DECISION **2025 NSRAB 133**
M12505

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

IN THE MATTER OF A REQUEST FOR INTERVENOR STATUS BY LINDA SKINNER, CHRISTOPHER CANN, MIKE TONEY and **SHARLEEN SMITH IN AN APPEAL** by **BEAR LAKE WIND LTD.** from a decision of West Hants Regional Municipal Council to refuse an application for a development agreement allowing for a large-scale wind farm at Upper Vaughan, West Hants Regional Municipality, Nova Scotia (PIDs 45399540, 45399573, 45381217, 45381209, 4539932, 45060068, and 45060076)

BEFORE:	Julia E. Clark, LL.B., Vice Chair M. Kathleen McManus, K.C., Ph.D., Member Darlene Willcott, LL.B., Member
APPELLANT:	**BEAR LAKE WIND LTD.** Natasha Puka, Counsel
RESPONDENT:	**WEST HANTS REGIONAL MUNICIPALITY** Jonathan G. Cuming, Counsel
HEARING DATE:	November 19, 2025
DECISION DATE:	**November 28, 2025**
DECISION:	**Request by Linda Skinner for formal standing is allowed.** **Requests by Christopher Cann, Mark Toney and Sharleen Smith for formal standing are denied.**

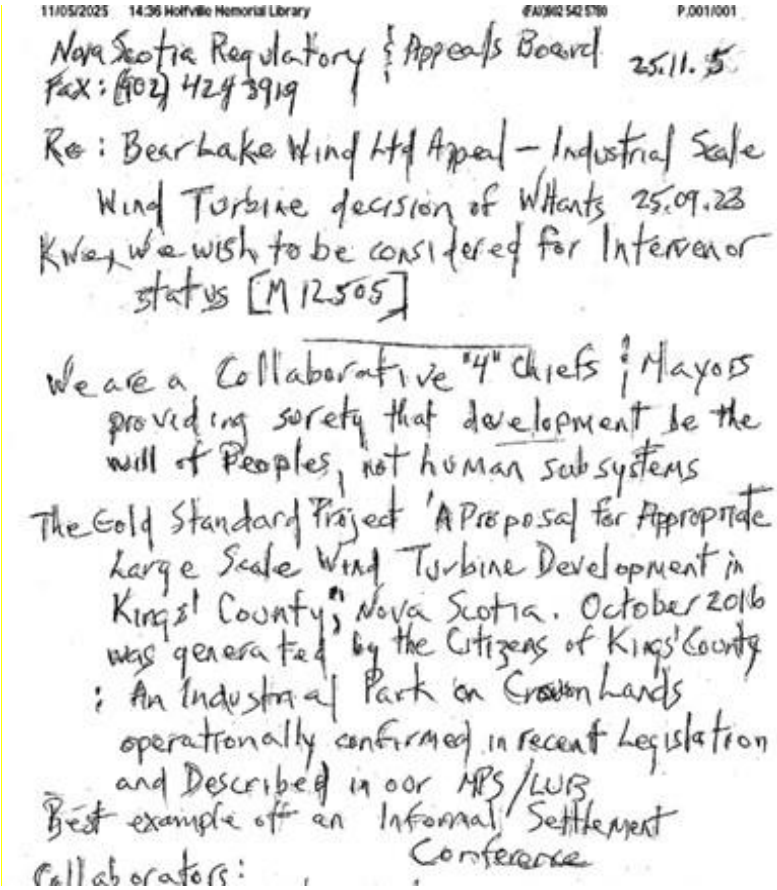
I INTRODUCTION

[1] On September 25, 2025, the West Hants Regional Municipal Council rejected a development agreement application by Bear Lake Wind Ltd. to construct a large-scale wind farm in West Hants, Nova Scotia (PIDs 45399540, 45399573, 45381217, 45381209, 4539932, 45060068, and 45060076).

