

## **MOOSE JAW BOARD OF REVISION**

### **INFORMATION FOR PARTIES TO AN APPEAL: WHAT TO EXPECT AT A HEARING**

The Board of Revision is the primary appeal Board to rule on land and building assessments under appeal. The basic principle to be applied by the Board in all cases is set out in *The Cities Act*, which states that the dominant and controlling factor in the assessment of property is equity, as defined by *The Cities Act*.

The Board's priority is to ensure that all parties receive fair hearings, and that the rules of natural justice come into play.

The Board will appoint a panel of a minimum of three Board members to preside over a hearing. In the case of simplified appeals, the Board may appoint as few as a single Board member to preside.

This document is provided for information purposes only and must not be relied upon as legal advice. *The Cities Act* governs Board activities and is of primary importance. Parties should particularly become familiar with "Part X – Assessment" of *The Cities Act*.

#### **OPENING REMARKS**

The Panel Chair will call the hearing order, make an order for recording if requested, and make some opening remarks. Included in the opening remarks will be some general rules of order that apply to Board proceedings, and an explanation of how the hearing will proceed.

#### **RULES OF ORDER**

[1] All parties and their witnesses will affirm or swear that their statements are true before testimony begins.

[2] Appellants will be restricted to raising issues and facts covered in their Notice of Appeal. The Board will not hear evidence or argument that does not fall within the Notice of Appeal.

[3] The Panel Chair will be in charge of all procedural rulings. Any procedural rulings made will be final for the purpose of this hearing, although you will be entitled to appeal them to the Assessment Appeals Committee.

[4] There will be only one person speaking at a time, so please direct your questions or responses through the Chair.

[5] No person other than the Board or a court reporter present pursuant to an order of the Panel Chair will be permitted to take, or attempt to take, a photograph, motion picture, audio recording or other record capable of producing an oral or visual reproduction by electronic or other means, at a Board hearing.

[6] In all cases, the Board will reserve its decision; meaning that it will deliver its decision at a later date. All decisions will be in writing. Appellants will be advised by registered mail of the decision.

[7] The Board reserves the right at any time to issue orders for evidence as contemplated by section 205 (3) of *The Cities Act*, or pursuant to any other legislation or rule of law that may govern the Board.

[8] The parties are responsible for making their case at the hearing. In particular, during the hearing the parties will be expected to identify how items presented in the written materials pertain or are relevant to their arguments. Any items in the written materials not referred to during the hearing may or may not be considered by the Board.

After the opening remarks, the hearing proper will begin.

## **THE HEARING**

The hearing consists of the following parts in the following order:

1. Introduction of Board members and parties
2. Swearing or Affirmation of Witnesses
3. Exhibits
4. Preliminary Matters
5. Confirmation of Issues
6. Presentation of Evidence and Argument
7. Summations

## **INTRODUCTIONS**

The Panel members will be introduced. The Panel Chair will invite the parties to introduce themselves. For the record, parties may be asked to spell their names slowly and clearly.

## **SWEARING OR AFFIRMATION OF WITNESSES**

All witnesses giving testimony must take an oath or make an affirmation. Each witness will choose the method they are comfortable with. The form of both an oath and an affirmation are below.

**OATH:** Place your right hand on the bible and raise your left hand: "DO YOU SWEAR THAT THE EVIDENCE YOU ARE ABOUT TO GIVE IS THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH SO HELP YOU GOD?"

**AFFIRMATION:** "DO YOU SOLEMNLY AFFIRM THAT THE EVIDENCE YOU ARE ABOUT TO GIVE IS THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH?"

## **EXHIBITS**

The Panel Chair will ask the Board Secretary to introduce the exhibits that were submitted to the Board in advance of the hearing.

*Approved by the Board on April 9, 2019.*

**PRELIMINARY MATTERS**

- 1) The Panel Chair will ask the Respondent if they have a recommendation. If the Respondent has a recommendation, the Board will determine whether the appellant is satisfied, or wishes to continue with the appeal.

*NOTE: At this point the Appellant has two choices:*

1. *One is to accept the recommendation in full satisfaction of the complaint. This means that the Appellant has nothing else to ask the Board to do other than ask for an order that matches the recommendation. If the Appellant chooses this option, the Board will grant the order as requested, and the hearing comes to an end.*

2. *Or, the Appellant may disagree, partly or entirely, with the recommendation. This means the hearing will continue. When the Board makes its decision after the hearing is adjourned it may consider the recommendation.*

- 2) The Panel Chair will ask if there are any preliminary matters or applications, and, if there are any, they will be dealt with.

*NOTE: Preliminary matters could include, but are not restricted to, requests for subpoenas, requests for confidential treatment, requests for adjournment.*

- 3) The Panel Chair will ask if either party wishes to present any new evidence that has not been included in their written submissions, and if there is such a request it will be dealt with.

**CONFIRMATION OF ISSUES**

- 4) The Panel Chair will ask the Appellant for a brief summary of the issues in the appeal.

*NOTE: The Appellant should not launch into presenting evidence here, but simply briefly identify what the Appellant believes is the error.*

- 5) The Panel Chair will then ask if the Respondent concurs.

- 6) The Panel Chair may or may not ask the Appellant if they wish to make an application to amend their Notice of Appeal. The Appellant is responsible for making such an application if they so wish, whether or not they are asked.

*NOTE: An Appellant should make an application to amend the Notice of Appeal if the grounds as worded in the Notice of Appeal no longer match the issues they have just identified at this confirmation stage.*

## **EVIDENCE & ARGUMENT**

- 7) The Appellant may then proceed to introduce evidence and argument on the specific grounds in their Notice of Appeal on which it is alleged that an error in the assessment exists.
- 8) The Respondent and Panel Members may then question the Appellant or their witnesses.
- 9) The Respondent may then proceed to introduce evidence and argument in the same manner.
- 10) The Appellant or Panel Members may then question the Respondent or their witnesses.
- 11) The Appellant will then have an opportunity for rebuttal.

*NOTE: The Appellant's rebuttal is not an opportunity to repeat points already presented. Rebuttal comments must be restricted to only new points raised in the Assessor's presentation that the Appellant has not yet addressed.*

## **SUMMATION**

- 12) The Appellant will be asked to give a summation of their evidence and argument.
- 13) The Respondent will be asked to give a summation of their argument.
- 14) The Appellant will then be asked if they have a final comment they wish to leave with the Board.
- 15) The Panel Chair will adjourn the hearing at the end.