

**NOVA SCOTIA COURT OF APPEAL**  
**Citation:** *Miner v. Kings (County)*, 2017 NSCA 5

**Date:** 20170117  
**Docket:** CA 451529  
**Registry:** Halifax

**Between:**

Russell “Bret” Miner and Marjorie Jean Miner  
Appellants/Respondents by Cross-Appeal

v.

The Municipality of the County of Kings and  
Glooscap First Nation Economic Development Corporation  
Respondents

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**Judge:** The Honourable Justice Cindy A. Bourgeois

**Appeal Heard:** November 8, 2016, in Halifax, Nova Scotia

**Subject:** Section 189 of the *Municipal Government Act (MGA)*; Public Interest Standing

**Summary:** The Miners sought to challenge by way of judicial review, the legality of a bylaw enacted by the Municipality of the County of Kings (The Municipality). The Miners’ chief complaint was that the process implemented by the Municipality in passing the bylaw denied landowners in Avonport procedural fairness. The Miners did not own property in Avonport and conceded they had been treated with procedural fairness in the process.

Glooscap challenged the Miners’ standing to bring the judicial review. The reviewing judge granted standing, but ultimately dismissed the Miners’ notice of judicial review. The Miners appealed, asserting the reviewing judge failed to consider their arguments that the bylaw was illegal. Glooscap filed a cross-appeal asserting the reviewing judge erred in granting

standing.

**Issues:** The issues arising from the cross-appeal are dispositive of the matter. They are:

- (1) What standard of review applies to the reviewing judge's determination they had standing?
- (2) Did the reviewing judge err in granting standing?
- (3) Should standing have been granted to the Miners on the basis of considerations other than those stated by the reviewing judge?

**Result:** Appeal dismissed, cross-appeal allowed. In the present circumstances, the standard of review is correctness. The reviewing judge erred in granting the Miners standing under s. 189 of the *MGA*, nor did they meet the criteria for public interest standing.

*This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 15 pages.*