[2] On October 3, 2025, Bear Lake Wind Ltd. filed an appeal of that decision with the Nova Scotia Regulatory and Appeals Board (Board). Following a preliminary hearing on October 20, 2025, the Board issued a Hearing Order with respect to filing and hearing dates including the deadline for any requests to intervene.

[3] On October 29, 2025, Linda Skinner wrote to the Board requesting intervenor status. Ms. Skinner, in her letter, stated that she lives within the footprint of the development and would like to comment “on the safety issues that her community needs by the development”.

[4] On November 5, 2025, Christopher Cann, Sharleen Smith and Mark Toney also requested intervenor status. Their letter included the following explanation of their interest in the proceedings:



11/05/2025 14:36 Hantsville Memorial Library @A(902 542 5780 P.001/001

Nova Scotia Regulatory & Appeals Board 25.11.5
Fax: (902) 424 3919

Re: Bear Lake Wind Ltd Appeal – Industrial Scale Wind Turbine decision of W Hants 25.09.23

Kindly we wish to be considered for Intervenor status [M12505]

We are a Collaborative "4" Chiefs & Mayors providing surety that development be the will of Peoples, not human sub systems

The Gold Standard Project 'A Proposal for Appropriate Large Scale Wind Turbine Development in Kings' County, Nova Scotia. October 2016 was generated by the Citizens of Kings' County; An Industrial Park on Crown Lands operationally confirmed in recent Legislation and Described in our MPS/LUB

Best example of an Informal Settlement Conference

Collaborators:

[Intervenor Request – Original]

[5] The Board held a preliminary hearing by telephone on November 19, 2025, to hear the requests by Ms. Skinner, Mr. Cann, Ms. Smith and Mr. Toney to intervene in the appeal, and to hear the position of the other parties on their requests. Ms. Skinner represented herself at the hearing. Mr. Cann represented himself and spoke on behalf of Ms. Smith and Mr. Toney, who did not attend the hearing.

[6] The Appellant, Bear Lake Wind Ltd., took no position on the request for intervenor status submitted by Ms. Skinner, nor did it take a position on the application submitted by Mr. Cann, Ms. Smith and Mr. Toney.

[7] The Respondent, West Hants Regional Municipality, opposed the intervenor request submitted by Mr. Cann, Ms. Smith and Mr. Toney.

[8] The Board finds that Ms. Skinner meets the threshold for standing as an "aggrieved person" in these proceedings. Ms. Skinner's request for formal standing as an intervenor is allowed. The request for formal intervenor standing by Mr. Cann, on behalf of himself, Ms. Smith and Mr. Toney, is denied. Although Mr. Cann and his collaborators have a perspective and information on past processes for a municipality's consideration addressing wind farms in planning documents, that issue is not relevant to the question before the Board in this appeal. The nature of their interest in the matter does not meet the Board's test for formal standing.

II ISSUE

[9] The preliminary issue before the Board is whether Ms. Skinner, Mr. Cann, Ms. Smith and Mr. Toney should have formal standing to participate as intervenors in this appeal. The Board must decide whether they are "aggrieved persons", as that term is defined in s. 191(a)(i) of the *Municipal Government Act,* SNS 2008, c 39 (*MGA*), or qualify for standing as interpreted in the common law. The burden of proof is upon those seeking intervenor status to show, on the balance of probabilities, that the Board should grant them formal standing.

III LAW AND ANALYSIS

[10] The *Municipal Government Act Rules* (*MGA Rules*) set out the Board's procedural rules for appeals or applications under the *MGA* and the *Halifax Regional Municipality Charter*, 2008 SNS c 38. Section 25(2) of the *MGA Rules* provides that, on the filing of an appeal, a Notice of Public Hearing be published "…advising that any aggrieved person has the right to intervene and participate in the public hearing". This

statement does not mean that any member of the public has the right to intervene. The rule stipulates that the person must be aggrieved.

