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Docket: LA25011
Type: Planning Act Appeal

INDEXED AS: Louise Aalders v. City of Charlottetown
2026 PEIRAC 7 (CanLII)

Order No: LA26-01

BETWEEN:

Louise Aalders

Appellant

AND:

City of Charlottetown

Respondent

Pan American Properties Inc.

Developer

REASONS FOR DECISION

Panel Members:

Pamela J. Williams, K.C., 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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1. INTRODUCTION

1. This is an appeal of the decision of the City of Charlottetown to approve a development permit for Pan American Properties (“Developer”) at 15 Haviland Street (the “Subject Property”).
2. This Order considers a preliminary issue raised by the Developer as to whether the Appellant is an “aggrieved person”, as defined at section 27.1 of the *Planning Act*.
3. For the reasons that follow, the Commission has determined that the Appellant is not an “aggrieved person” as defined in the *Planning Act* and, therefore, the Commission lacks jurisdiction to hear this appeal and the appeal is dismissed.

2. BACKGROUND

4. This is an appeal of the decision of the City of Charlottetown to approve a development permit to Pan American Properties (“Developer”) for “site mobilization and construction hoarding” at 15 Haviland Street, Charlottetown. The purpose of that work is to prepare the site for an eventual apartment building development on the Subject Property.
5. The Appellant, Louise Aalders, filed a Notice of Appeal with the Commission on August 5, 2025. The Notice of Appeal included a request to hold the appeal in abeyance pending the outcome of a reconsideration request submitted by the Appellant to the City of Charlottetown on the same day.¹ The Commission agreed to hold the appeal in abeyance.
6. On September 17, 2025, the Appellant advised the Commission that the reconsideration process was completed and requested to proceed with the appeal.
7. On October 9, 2025, the City of Charlottetown delivered an Appeal Record to the Commission and the other parties, in accordance with the Commission’s Practice Direction on Appeal Records.
8. The Appellant provided an initial response to the City’s Appeal Record on October 29, 2025, particularizing her grounds of appeal. The Appellant’s submissions contain allegations that, among other things: the City’s decision was not made in accordance with procedural fairness, various sections of the City’s Zoning and Development Bylaw were not complied with, soil tests for the site were not conducted, the location of the buffer zone was not confirmed, and that there is potential hazard to the boardwalk and aquatic life.
9. By letter dated November 7, 2025, in response to the Notice of Appeal, the Developer raised a preliminary issue in respect of the Appellant’s standing to bring the appeal. The Developer argued that the Appellant had not satisfied the threshold question of whether she is an “aggrieved person”, as defined at section 27.1 of the *Planning Act*.

¹ Section 3.15.7 of the City’s Zoning & Development Bylaw states:

3.15.7 The City shall not consider an application for reconsideration if, at the same time, there is an appeal filed with the Island Regulatory and Appeals Commission; but the City may proceed with reconsideration if the applicant has instructed the Island Regulatory and Appeals Commission in writing to hold the appeal in abeyance, and the Commission has agreed in writing to hold their appeal until the appellant has exhausted the recourse of reconsideration with the City.

10. Upon receipt of the Developer's letter, Commission staff wrote to the parties on November 14, 2025, and requested submissions from all parties on this preliminary issue. Commission staff's letter explained that 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. Therefore, the question of the Appellant's standing goes to the Commission's jurisdiction and whether the legislation authorizes the Appellant to bring this appeal before the Commission.
11. All parties made submissions in writing to the Commission in response to the preliminary issue. The Commission is satisfied that the parties' submissions were comprehensive and, therefore, in accordance with Rule 41 of the Commission's Rules of Practice and Procedure, the Commission exercised its discretion to determine this preliminary matter without an oral hearing.

3. ISSUES

12. The question for the Commission to consider at this preliminary stage is whether the Appellant is an "aggrieved person" as defined at section 27.1 of the *Planning Act*, RSPEI 1988, P-8.
13. The Commission, as an administrative tribunal, is only authorized to hear and decide appeals within the jurisdiction that has been assigned to it by legislation. Therefore, the question of whether the Appellant is an "aggrieved person" 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

14. The appeal is dismissed. The Appellant is not an "aggrieved person" as defined at section 27.1 of the *Planning Act*. Despite the Appellant living in close proximity to the Subject Property, the Commission finds that – though her beliefs are genuine and sincerely held – the adverse affects the Appellant has alleged she will suffer as a result of the decision under appeal are speculative and do not meet the burden of proof to establish that she is an "aggrieved person". As a result, the Commission lacks jurisdiction to hear the appeal and the appeal is dismissed.

