

LICENCE AND COMMUNITY STANDARDS APPEAL BOARD PROCEDURES

PART A: INTRODUCTION

General Background

1. The Board has adopted these procedures to help the Board decide appeals effectively and efficiently. The Board may choose to vary these procedures on a case-by-case basis to address the circumstances of a particular appeal.
2. If these Procedures contradict any statute or bylaw, the statute or bylaw will apply.

The Board's Role

3. The Board's roles and powers are set out in Bylaw 50M2011. It hears appeals of decisions made by the administration of the City of Calgary regarding a range of issues including, but not limited to, licences and permits, remedial orders, and encroachments.

The Parties to an Appeal

4. The parties to an appeal are the appellant and the administration of the City of Calgary (which may be referred to as the "respondent").

PART B: BEFORE THE HEARING BEGINS

Starting an Appeal

5. An appeal to the Board is started by completing and filing a notice of appeal form and paying the filing fee.

Appeal Deadlines

6. There are strict deadlines for the notice of appeal form to be filed and the filing fee to be paid. The Board does not have the power to extend these deadlines.
7. The deadlines to start an appeal vary depending on the type of decision being appealed. Appellants should carefully review the bylaw or law that governs the decision they are appealing and the Board's Bylaw 50M2011 to make sure that they meet the appeal deadline.

Hearing Scheduling

8. Upon receiving notice of an appeal, the Board will schedule a hearing. The parties will be notified in writing of the hearing date and time.
9. The Board schedules hearings within sixty (60) days of receiving a notice of appeal. Some types of appeals will be heard sooner as required by the applicable bylaw or law.

Hearing Format

10. When the Board sends notice of a hearing, that notice will state whether the hearing is going to be conducted in person or by video conference.
11. If the hearing is being conducted in person, the notice of the hearing will include the hearing room location.
12. The Board uses Microsoft Teams for video conferences. Parties will be given a link to participate in the video conference at least one day before the hearing.
13. If a hearing is scheduled by video conference and a party prefers to participate by telephone, a call-in number will be provided at least one day before the hearing.
14. If a party wishes to request a change to the hearing format from video conference to in person or vice versa, that request must be made in writing before the hearing begins and include reasons. Changes to the hearing format are in the Board's discretion.

Language of Hearing

15. The Board's hearings are conducted in English. Parties are entitled to bring interpreters to help them if required.

PART C: THE APPEAL HEARING

Written Submissions and Other Materials

16. If a party intends to rely on any documents, reports, or other materials, those materials must be provided to the Board by 12:00 pm (noon) eight days prior to the scheduled hearing date (usually the Monday before). The parties are also encouraged to provide the Board with the following prior to the hearing date:
 - A summary of their argument;
 - A list of witnesses they intend to call (if any) and a summary of the statements they expect those witnesses to make;
 - A summary of any preliminary issues they intend to raise (preliminary issues are issues that need to be addressed before the Board can consider the substance of the appeal, such as whether the Board has the ability to decide the appeal); and
 - An estimate of the length of time they will need to present their case.

17. If possible, materials should be submitted to the Board by email at lcsab@calgary.ca. If this is not possible, hard copies can be delivered to the Board's office.
18. When submitting digital materials please follow the Board's Digital Material Submission Guidelines available on the Board's website.
19. The Board will prepare a report of all materials provided by each party to be shared with all parties to the appeal prior to the scheduled hearing date. This report will be sent by mail or, if the Board has an email address for a party, to that email address unless a mailed copy is specifically requested.
20. The Board may refuse to accept late submissions if the Board finds that to do so would be unfair to one or more parties.

Legal Counsel and Other Representatives

21. Parties are entitled to represent themselves in their appeals or, if they prefer, parties may choose to be represented by a lawyer or agent.
22. If a person is represented by a lawyer or agent, the lawyer or agent may be asked to provide written authorization from the person they represent.
23. Parties are entitled to bring other people to help them present their case including support persons and witnesses (including expert witnesses).
24. Parties are responsible for all costs associated with any lawyers, agents, or other persons they have retained to assist with presenting their case.

