Association, by Michael Stanley. On October 15, 2025, Mr. Stanley formally advised the Commission that he wished to withdraw the appeal on behalf of Victoria Business Association and the matter was continued solely in the name of Victoria Village Friends of the Park. The remainder of this Order will refer only to that Appellant.
5. After service of the Notice of Appeal, on September 25, 2024, the Municipality raised a preliminary issue of jurisdiction and submitted that the Appellant is not an “aggrieved person” per section 27.1 of the *Planning Act*. The Commission requested submissions on this jurisdictional issue from all parties.
6. The Municipality provided written submissions on November 20, 2024. The Developer made submissions on November 27, 2024.
7. On January 27, 2025, the Appellant provided initial written submissions in response to the positions of the Municipality and Developer.
8. Keeping in mind that the Notice of Appeal had originally been filed on behalf of two appellants, upon review of the submissions provided by the parties, the Commission determined it needed additional information from the parties in order to fully consider the question of standing as an “aggrieved person”. Therefore, the Commission asked all parties for further submissions on April 2, 2025. The Appellant Victoria Village Friends of the Park provided additional information on April 13, 2025. The Municipality and Developer both made reply submissions on May 1, 2025.
9. On October 8, 2025, the Commission advised all parties that the matter would be set down for a preliminary, in-person hearing in order to determine whether the Appellants were an “aggrieved person” as defined by the *Planning Act*. However, upon the Victoria Business Association withdrawing participation in the appeal, the Commission revised their direction and advised the remaining parties of their decision that an in-person hearing was no longer

necessary and that the matter would be determined in writing, pursuant to Rule 41 of the Commission's Rules of Practice and Procedure. The parties were invited to supplement the submissions already filed by October 22, 2025. No further submissions were received from any party.

3. ISSUE

10. The matter for the Commission to decide in respect of this preliminary issue is whether the Appellant, Victoria Village Friends of the Park, is an "aggrieved person" as defined at section 27.1 of the *Planning Act*.
11. As a statutory tribunal with no inherent authority, this question goes to the Commission's jurisdiction and whether the Appellant had standing to bring this appeal before the Commission pursuant to subsection 28(1.1) of the Act.

4. DISPOSITION

12. The appeal is dismissed. The Appellant, Victoria Village Friends of the Park, is not an "aggrieved person" as defined at section 27.1 of the *Planning Act*. As a result, the Commission lacks jurisdiction to hear the appeal and the appeal is dismissed.

5. ANALYSIS

13. In November 2023, section 28 of the *Planning Act* was amended to change who has standing to make an appeal to the Commission. Formerly, the *Planning Act* authorized a "person who is dissatisfied" to appeal certain decisions of the Minister or a council of a municipality to the Commission. The November 2023 amendments introduced a requirement that prospective appellants be "aggrieved person[s]" (rather than dissatisfied). The Act was also amended to include a definition of "aggrieved person". It is this definition that the Commission must interpret and apply in this case.
14. The Commission has not yet considered the standing of a prospective appellant as an "aggrieved person" pursuant to the amendments to the *Planning Act*. However, in Order LA25-07 recently issued in October 2025, this Commission accepted that the former standard of "dissatisfied" and the newly amended standard of "aggrieved" are different standards and that the interpretation of "dissatisfied" was broader than the interpretation of "aggrieved".¹
15. Order LA25-07 cites a former decision of the Commission that commented on the interpretation of a person who is dissatisfied versus one who is aggrieved. Order LA95-19² 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*" whereas section 37 authorized

¹ Order LA25-07, *Randy Pitre v. City of Summerside*, at para 64.

² Order LA95-19, *Sobeys Inc. v. Department of Provincial Affairs and Attorney General*

an appeal of a decision in respect of a major development by a “person *aggrieved*”.³ 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*.

[...]

Pursuant to the provisions of Section 28, *any person who is dissatisfied by a decision... may appeal to the Commission*.

Section 37 states *any person aggrieved by a decision... may appeal to the Commission*...

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.

16. While Order LA95-19 is thirty years old and interprets a section of the *Planning Act* that is no longer in force, we nevertheless consider it to be a worthwhile precedent for this Commission to consider. For example, this Commission accepts that the burden of proof is on the challenged appellant to show that they are an aggrieved person. We would add that the burden must be shown on a balance of probabilities.
17. Further, as previously noted, the Commission accepts that the newly amended standard of “aggrieved” is a different, and more narrow, standard than the former one of “dissatisfied”.⁴
18. Order LA95-19 considered whether the appellant in that case was a “person aggrieved”. The Commission cited legal authorities and found that *aggrieved* involves a spectrum of effects. The Commission found that, overall, in trying to determine the meaning of “aggrieved” in any particular case the courts have reviewed the purpose of the Act in question, which helps identify the type of interests that are relevant in the analysis of “aggrieved” in that particular case. This Commission accepts that this approach is consistent with the modern principle of statutory interpretation which provides that words of a statute must be read “in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament”.⁵
19. Following the 2023 amendments to the *Planning Act*, the Commission must foremost consider whether a prospective appellant is an “aggrieved person” in light of the application and interpretation of the definition found at section 27.1. However, we accept that this analysis is to be informed by the context and purpose of the statutory scheme overall.

