



Subdivision
& Development
APPEAL BOARD

**Calgary Subdivision
and
Development Appeal Board
Procedural Guidelines**

Effective April 1, 2024

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PART A: INTRODUCTION

1. The Calgary Subdivision and Development Appeal Board (the “**Board**”) is an independent body which has been established to hear appeals of certain decisions of the City of Calgary’s subdivision authority and development authority.
2. These Guidelines have been created to describe the Board’s process for deciding appeals effectively and efficiently.
3. These Guidelines are for information only. The Board has the power to deviate from these guidelines when hearing an appeal if it so decides, with or without notice to the parties.
4. If these Guidelines conflict with any statute or City of Calgary bylaw, the statute or bylaw will prevail.
5. These Guidelines do not constitute legal advice.

PART B: BEFORE THE HEARING BEGINS

Starting an Appeal

6. An appeal is started by filing a notice of appeal form and paying the applicable filing fee. This can be done as follows:

Online at: www.calgarysdab.ca

At the Board’s office at:

Calgary Subdivision and Development Appeal Board
1212 31 Avenue NE (DJ3 Building)
Calgary, AB T2E 7S8

(note: materials can be delivered to the Board’s office on the 4th floor or left in the drop box on the first floor, in the back hallway (past the elevators), near the postal mailboxes)

By mail at:

Calgary Subdivision and Development Appeal Board
PO Box 2100, Station M
Calgary, AB T2P 2M5

(note: appellants filing by mail are responsible for ensuring the materials are received by the Board prior to the filing deadline)

7. Regardless of the method of filing, parties are responsible for ensuring that the notice of appeal form and filing fee are received by the Board prior to the filing deadline.
8. The notice of appeal form should be filled out completely and must include the reasons (grounds) for the appeal.
9. The appeal fee must be paid concurrently with filing the notice of appeal. Notices of appeal will not be considered filed until the filing fee is received. Filing fees can be paid online using such payment methods as are accepted by the City of Calgary. Filing fees paid at the Board’s office must be paid by cash or cheque.

10. Appeals must be started within the timelines specified in the *Municipal Government Act*. More information about filing deadlines is available on the Board's website at www.calgarysdab.ca. Appellants are encouraged to file as soon as possible within the appeal period.
11. The Board has no legal authority to extend the filing deadlines for starting an appeal.

Scheduling a Hearing

12. The Board will schedule a hearing to commence within thirty (30) days of receiving the notice of appeal and filing fee. The Board will send notice of the date and time of the hearing.
13. The first meeting for most appeals is a procedural and jurisdictional meeting, at which the Board may:
 - a. Schedule the appeal to proceed and for the merits of the appeal to be argued on a future date or dates;
 - b. Provide guidance regarding the filing and exchange of materials;
 - c. Address issues regarding the Board's jurisdiction (authority) to decide the appeal; and
 - d. Address any other matters the Board deems appropriate.

PART C: MATERIALS AND EVIDENCE

Evidence

14. The Board does not seek evidence nor advocate for any party in an appeal. The Board relies on the evidence submitted by the parties, and each party is responsible for assembling and presenting evidence to support their case.

Filing of Materials

15. The Board requires the parties to provide any evidence, reports, photographs, written arguments, and other materials they intend to rely on to submit those materials in advance of a hearing.
16. Parties are encouraged to share their materials with each other as early as possible in advance of the hearing.

The Board Report

17. All materials submitted to the Board prior to the deadlines will be included in a package called the "Board Report". Materials received after the submission deadline will not be included in the Board Report without the Board's express permission.
18. A copy of the Board Report will be posted on the Board's website (www.calgarysdab.ca) the week before the hearing begins and can also be viewed at the Board's office. Once the hearing is finished, the Board Report will be removed from the website. The official version of the Board Report is the one at the Board's office.
19. Parties are encouraged to review the Board Report before the hearing and to ensure that they have a copy available during the hearing.

How to Submit Materials

20. Whenever possible, materials should be submitted to the Board electronically.
21. If electronic submission is not possible, one (1) hard copy must be delivered to the Board's office at:

Drop-off Location:

1212 31 Avenue NE (DJ3 Building)
Calgary, AB T2E 7S8

(note: materials can be delivered to the Board's office on the 4th floor or left in the drop box on the first floor, in the back hallway (past the elevators), near the postal mailboxes)

Mailing Address:

Calgary Subdivision and Development Appeal Board
PO Box 2100, Station M
Calgary, AB T2P 2M5

22. Regardless of the method of submission, parties are responsible for ensuring that their materials are received by the Board prior to the submission deadline.

Electronic Submission of Materials

23. Materials can be submitted by email at info@calgarysdab.ca. Submissions must be in a printable format and in a format that is compatible with the Board's computer systems. For more information, parties should consult the Board's Digital Materials Submission Guidelines available at www.calgarysdab.ca.