[11] In the absence of any definition of "aggrieved person" in the *MGA Rules*, the Board considers (as it has in past decisions cited later in this section) that it ought to take guidance from the definition in the applicable statute. Section 247(2) of the *MGA* limits who may appeal a municipal council's decision to approve a development agreement:

> **Appeals to the Board**
>
> **247 (2)** The approval, or refusal to approve, and the amendment, or refusal to amend, a development agreement may be appealed to the Board by
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> (a) an aggrieved person;
>
> (b) the applicant;
>
> (c) an adjacent municipality;
>
> (d) a village in which an affected property is situated;
>
> (e) the Director.

[12] The proposed intervenors do not fall under any of clauses (b) to (e). The Board therefore considered whether they would have standing as individuals to bring this appeal as an "aggrieved person" under s. 247(2)(a).

[13] The Board considered, in detail, the question of who qualifies as an "aggrieved person" in *Re Thompson*, 2020 NSUARB 52. In that case, the Board discussed the historical development of the law around standing to appeal municipal planning decisions. That history brings us to the current version of the *MGA*, which defines "aggrieved person" in s. 191(a) as follows:

> **Interpretation**
>
> **191** In this Part and Part IX, unless the context otherwise requires
>
> (a) "aggrieved person" includes:
>
> (i) an individual who *bona fide* believes the decision of the council will adversely affect the value, or reasonable enjoyment, of the person's property or the reasonable enjoyment of property occupied by the person,

> (ii) an incorporated organization, the objects of which include promoting or protecting the quality of life of persons residing in the neighbourhood affected by the council's decision, or features, structures or sites of the community affected by the council's decision, having significant cultural, architectural or recreational value, and
>
> (iii) an incorporated or unincorporated organization in which the majority of members are individuals referred to in subclause (i).

[14] The proposed intervenors in this matter seek to have individual standing. Mr. Cann confirmed that while he and Mr. Toney and Ms. Smith would work together if granted standing, they are not part of an incorporated or unincorporated organization as defined. Therefore, only s. 191(a)(i) of the *MGA* is applicable.

[15] The adverse effects of a Council decision mentioned in s. 191(a)(i) of the *MGA* are rooted in the ownership and use of real property. In *Federation of Nova Scotian Heritage v Peninsula Community Council*, 2004 NSUARB 108, the Board held that s. 191(a)(i) referred to "real property and not to intellectual or personal property" (para. 55).

[16] In many past cases, the Board has referred to the Supreme Court of Canada decision in *British Columbia Development Corporation v Friedmann (Ombudsman)*, 1984 CanLII 121 (SCC), (e.g., *Re Taylor*, 2015 NSUARB 82, *Re Lunenburg Heritage Society*, 2010 NSUARB 224 and *Re Johanson*, 2010 NSUARB 123). In *Friedmann*, Justice Dickson said, on behalf of the court, "a party is aggrieved or may be aggrieved when he genuinely suffers, or is seriously threatened with, any form of harm prejudicial to his interest, whether or not a legal right is called into question" (para. 68).

[17] In *Re Taylor,* 2015 NSUARB 82, the Board stated, "It is the objective belief which the Board must examine. This does not require expert evidence, in the view of the Board. It does require the Board to find that an appellant has, in relation to the proposed development or zoning amendment, a '"unique status" (*Richardson v Wolfville*, supra), a

'particular link' (*Re Northern Construction Enterprises Inc*., 2012 NSUARB 149), or an 'intrinsic relationship' *(Re Ollive Properties Ltd*., 2012 NSUARB 186)" (para. 41).

[18] In the present case, the Board is reviewing whether the proposed intervenors are "aggrieved persons" within the statutory scheme of the *MGA.* The test must be derived from the context of this appeal. As explained by the Board in *Re Brison*, 2006 NSUARB 113, "[t]he interests therefore that are protected and may cause a person to be aggrieved will be dependent upon the facts of each case, including the Municipal Planning Strategy, the bylaws or other planning documents at issue in the appeal" (para. 57). This test was considered and applied in past decisions (*Re Thompson*; *Re Cameron,* 2020 NSUARB 108) and this approach will be followed in this matter.

