



# Niagara Escarpment Hearing Office

Case No.: 03-047  
(NEC File No.: H/R/2002-2003/313)

## **Ivica Bosnjak v. Niagara Escarpment Commission**

In the matter of an appeal by Ivica Bosnjak filed June 5, 2003 for a hearing before a Hearing Officer pursuant to section 25(8) of the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, N.2, with respect to a decision of the Niagara Escarpment Commission dated May 22, 2003, whereby the Commission refused Development Permit application NEC file no. H/R/2002-2003/313 made by Radovan and Ivica Bosnjak to allow an existing residence that was to be demolished under the conditions of a previous Development Permit to remain as a second dwelling unit, on an existing lot in the Town of Halton Hills, Region of Halton, Ontario; and

In the matter of a written hearing held on July 23, 2003 regarding a request by the Niagara Escarpment Commission that the appeal be reviewed, pursuant to section 25 (8.1) of the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, N.2 as amended.

**Before:** Pauline Browes, Hearing Officer

### **Appearances:**

Ivica Bosnjak - Appellant  
Mark Frawley - Director, Niagara Escarpment Commission

**Dated** this 31<sup>st</sup> day of **July, 2003**.

---

## **Report to The Minister of Natural Resources Confirming the Decision of the Niagara Escarpment Commission**

### **Background:**

An appeal was filed by Ivica Bosnjak (the “Appellant”) on June 5, 2003 from a Decision of the Niagara Escarpment Commission (the “NEC”) dated May 22, 2003 which refused the application of Radovan and Ivica Bosnjak to allow an existing residence, that was to be demolished under the conditions of a previous Development Permit, to remain as a second dwelling unit, on an existing lot in the Town of Halton Hills, Region of Halton, Ontario.

On June 9, 2003, the Niagara Escarpment Hearing Office (the “NEHO”) received a letter from the Director of the NEC, Mark Frawley, requesting that the Appellant’s appeal letter be reviewed pursuant to section 25 (8.1) of the *Niagara Escarpment Planning and Development Act* (the “*NEPDA*”). Mr. Frawley states in his letter:

We submit that the grounds set out in their letter do not constitute reasons for appeal as required under section 25 (5) and 25 (8.1)(b) of the Act.

The permit issued to the Bosnjak’s for a new house clearly required the removal of the existing house on the property as a condition of the permit. It is undisputed that the Bosnjaks failed to remove the original house, and in fact proceeded to rent it out to an unrelated party. It is undisputed that the breach of that condition continues to this day, and will continue until the original house is removed....

Based upon these uncontradicted facts, the Niagara Escarpment Commission respectfully submits that this appeal does not disclose a planning justification under section 25 (8.1)(a) of the Act, and is made for the purpose of delay, also pursuant to section 25 (8.1)(b) of the Act.

Section 25 (5) of the *NEPDA* specifies that if the decision of the NEC is appealed, that the appeal shall specify the reasons for the appeal.

Section 25 (8.1) of the *NEPDA* states:

Despite subsections (8) and (10), an officer appointed under subsection (8) may refuse to conduct or to continue a hearing if,

- (a) in the opinion of the officer, the appeal does not disclose a planning justification for the appeal, is not in the public interest, is without merit, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the notice of appeal did not specify the reasons for the appeal; or
- (c) the person who appealed the decision has not responded to a request by the officer for further information within the time specified by the officer.

On June 13, 2003, a letter from the NEHO was sent to Ivica Bosnjak requesting information to be sent to the NEHO by June 27, 2003, to outline the planning justification for the appeal. As there was no response from the request, a second letter dated July 3, 2003 was sent to Ivica Bosnjak requesting the planning justification information no later than July 11, 2003. No information or communication has been received by the NEHO, to date, from Ivica Bosnjak.

### **Findings:**

In review of the above information, the Appellant has failed to:

- disclose planning justification as required pursuant to section 25(8.1)(a) under the *NEPDA*;
- specify reasons for the appeal pursuant to section 25 (5) and section 25 (8.1)(b) of the *NEPDA*; and
- respond to the NEHO in the request for further information pursuant to section 25 (8.1)(c).

Therefore, under section 28 (8.1) of the *NEPDA*, it seems reasonable that the NEHO exercise their discretion by refusing to conduct the Hearing as there is no planning justification provided to the Hearing Officer, no specific reasons outlined in the appeal letter and the further planning justification information requested was not submitted.

## **Decision**

The appeal submitted by Ivica Bosnjak with respect to Part 1 of the Development Permit application NEC file no. H/R/2002-2003/313 is dismissed and the decision of the Niagara Escarpment Commission is confirmed.

*Appeal Dismissed*

---

Pauline Browes, Hearing Officer