Requirements for Materials being Submitted

24. Materials filed with the Board should be sequentially page numbered and tabbed or separated by a page containing a tab letter or number in large font where appropriate.
25. If documents that contain multiple parts, such as legal briefs and expert reports with appendices or schedules, are submitted in hard copy format, they should be bound for ease of reference.
26. All materials submitted to the Board should be clear and legible. Parties are encouraged to highlight relevant passages or sections.
27. Parties who submit a portion of a document may be asked to provide the complete document or other contextual information as to its source.
28. There is no need to file complete copies of statutory and non-statutory plans and policies. The Board can reference these materials as needed when considering appeals.

Late Submissions

29. The Board will set deadlines for materials to be filed. These deadlines will be stated in the notice of the hearing and further deadlines may be set at the procedural and jurisdictional meeting or at other times during the process. Failure to file materials by the specified

deadlines may result in a hearing being adjourned, in the Board not accepting the materials, or in other consequences as the Board may deem appropriate.

30. If a party wishes to file a late submission, that party must provide a copy of that submission to the Board staff, Development Authority, and the other party as soon as possible.
31. If the Board agrees to accept a late submission at a hearing, Board staff will, immediately after the Board has decided to accept a late submission and not before, provide copies of that late submission to the Board members hearing the appeal.
32. If the Board agrees to accept late submissions at in-person hearings, the following additional requirements will apply:
 - a. Parties must provide 12 copies of the materials, and the Board may require additional copies to be provided, all at the submitting party's expense;
 - b. All presentation materials shown to the Board, including PowerPoint or slide presentations and any materials placed on the overhead projector or otherwise shown to the Board, must be left with the Board.

Retention of Evidence

33. The Board retains all documents and electronic submissions it receives in accordance with the Board's retention policies.
34. The Board retains physical evidence such as samples and models for at least 60 days after the decision is issued, or longer if the Board's decision is appealed. These materials will not be returned unless a request is made at the time they are submitted.

PART D: THE HEARING

Hearing Format

35. The Board conducts most hearings virtually.
36. Virtual hearings are conducted through Microsoft Teams. The login information and a telephone number to access the meeting will be included in the notice of hearing. Parties may join the hearing by video conference or by phone.
37. Parties are encouraged to register in advance to participate in the hearing.
38. The Board may at any time on notice to the parties choose to conduct a hearing in-person instead of virtually.

Board Members

39. Members of the Board are listed on the Board's website at www.calgarysdab.ca. Any concern about the composition of a panel for a particular appeal must be raised as soon as possible.

Order of Speakers

40. The usual order of presentation in a hearing when a development permit or subdivision decision is being appealed is:

- a. Introduction by the Board;
 - b. Preliminary matters (if any);
 - c. Introduction the Development Authority or Subdivision Authority;
 - d. Presentation by the appellant;
 - e. Presentations in favour of the appeal;
 - f. Presentations against the appeal;
 - g. Response by the Development Authority or Subdivision Authority;
 - h. Reply to (g) by respondent;
 - i. Rebuttal (reply) by the appellant. Only the appellant is entitled to a rebuttal (reply).
41. “Rebuttal” or “reply” is the opportunity to respond to new issues during the hearing which the appellant could not reasonably have anticipated. It is not an opportunity to raise new issues or repeat submissions that have already been made.
42. A member of the Board will be the presiding officer for each meeting. The presiding officer will provide directions about who may speak and when. All submissions to the Board should be directed through that presiding officer.

Permitted Speakers

43. The *Municipal Government Act* lists the people who can speak at a hearing. Persons wishing to participate in a hearing may need to satisfy the Board that they fall within the categories of persons listed in the *Municipal Government Act*, specifically Section 680 (1) for Subdivision Appeals, and Section 687 (1) for Development Permit Appeals.

Scope of Appeals

44. In deciding an appeal, the Board can consider evidence and arguments which the Development Authority or Subdivision Authority did not consider in reaching its decision.
45. Parties should be prepared to speak to all planning aspects of the proposed development or subdivision or other matter before the Board, not just those issues identified in the notice of appeal.
46. The Board bases its decisions on relevant planning considerations. Parties should refrain from making submissions which do not relate to planning matters.

Language of Hearings

47. The Board’s hearings are conducted in English.
48. The Board does not provide interpreters. Parties may provide their own interpreters at their own expense.

Failure to Attend a Hearing

49. If a person fails to attend a scheduled hearing, the Board may decide the appeal in that person’s absence.

Adjournments

50. The Board may adjourn (suspend) hearings to continue at a later date. This may be done on the Board's own initiative or in response to a request by a party.
51. Requests for adjournments are not always granted. A party requesting an adjournment should attend the meeting in case the request is denied and the hearing proceeds.
52. Requests for adjournments must be made as early as possible and reasons must be provided. If the request is made before the hearing begins, it must be in writing.
53. If a party is opposing an adjournment request, reasons must be provided.
54. Adjournments are discretionary. When considering whether to grant an adjournment request, the Board may consider a number of factors including the reason for the request and the impact an adjournment may have on any of the parties involved in the appeal.