[19] As set out in the definition of "aggrieved person" in the *MGA,* a proposed intervenor's belief that a decision of council will adversely affect their interests must be *bona fide*. This is an explicit requirement for affected interests under s. 191(a)(i) of the *MGA* and applies to the Board's consideration of affected interests under the common law as well (*Re Brison*, para. 59). The Board has also held that the impact on an aggrieved party must be distinct from that of the general public (*Re Ollive Properties Ltd.*, para. 153).

[20] In addition to s. 25 of the *MGA Rules*, s. 6 of the *Utility and Review Board Regulations,* NS Reg 270/92 (*UARB Regulations*), provides that "interested persons" may participate in Board proceedings if they have a "real and substantial interest" in the subject matter.

[21] In assessing whether someone has a real and substantial interest, the Board considers that the principles enumerated in *Northern Construction Enterprises Inc. v. Halifax Regional Municipality,* 2012 NSUARB 149, affirmed on appeal, 2015 NSCA 43,

are to be applied, including the definition of “aggrieved person” and the common law test in *Friedmann*.

[22] The *Northern Construction* principles for considering intervenor requests in planning appeals are as follows:

> [78] The burden of proof is on the proposed Intervenors to establish that they should be granted status to intervene in the appeal and thus participate in the hearing on the merits. This they must do on the civil burden, i.e., the balance of probabilities.
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> [79] Section 209(a) of the *HRMC* sets out the definition of “aggrieved person”, as does s. 191 of the *MGA*. Aggrieved persons may appeal certain decisions, but under s. 262(3) of the *HRMC*, the only person who can appeal a refusal by a development officer to grant a development permit is the applicant (in this case, Northern). The right of an appeal of an “aggrieved person” pertains to a decision of council only.
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> [80] As stated by the Board in an earlier decision in this appeal [2012 NSUARB 105] on the issue of extending the area for notice:
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> > [27] In the absence of case law, or legislative guidance, on the subject, the Board finds that the policy underlying the 500 foot rule embodies a simple idea: it is a good thing to ensure people are aware of land use disputes occurring close to properties they own. This policy doesn’t say that such people are automatically entitled to participate as parties in an appeal before the Board, but merely says that they are to receive notice.[Emphasis in original]
>
> …
>
> [83] This section, and the parallel provision of the *MGA*, has been considered by the Board in many previous cases. (See, for example*, Federation of Nova Scotian Heritage v. Peninsula Community Council,*[2004] NSUARB 108; *Re Heartland Resources Inc*., [2005] NSUARB 39; *Re D & M Lightfoot Farms Ltd.,* [2005] NSUARB 117; *Re Becker*, [2009] NSUARB 59; and *Re Eco Awareness Society*, [2010] NSUARB 102).Rather than undertake an extensive review of the case law here, the Board has drawn several principles from the cases, i.e., the definition is not exhaustive; there must be an objective aspect to the *bona fide* belief; the belief should not be speculative; distance is not a determinative factor; each case must be determined on its facts; the burden is on the person claiming to be aggrieved; and, the Board may look to the common law test, as articulated by the Supreme Court of Canada in *Friedmann*, requiring the person to “...genuinely suffer, or [be] seriously threatened with, any form of harm prejudicial to his interests whether or not a legal right is called into question”.
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> [Emphasis added]

[23] Applying these principles in the context of this appeal of the denial of the development agreement for a large-scale wind farm, the Board will now examine the standing of the individuals that have requested intervenor status.

Linda Skinner

[24] As noted above, neither the Appellant nor the Respondent took a position on the application by Ms. Skinner to participate in this appeal as an intervenor. They had no questions for Ms. Skinner, nor did they make any oral submissions as to why Ms. Skinner should not be considered an “aggrieved person”.