Evidence

25. The Board has discretion about the type of evidence it accepts. It is not subject to the formal rules of evidence that apply to Court proceedings.
26. The Board does not allow cross-examination (parties directly questioning each other) unless there is no other reasonable way for relevant evidence to be presented.
27. The Board may ask questions at any time during the hearing.
28. If a party brings a witness or witnesses, the Board may direct that they be excluded from the hearing until it is their turn to speak.
29. In some appeals, City administration may have already held a hearing as part of its decision-making process. In these situations:
 - The Board may refer to the record of that hearing as part of the evidence in the appeal; and
 - Both parties are entitled to call witnesses and/or provide additional materials and arguments and are not limited to what was submitted at the earlier hearing.

Order of Submissions

30. The usual order for submissions during the hearing is:
 - The presiding officer will make opening comments and introductions and will mark the materials the Board has received as exhibits;
 - Any preliminary issues will be addressed (these are issues that need to be resolved before the Board considers the appeal, such as whether the Board has the ability to decide the appeal);
 - City administration will provide an opening statement outlining the background to the appeal and any previous proceedings;
 - The appellant will present their case, including any witnesses presenting on behalf of the appellant;
 - The Board will ask the appellant and their witnesses any questions arising from their presentation;
 - City administration will present their case, including any witnesses presenting on behalf of City administration;
 - The Board will ask City administration and their witnesses any questions arising from their presentation;
 - The appellant may give their rebuttal (rebuttal means responding to new issues which came up during the hearing and could not have reasonably been predicted);
 - City administration will be invited to make their closing statement; and
 - The appellant will be invited to make their closing statement.

Public Access to Hearings

31. The Board's hearings are open to the public.
32. If requested by a party or on the Board's own initiative, the Board may hold the hearing in private. The Board can only do this if there are grounds to do so which meet the requirements of the *Freedom of Information and Protection of Privacy Act*.

Media Access to Hearings

33. Media are allowed to attend the Board's hearings.
34. Parties are not permitted to be interviewed by the media in the hearing room.

Recording Hearings

35. No recording of hearings (including audio recordings, video recordings, and photographs) will be allowed unless there is prior approval from the Chair.

PART D: THE DECISION

The Powers of the Board

36. The Board's role is to review orders issued under certain City of Calgary bylaws and Province of Alberta laws. The Board cannot override any of these bylaws or laws.
37. The Board's powers as they relate to specific types of appeals are set out in the Board's bylaw 50M2011.

Verbal Announcements

38. The Board may verbally announce the outcome of an appeal at the end of the hearing.

Written Decisions

39. If the Board is issuing a written decision, the Board will do so within 60 days of the conclusion of the hearing.

Publishing of Decisions

40. The Board's written decisions are publicly available and may be posted with the Canadian Legal Information Institute (www.canlii.org) or otherwise made publicly available.
41. The Board's written decisions may include the appellant's name, address, and other personal information. The Board does not automatically redact this information when it publishes its decisions. If an appellant wishes to have any personal information redacted from the Board's written decision, the appellant must submit a written request, with reasons, to the Board before the Board issues its written decision.
42. If the Board receives a request to redact an appellant's personal information from its published decision and it denies that request, the Board will notify the appellant at least three days before it issues its decision. The appellant may withdraw their appeal during that time if desired.

Costs

43. The Board does not have the power to award costs to either party.

PART E: OTHER MATTERS

Adjournments

44. The Board may adjourn a hearing at the request of one or both parties or on its own initiative. An adjournment means that a hearing is postponed to a later date.
45. When the Board considers an adjournment request, it will consider the reason for the request, the timeliness of the request, and the impact that granting or not granting the request will have on the parties.
46. Adjournments are in the Board's discretion and might not be granted. A party requesting an adjournment should be aware that if the request is not granted, the hearing will continue.

47. Adjournment requests must be made as early in the process as possible.
48. Adjournment requests made before the hearing begins must be made in writing and will be decided by the Board's chair. Adjournment requests made during a hearing will be considered by the panel hearing the appeal.

Non-Attendance by Appellant

49. If the appellant does not attend the hearing as scheduled and present their case, the Board may, in its discretion, dismiss the appeal, adjourn the appeal or proceed with the appeal in the appellant's absence.

Communications with the Board

50. Parties must not attempt to communicate directly with Board members outside of the formal hearing process. All communications must go through the Board's administration.
51. During the hearing, one of the members of the Board will be the Chair or the presiding officer. All submissions to the Board must be directed through that member.

Conduct During the Hearing

52. All persons involved in the Board's processes must conduct themselves with courtesy and respect. Disruptive, disrespectful, or threatening behaviour towards any person will not be tolerated.