5. ANALYSIS

A. *Planning Act* amendments – "aggrieved person"

15. 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" at section 27.1.

16. The Commission first considered the standing of a prospective appellant as an “aggrieved person” in Order LA25-10, *Victoria Village Friends of the Park v. Rural Municipality of Victoria*. In that Order, the Commission accepted that the former standard of “dissatisfied” and the newly amended standard of “aggrieved” are different standards and that the interpretation of “aggrieved” is narrower than the interpretation of “dissatisfied”.²
17. The Commission also accepted that the burden of proof is on the challenged appellant to show that they are an aggrieved person. The burden must be shown on a balance of probabilities.³
18. In Commission Order LA95-19, the Commission held that when trying to determine the meaning of “aggrieved” in any particular case the courts have reviewed the purpose of the legislation to help identify the type of interests that are relevant in the analysis of “aggrieved”. In Order LA25-10, the Commission accepted 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”.⁴
19. In conclusion, 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.

B. Application to the Present Case

20. Section 27.1 of the *Planning Act* defines “aggrieved person” as including various different persons. In the present case, the relevant definition is:

27.1 Definition

In this Part, “aggrieved person” means, [...]

- (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;

21. Therefore, the Commission will consider whether the Appellant, Louise Aalders, is an individual who in good faith believes the decision under appeal is one that will adversely affect the reasonable enjoyment of her property or property occupied by her. In undertaking this analysis, the Commission must be careful to not conflate a prospective appellant’s standing to bring the appeal with the merits of the appeal.
22. The Appellant submits that she is an aggrieved person as defined at clause 27.1(d) of the *Planning Act*. A summary of her submissions in support of her standing as an aggrieved person is as follows:

² Order LA25-10, *Victoria Village Friends of the Park v. Rural Municipality of Victoria*, at para 17, citing Order LA25-07, *Randy Pitre v. City of Summerside*, at para 64.

³ Order LA25-10, *Victoria Village Friends of the Park v. Rural Municipality of Victoria*, at para 16.

⁴ *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

- She resides at 13 Haviland Street, which is adjacent to the proposed development and she submits, therefore, that she will be directly impacted by any environmental contamination that may be present if disturbed. Such disturbance could be injurious to her health and the public in general. The Appellant suggests there may be some kind of contamination of the site and submits that the City has not provided any record of the infill material used or soil testing to confirm the lack of contamination.
 - She submits that the City was not diligent in determining the location of the buffer zone, and that she enjoyed the buffer zoned daily for health and wellness purposes.
 - The Appellant submits that the absence of a “step-back” for the eventual building will negatively impact the public realm, surrounding buildings and private spaces, thus adversely affecting the reasonable enjoyment of the property where she resides. She also notes a lack of information on shadow studies and whether or not the development will impact daylight access to her residence.
 - The Appellant’s Notice of Appeal alleges that the proposed development poses a potential hazard to both aquatic life and area citizens and visitors to the nearby boardwalk, related to the concerns around possible site contamination.
23. The Appellant’s submissions state that she views that her role as an “aggrieved person” as bringing these concerns to the Commission. She submits her belief that the permit under appeal will negatively impact: the quality of life of persons residing in the neighbourhood; the natural environment in the community affected by the decision; and features, structures or sites having significant cultural or recreational value in the community.
24. In contrast, the Developer submits that the Appellant has failed to demonstrate that she is an “aggrieved person” and requests that the appeal be dismissed at this stage to avoid unnecessary cost and delay.
25. The Developer submits that the requirement of a “good faith belief” must be grounded in reason, rather than speculation and conjecture. With reference to the present case, the Developer submits the Appellant’s contamination concerns do not meet this threshold as they are framed in uncertainty – for example, what “cannot be ruled out” – rather than a belief about what will occur. They say the same can be said about the Appellant’s submissions on step-back and shadow impacts.
26. The Developer also submits that the language of the definition of “aggrieved person” excludes generalized concerns made in the public interest. They submit that many of the Appellant’s concerns relate to public safety, the environment generally, and cultural heritage. For this reason, they submit that her concerns fall outside the scope of section 27.1(d).
27. The Respondent City of Charlottetown takes no position on the preliminary matter.