³ Part VI of the *Planning Act* respecting Major Developments was repealed in 1999. See *Planning Act*, RSPEI 1988, P-8, Part VI.

⁴ Order LA25-07, *Randy Pitre v. City of Summerside*, at para 64.

⁵ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

20. Section 27.1 of the *Planning Act* defines “aggrieved person”:

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),

- (a) the applicant;
- (b) the Minister;
- (c) a municipality affected by the decision;
- (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;
- (e) an incorporated organization, the objects of which include promoting or protecting
 - (i) the quality of life of persons residing in the neighbourhood affected by the decision,
 - (ii) the natural environment in the community affected by the decision, or
 - (iii) features, structures or sites having significant cultural or recreational value in the community affected by the decision; or
- (f) an organization, the majority of whose members are individuals referred to in clause (d).

21. In the present case, it is clear that neither clause (a), (b) nor (c) is applicable. Therefore, the Commission will only consider the application of clauses (d), (e) and (f).

22. The Municipality submits that the Appellant is not an individual per clause 27.1(d) as the Appellant is not a “natural person”. Second, they argue that the Appellant is not an incorporated organization, such that clause 27.1(e) also does not apply. The Municipality provided an affidavit from a corporate paralegal at the law firm representing the Municipality confirming that a search of the provincial Corporate Registry and Government of Canada registry did not reveal any corporations by the name of Victoria Village Friends of the Park.

23. With respect to clause 27.1(f), the Municipality submits that the Appellant simply asserts, without evidence or explanation, that they are a “group of individuals”. Further, the Municipality submits that the Appellant has failed to establish that its members believe that the *rezoning* decision will adversely affect the reasonable enjoyment of their property. Specifically, the Municipality submits that the Appellant has failed to connect its grounds of appeal to the specific rezoning decision under appeal.

24. The Developer provided brief submissions adopting the submissions of the Municipality in their entirety. They submit that the Appellant is neither an individual, incorporated organization, registered non-profit organization, nor any other category of “aggrieved person”.

25. The submissions of the Appellant acknowledge that they are not incorporated. In terms of its membership, Victoria Village Friends of the Park describes itself as:

a group of individuals from the South Shore community and beyond who are interested in the protection and preservation of the waterfront 'park' on Causeway Rd. and to ensure it remains for public use in perpetuity.

26. They believe the decision to build the fish plant and the effluent discharged will adversely affect the reasonable enjoyment of the park. They also believe that industrializing that area will impact the enjoyment of using the park and also the natural environment.

27. In the present case, by their own admission, the Appellant is not an "individual" per clause 27.1(d), nor are they an incorporated organization per clause 27.1(e). Rather, they describe themselves as a "group of individuals". Therefore, the only clause left for the Commission to consider is clause 27.1(f). That clause effectively defines "aggrieved person" as including *an organization made up of a majority of individuals who, in good faith, believe the decision will adversely affect the reasonable enjoyment of their property or property occupied by them.*

28. Victoria Village Friends of the Park has raised concerns with the enjoyment of a waterfront park and the natural environment generally. The Municipality says these submissions do not establish that the members believe, in good faith, that the rezoning decision will adversely affect the members' reasonable enjoyment of property that the *members* themselves own or occupy.

29. The Commission agrees that this is fatal to the Appellant's appeal. The waterfront park and natural environment the Appellant is concerned with protecting is neither owned nor occupied by the members of Victoria Village Friends of the Park. It is, therefore, not possible for the Commission to find that the Appellant is an "aggrieved person" as defined at section 27.1 of the *Planning Act*. More specifically, the Appellant is not an organization made up of a majority of members who are individuals who in good faith believe the decision will adversely affect the reasonable enjoyment of their property or property occupied by them.

6. CONCLUSION

30. For the reasons above, the Commission finds that the Appellant Victoria Village Friends of the Park is not an aggrieved person as defined at section 27.1 of the *Planning Act*. As a result, the Appellant does not have standing to bring this appeal before the Commission pursuant to subsection 28(1.1) of the *Act* and the Commission lacks jurisdiction to hear the appeal. Accordingly, the appeal is dismissed.

7. ORDER

31. The appeal is dismissed.

DATED at Charlottetown, Prince Edward Island, **December 11, 2025**

BY THE COMMISSION:

[sgd. Kerri Carpenter]

Kerri Carpenter, Vice-Chair

[sgd. Gordon MacFarlane]

Gordon MacFarlane, 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.