The Public Nature of the Hearing

55. The Board's hearings are open to the public.
56. The Board records hearings. Any person can request a recording of a Board hearing. Information about how to request a recording is available on the Board's website at www.calgarysdab.ca.
57. No one aside from the Board is permitted to videotape, photograph, or otherwise record the Board's hearings or the Board's hearing room except with the Board's prior permission.
58. At the end of the parties' submissions and at any other time during the hearing, the Board may meet privately to discuss the appeal.

Conduct During the Hearing

59. All persons interacting with the Board or participating in the hearing process are required to conduct themselves with courtesy and respect. Disruptive, disrespectful, or threatening behaviour will not be tolerated.

Concerns about the Board's Processes

60. Any concerns about the Board's hearing processes should be drawn to the Board's attention as soon as possible.

PART E: AFTER THE HEARING

Distribution of Board Decisions

61. The Board's decisions are published on the Canadian Legal Information Institute's website (www.CanLII.org). The Board sends copies of its decisions to the appellant, the applicant, the Development Authority or Subdivision Authority, and participants in the hearing who have requested a copy of the decision.

Re-Opening the Hearing

62. After the hearing closes, the Board will not accept any further submissions unless the Board re-opens the hearing, which may only be done at the Board's sole discretion in very limited circumstances.
63. The Board, in its sole discretion, may re-open the hearing at any time before it issues its written decision to seek clarification. This will be done with notice to all of the parties to the appeal.

Appeal of Board Decisions

64. The Board's decisions may be appealed to the Alberta Court of Appeal in accordance with the provisions of the *Municipal Government Act*. Parties considering such an appeal should seek legal advice promptly as there are strict deadlines for such an appeal.

Verbal Announcements of Board Decisions

65. The Board may verbally announce its decision at the end of the hearing. This is done as a courtesy only and is not a binding decision, and the Board's final decision may differ from this announcement.

Final Written Decision

66. The Board's decision is final when it is written, signed, and issued. Once this has happened, the Board has no more authority over the subject matter of the appeal.

PART F: OTHER MATTERS

Disclosure of Personal Information

67. The Board Report is available to the public. Parties should ensure that they are not including any personal information of any person unless it is necessary to the appeal.
68. The Board does not alter materials to be included in the Board Report such as by redacting (obscuring) personal information.
69. On a case-by-case basis, the Board will consider requests to redact (obscure) personal information from the version of the Board Report posted on the Board's website, but not from the official Board Report which is available for public viewing at the Board's office. Redaction requests must be made in writing and should be made as early as possible in the appeal process. If a redaction request is granted, reasonable efforts will be made to remove the material to be redacted, but the Board cannot guarantee redaction of all such materials.
70. The Board's decision may include personal information about the parties involved. Any requests for personal information to be redacted from the Board's decision must be made before or at the time of the hearing.
71. Redaction requests will be included in the Board Report.

Use of Previous Board Decisions

72. The Board is not bound by its previous decisions, nor are they generally persuasive because each appeal is decided based on its own merits and on the evidence, arguments, and circumstances of the case. Previous Board decisions may be relevant when an issue in an appeal involves a prior Board interpretation of a Bylaw or Statute.

Withdrawing an Appeal

73. An appellant may withdraw an appeal at any time before the Board issues its written decision. A notice of withdrawal of an appeal must be explicit and unconditional.
74. An appellant may withdraw an appeal verbally at the hearing. Outside of the hearing, notice of a withdrawal must be given in writing.
75. If an appeal is withdrawn before the hearing begins, the Board will refund the appellant's appeal fee. If the appeal is withdrawn after the hearing has started, refunds of the appeal fee are at the Board's discretion.

Communications with the Board

76. The Board will not communicate with the parties regarding an appeal outside of the hearing.
77. Parties shall not attempt to contact Board members to discuss an appeal outside of the hearing. Parties shall not approach Board members before, during, or after the hearing and should instead direct any inquiries to the Board's staff. Any response to such inquiries provided by the Board's staff is informational only and is not a decision of the Board or legal or other advice.
78. Parties must make reasonable efforts to copy any communications with the Board's staff to all parties involved in the appeal. Any response from the Board's staff will be shared with other parties and made available to the public.
79. If a party has provided an email address to the Board, the Board may use that email address to communicate with that party including when sending any notices, decisions, or other materials, unless specifically requested otherwise by that party.

Agents and Lawyers

80. A person may represent themselves in an appeal before the Board or may authorize an agent, lawyer or representative to represent them.
81. If a person is representing someone else, the Board may ask them to provide written authorization from the person they represent. This applies to any person acting as a representative of an individual, company, society, community association, or any other organization or group.

Other Resources

82. In addition to these Guidelines, parties are encouraged to consult other resources including:
- a. The Board's website at www.calgarysdab.ca;
 - b. Calgary's Subdivision and Development Appeal Board Bylaw; and

- c. The [Municipal Government Act](#), RSA 2000 c. M-26 as amended.