28. As noted above, the relevant definition specific to this Appellant is clause 27.1(d) and the Commission must consider whether the Appellant, Louise Aalders, is an individual who in good faith believes the decision under appeal is one that will adversely affect the reasonable enjoyment of her property or property occupied by her.
29. First, it is not in dispute that the Appellant, Louise Aalders, is an individual.
30. It is also not disputed that the Appellant lives in the apartment building adjacent to the Subject Property. Therefore, the question of her proximity to the site is not in question.
31. Rather, the Developer has argued that the ways in which the Appellant purports to be impacted by the proposed development – perhaps more particularly, the permit under appeal – are speculative, based on conjecture and are too generalized and in the public interest, rather than specific to her as an “individual”.

i. The decision under appeal

32. The permit the Appellant seeks to appeal is in the form of a Development Permit. Neither the City nor the Developer have argued that the permit being appealed is not a “development permit” as defined by the *Planning Act* and, therefore, appealable to the Commission per subclause 28(1.1)(a)(i) of that *Act*.
33. The decision of the City under appeal authorized the Development Permit for “site mobilization and construction hoarding for new apartment building” at the Subject Property, 15 Haviland Street.⁵ The Commission understands that the purpose of the work authorized by the permit is to prepare the site for an eventual apartment building on the Subject Property. The Development Permit, on its face, is limited to site mobilization and construction hoarding.
34. The Developer has argued, broadly, that a determination about the Appellant’s standing as an aggrieved person is tied to the decision she is appealing. They have suggested that the generalized and speculative adverse impacts relied on by the Appellant do not flow from the decision to issue a permit that is limited to site mobilization and construction hoarding.
35. The Commission understands this argument to be that a prospective appellant must be aggrieved by the specific decision being appealed, not necessarily the impacts of future permits or development that may come down the line. The Commission tends to agree.
36. The *Planning Act* defines “aggrieved person” in the context of a “decision” both in the opening words of section 27.1 and, more specifically, when describing an individual at clause 27.1(d). The Commission accepts, therefore, that it is the decision an individual seeks to appeal that must give rise to the adverse affects in order for that individual to be considered an aggrieved person. In other words, the alleged adverse affects cannot go beyond the specific decision being appealed and consider the end goal of the development.
37. In the present case, therefore, the Commission will limit our consideration of the Appellant’s alleged adverse affects to those related to the decision to permit site

⁵ Appeal Record, Tab 4.

preparation, rather than her concerns that seem to extend to the eventual apartment building (e.g. step-back and shadow studies). This does not mean that those other concerns may not be relevant or valid to establish standing as an aggrieved person at a later stage in the development process – but they are not particularly relevant to the decision under appeal to permit site mobilization and construction hoarding at the Subject Property.

ii. Good faith belief

38. In Order LA95-19, the Commission found that “aggrieved” (for the purposes of section 37 of the *Planning Act* as it existed at the time) involved a spectrum of effects. The Commission considered the purpose of the *Planning Act* as dealing with both the use and effect of land related issues. The Commission commented “[s]uch issues would include ingress and egress, the functions allowed on certain parcels, affects on density and existing uses, to name just a few.” While this is a non-exhaustive list, today’s Commission accepts that these issues are based, at least to some degree, in objectivity. For example, in LA95-19, the Commission accepted that the appellant would be affected by the development in substantive ways including by redirecting parking aisles, eliminating a row of parking, and impacts on a loading and receiving area.
39. Further, the Nova Scotia Regulatory and Appeals Board (NSRAB) has considered a very similar definition of “aggrieved person” in that province.⁶ Though the NSRAB’s interpretation is not binding on the Commission, we nevertheless find it helpful to reflect on Nova Scotia’s established precedent.
40. In *Re Thompson*, 2020 NSURAB 52, the Board discussed the historical development of standing to appeal municipal planning decisions in Nova Scotia and stated that a *bona fide* belief⁷ has both subjective and objective elements (*Re Thompson*, at para 23):
- [T]he inclusion of the words “*bona fide*” in front of the word “belief” suggests that there must be some reasonable basis for the belief held by the person claiming to be adversely affected. In other words, there must be an objective aspect to the determination of whether the belief is *bona fide* in addition to the subjective aspect noted by the sincerity with which the belief is held. Otherwise, the belief, no matter how misguided, if sincerely held, would qualify a person as an aggrieved person. The Board does not consider the Legislature could have intended such a consequence.
41. The Commission finds this commentary to be compelling.
42. In conclusion, the Commission is of the opinion that that an individual seeking to establish standing as an “aggrieved person” under PEI’s *Planning Act* must have some reasonable basis for their belief about the adverse affects of the decision under appeal. The Commission accepts that an individual’s “good faith belief” must be grounded in some

⁶ *Municipal Government Act*, SNS 1998, c. 18, s. 191.