[25] Ms. Skinner testified that she lives in the community of Chalet Hamlet in West Hants, about 1.5 kilometres from the substation of the proposed windmill site. Her community was once referred to as “cottage country”. However, it is now a residential community of approximately 200 lots, with approximately 75 residents who live there on a full-time basis, with more living there during the summer months.

[26] Ms. Skinner testified that her community has only one road for entering and exiting. She stated that having a second egress road that provides another exit from her community has been a longstanding issue. Currently, if there was an emergency, the only other quick way out of the community would be by way of an all-terrain vehicle. She confirmed in her evidence that she is “in favour of the benefits that will come” with the proposed wind farm, with the most important benefit in her view being one of health and safety for herself and her community.

[27] Ms. Skinner stated that a street in her community, Armstrong Lake West, is intended to connect to the proposed wind farm’s substation site under the development agreement. If the substation was built, the site road would have provided a second egress road located in the opposite direction from the way residents and visitors currently enter the community. It would have created a second egress that she, and the other residents, could have accessed as a safe evacuation route for emergencies. In her closing

submissions, Ms. Skinner stated, “For this community, it really is an issue of safety and being able to access the site roads for egress during emergencies is really important to the people in this community”.

[28] The Board finds that there is an objective basis to support that Ms. Skinner has a *bona fide* belief that the decision of Council rejecting the proposed development could negatively impact the enjoyment of her property. The Board further finds that Ms. Skinner has a real and substantial interest in this appeal as a property owner impacted by the outcome of the refusal of the development agreement. Accordingly, the Board finds that Ms. Skinner is an “aggrieved person” under s. 191(a)(i) of the *MGA* and has standing as an intervenor in the appeal.

Christopher Cann, Sharleen Smith and Mike Toney

[29] In their joint request to intervene, Mr. Cann, Ms. Smith and Mr. Toney state they are a “collaborative “4” chiefs and mayors providing surety that development be the will of the people, not human subsystems”. In the absence of Ms. Smith and Mr. Toney at the hearing, Mr. Cann gave evidence and made oral submissions on his own behalf and for Ms. Smith and Mr. Toney, who he referred to as his collaborators.

[30] In its application, Bear Lake Wind Ltd. described the proposal as the construction and operation of the Bear Lake Wind Power Project, near the communities of Upper Vaughan, New Ross and Windsor Forks, Nova Scotia. Mr. Cann testified that he and his collaborators live in the Municipality of the County of Kings (County of Kings), not the West Hants Regional Municipality (Municipality). However, Mr. Cann explained that he is part of an informal group that works with people who are concerned about developments or who were not consulted on municipal issues. He stated his view that if

governments were consultative with their people as a primary undertaking, it would be more effective and less expensive than the various challenges that arise when parties have to engage through processes like appeals to the Board. The role of the group is to support those mayors and chiefs, as well as councillors, who are working toward consulting with the people first.

[31] At the hearing, Mr. Cann summarized that he wishes to intervene to show that there is an alternative process/procedure to this appeal, which in part, would avoid divisions within the community. He said this model or process is the best example of an informal settlement conference. He described his experience of using this approach when working on the drafting of the municipal planning strategy in the County of Kings when citizens developed a reaction to the placement of wind turbines in their area. Mr. Cann stated that his evidence in the appeal would relate to how the Municipality's MPS and Land Use By-law could be structured to allow for wind turbine development.

[32] This appeal is brought under s. 250(1) of the *MGA.* Therefore, the Board must determine in this appeal whether the West Hants Regional Municipal Council's refusal to approve the development agreement reasonably complies with West Hants' MPS.

[33] An "aggrieved person" must be able to assert a unique or personal impact: see *Cann v Halifax Regional Municipality*, 1997 NSUARB 68, paras. 11 to 15; *Whitcombe, Re*., 2005 NSUARB 63; *Johanson, Re*., 2010 NSUARB 123; *Cameron, Re.*, 2020 NSUARB 108, paras. 12 to 24; and *Northern Construction*, 2012 NSUARB 149, para. 100. Whether considering the definition of "aggrieved person" or reviewing the common law approach to intervenors, there must be a particular link between the individual and

the alleged harm resulting from the decision under appeal. The evidence that Mr. Cann and the other collaborators intend to present at the appeal does not show that they are, in the words of *Northern Construction,* "uniquely, personally or particularly impacted by the development".

[34] The Municipality submitted that Mr. Cann's application for intervenor status should be denied. The Municipality stated that Mr. Cann and his collaborators appear to be well meaning but want to use this proceeding to propose a shift in the process as it relates to decisions to approve or reject large scale wind farm developments. The Municipality argued that this desire does not amount to a substantial interest that would permit them to be intervenors in the context of this appeal. The Municipality also noted that Mr. Cann did not put forward any evidence of a legal or property interest or some other right that shows they would be negatively affected by this development.

[35] The *MGA* provides the process to be followed for the Appellant's appeal of Council's refusal to approve the development agreement for the large-scale wind farm. Mr. Cann intends to provide evidence about a process that was used to draft the County of Kings' municipal planning strategy for the development of wind farms, and to provide his perspective on best practices in community engagement. While Mr. Cann, Ms. Smith and Mr. Toney seek to assist in this appeal, the Board finds that their proposed evidence, as described by Mr. Cann, is not relevant to the appeal before it. The evidence will not assist the Board in its narrow authority to decide whether the decision of Council reasonably complies with the MPS.

[36] Further, the Board finds there would be no material impact on Mr. Cann's reasonable enjoyment or the value of his property or that his interest in the subject matter

of the proceeding is real and substantial. The Board makes the same findings for Ms. Smith and Mr. Toney. Accordingly, the Board denies their joint request for intervenor status in this appeal.

IV CONCLUSION

[37] Following two requests for intervenor status in this appeal, the Board decided the preliminary issue of whether the applicants are “aggrieved persons”, as that term is defined in s. 191(a)(i) of the *MGA*, or as interpreted in the common law. This preliminary decision does not address the merits of the appeal itself.

[38] The Board finds, on a balance of probabilities, that there is objective evidence that Council’s decision to reject the development could adversely affect the value, or the reasonable enjoyment, of Ms. Skinner’s property. The Board also concludes that Ms. Skinner has a “real and substantial” interest in this appeal relevant to the issues the Board must decide. Accordingly, the Board grants Ms. Skinner’s application to intervene in this appeal.

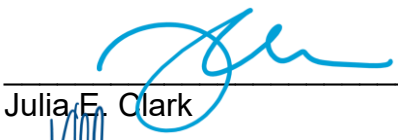
[39] With respect to Mr. Cann, Ms. Smith and Mr. Toney, the Board finds, on a balance of probabilities, that there is no objective basis to conclude that Council’s decision could adversely affect the value, or the reasonable enjoyment, of their property. The Board is satisfied that, in the words of *Friedmann*, they will not “genuinely suffer … or [be] seriously threatened with, any form of harm prejudicial to [their] interests”. Further, the Board does not consider that they have a “real and substantial” interest in the subject matter of the appeal as contemplated under the *UARB Regulations*. Considering the evidence and the submissions of the parties, the Board concludes that Mr. Cann, Ms.

Smith and Mr. Toney are not “aggrieved persons”. Their request for intervenor status is denied.

[40] While the Board has denied their request for formal intervenor status, Mr. Cann, Ms. Smith and Mr. Toney may participate in the process by submitting a letter of comment or requesting to speak at the public session to be held in this matter, as noted in the Notice of Public Hearing and the Hearing Order. However, if they wish to do so, any comments must be relevant to the issue to be decided in this appeal (i.e., whether the development agreement reasonably complies with the MPS), and they must file their letter or advise the Clerk of the Board, in writing, that they wish to speak, no later than December 9, 2025.

[41] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 28th day of November 2025.



Julia E. Clark

M. Kathleen McManus

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