⁷ The Commission acknowledges that section 27.1(d) of this province’s *Planning Act* uses the words “good faith” rather than “*bona fide*”, but we are satisfied those two words have been interpreted in Canadian law to, effectively, mean the same thing. For example, the majority reasons of the SCC in *Potash Corp of Saskatchewan Inc v Scott*, 2008 SCC 45 (para 18), state that the importance of the words “*bona fide*” in Canadian human rights law is not undermined “*by the recognition that, when they are used to qualify a different provision in a different context, they are to be given their ordinary meaning of ‘good faith’*”. The SCC also cites the definition of “*bona fide*” from *Black’s Law Dictionary* as: “1. Made in good faith; without fraud or deceit. 2. Sincere, genuine.” (see para 34).

measure of objectivity, in addition to the subjective aspect demonstrated by the sincerity of the individual's belief.

43. In the present case, the Commission does not question the sincerity of the Appellant's belief that this permit will have adverse affects on her enjoyment of the property she resides at, which is next door to the Subject Property. It is quite clear from the time and effort the Appellant has put into her appeal materials that she has a genuinely held good faith belief. However, the Commission agrees with the Developer that the ways in which the Appellant purports to be impacted by the proposed development are speculative and are too generalized to demonstrate how the decision will adversely affect her enjoyment of the property as an individual.
44. As a reminder, when the Commission is asked to determine whether a prospective appellant meets the standard of an "aggrieved person", the burden of proof is on the challenged appellant to show that they are an aggrieved person. The burden must be shown on a balance of probabilities. That means the Appellant must prove that she is an aggrieved person in order for her appeal to continue.
45. The Commission has already accepted that the Appellant lives next door to the Subject Property. Therefore, the question of her proximity to the site preparation work is not in question.
46. In support of her standing, the Appellant has submitted that because she lives next door, she will be "directly impacted by any environmental contamination that may be present if disturbed." The Appellant submits that the City has not provided any documentation to confirm the lack of contamination on the site. She details the history of the Subject Property dating back to the 1800s and speculates that the lack of a record of contamination does not rule out the possibility that there is unsafe material on site. The Commission finds that this argument lacks a basis in objectivity. The Appellant has not provided objective evidence to convince the Commission, first, that the site is contaminated and, second, that disturbance of the site would lead to harm or injury of the Appellant. Therefore, the Commission cannot accept this as a basis to consider the Appellant "aggrieved".
47. The Commission pauses here to briefly comment on the possibility of site contamination. While we must be mindful to not conflate the merits of the appeal with whether the Appellant is an "aggrieved person", the City of Charlottetown's initial response to the Notice of Appeal points out that the City's Zoning and Development Bylaw provides discretion, per section 3.3.9, to approve or deny the next phase Building & Development Permit if the proposed development would be detrimental to the environment, or health and safety of residents. The City states that this question will be fully considered at the next stage of the development.
48. Next, the Appellant has submitted that the City was not diligent in determining the location of the buffer zone on the Subject Property. She submits both that she enjoys this buffer zone area daily for health and wellness purposes, and that the failure of the City to do its duty to help protect the natural environment and public property raises concerns about other oversights during the permit process. Similar to the finding above, the Commission cannot accept this ground as a basis to consider the Appellant "aggrieved".

49. First, the Appellant has not explicitly indicated how the buffer zone will be impacted by the site preparation authorized by the City and how this will impact her enjoyment of it. To the degree her submission relates to possible harm from contaminants, the Commission has already found there is a lack of objective evidence to support this assertion. The Commission notes that the Appellant's submissions do refer to a permit issued by the Government of Prince Edward Island permitting the removal and replacement of the boardwalk in the buffer zone, but that decision is beyond the scope of this appeal.
50. Second, the Appellant's overall concerns about the City's lack of diligence during the permitting process are not concerns that will adversely affect her reasonable enjoyment of the neighbouring property that she occupies. The City's compliance, or non-compliance, with its planning documents (e.g. Official Plan and Zoning and Development Bylaw) are matters that go to the merits of the appeal and whether the City properly issued the permit.
51. In conclusion, while a prospective appellant's proximity to a proposed development is a factor that will often weigh heavily in favour of their standing as an aggrieved person, that prospective appellant must still demonstrate that they are aggrieved in the context of the decision under appeal. In the present case, the Commission is not satisfied that the Appellant has met that burden. In essence, her belief with respect to the alleged harms that will result – though genuinely and sincerely held – are speculative and appear to be based on conclusions she has drawn herself.

6. CONCLUSION

52. For the reasons above, the Commission finds that the Appellant is not an aggrieved person as defined at section 27.1 of the *Planning Act* in the context of this appeal. 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

- 53. The appeal is dismissed.**

DATED at Charlottetown, Prince Edward Island, **February 13, 2026.**

BY THE COMMISSION:

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

Pamela J. Williams, K.C., 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.