

APPLICATION REQUIREMENTS AND THE APPEAL PROCESS

How to apply for a hearing...

A request for a hearing before the Saskatchewan Building and Accessibility Standards Appeal Board:

- must be made in writing on the prescribed form
- can be made by an owner or owner's agent under Section 12 or 18 of *The Uniform Building and Accessibility Standards Act* (the UBAS Act)
 - under Section 12 - at the option of the owner
 - under Section 18 - within 15 days after service of the order on the owner
- must be accompanied by supporting documents such as design plans, as-built plans, specifications, copy of building official's order, copies of letters from the local authority (municipality), copy of building permit, or anything else to support the request for a hearing
- shall be submitted to the office of the Appeal Board (Building Standards of Saskatchewan Corrections and Public Safety) by personal, courier or mail delivery

How a request for a hearing is handled by Building Standards...

- staff will review the request to ensure it is complete and eligible for a hearing
- if the request is incomplete:
 - staff will notify the applicant that more information is required and that the request will not be considered as filed until it is complete
- if the request is ineligible:
 - staff will notify the applicant that the request does not qualify under the UBAS Act as the subject of a hearing before the Appeal Board
- if the request is complete and eligible:
 - staff will acknowledge receipt of the request
 - the date of the filing of the request shall be the latest date stamped on submitted documents
 - staff will schedule the hearing to be held within twenty-five (25) days of the date of filing of the request; staff will try to arrange for the hearing to be held in or near to the municipality where the subject property/building of the hearing is located, at a barrier-free location; the location and time of the hearing will be subject to the approval of the Chair of the Appeal Board
 - staff will notify all interested parties (Appeal Board, applicant, local authority) of the date, time and location of the hearing, not less than seven (7) days prior to the hearing; staff will send this notification to the applicant and local authority by registered mail
 - staff will, if required by the Appeal Board, send to the Appeal Board members copies of all submitted documentation relating to the matter prior to the hearing

- staff will, if required by the Appeal Board, investigate the subject of the hearing and prepare background documentation
- the applicant shall file with the office of the Appeal Board all additional plans and other written material that he/she intends to submit in support of their request not less than seven (7) days prior to the hearing

The Hearing...

- is open to the public
- the Appeal Board shall grant an opportunity to be heard to any party to the proceeding and may grant an opportunity to be heard to any other person who may request permission to appear before the Appeal Board, and a person appearing before the Appeal Board may be represented by counsel
- a building official whose order pursuant to Section 17 is the subject matter of an appeal shall have the opportunity to be heard, or at the request of the Appeal Board, shall appear and present such evidence as may be required by the Appeal Board
- the Appeal Board and any party to the hearing may call witnesses
- where any person appearing before the Appeal Board calls a witness, that person shall pay all expenses thereof
- witnesses may be sworn in prior to testifying
- the Appeal Board may adjourn any matter before it, on its own motion or in its discretion at the request of a party
- where any matter arises during the course of any proceedings before the Appeal Board, the Appeal Board may do all things necessary to enable the Appeal Board to effectively and completely adjudicate on and settle any question involved

Appeal Board decisions and notifications...

- the Appeal Board shall consider the matter and render its decision in writing, within thirty (30) days of filing of the request
- the decision shall be a decision of the majority of the Appeal Board members at a hearing
- the decision shall be in writing signed by the Chair or his/her designate
- copies of the decision shall be sent to the parties to the proceeding and to all persons appearing before the Appeal Board within ten (10) days after the date on which the decision was rendered

EXCERPTS FROM *The Uniform Building and Accessibility Standards Act* REGARDING THE APPEAL BOARD

2(1)(b) “appeal board” means the Saskatchewan Building and Accessibility Standards Appeal Board continued pursuant to section 6(1);

6(1) The Saskatchewan Building and Accessibility Standards Appeal Board is continued consisting or not more than eight persons who are residents of Saskatchewan appointed by the Lieutenant Governor in Council.

6(1.1) A member of the appeal board:

- (a) holds office at pleasure and until a successor is appointed; and
- (b) is eligible for reappointment.

6(2) The appeal board shall:

- (a) hear and determine appeals made pursuant to section 12 or 18;
- (b) advise the minister on matters concerning the administration of this Act and the regulations; and
- (c) perform any other duties that the minister may direct.

6(3) The Lieutenant Governor in Council shall designate a chairman, vice-chairman and secretary to the appeal board.

6(4) The chairman, or in his absence the vice-chairman, shall preside at the meetings of the appeal board, or if both the chairman and vice-chairman are absent, the chairman shall designate a member of the appeal board to preside at the meetings of the appeal board.

6(5) The chairman, vice-chairman or member presiding at a meeting of the appeal board has a casting vote in the event of a tie vote with respect to any issue or question to be determined by the appeal board.

6(6) Three members of the appeal board constitutes a quorum.

6(7) The appeal board may establish rules of procedure respecting the hearing of appeals before it and has the powers of commissioners pursuant to *The Public Inquiries Act*.

6(8) The Lieutenant Governor in Council may make regulations:

- (a) prescribing the amount of a deposit required for an appeal to the appeal board;
- (b) governing recourse to a deposit required for an appeal;
- (c) governing the refund of a deposit or any part of a deposit required for an appeal.

12(1) An owner of a building or proposed building may apply to the appeal board for an order exempting the owner from compliance with all or part of the accessibility standards by:

- (a) filing a written notice of the application with the chief building official;
- (b) submitting to the chief building official all substantiating information considered necessary by the chief building official; and
- (c) placing a deposit in the prescribed amount with the chief building official.

12(2) Within 30 days after all of the things described in clauses (1)(a) to (c) have been done, the appeal board shall conduct a hearing, consider the matter and render its decision in writing.

12(3) The appeal board may grant an order exempting the owner of a building or proposed building from compliance with all or any part of the accessibility standards to the extent and on the conditions that the appeal board considers necessary where the appeal board is satisfied that:

- (a) compliance with the accessibility standards would cause the owner undue hardship;
- (b) compliance with the accessibility standards would prevent optimum utilization of land by the owner;
- (c) compliance with the accessibility standards is, in the opinion of the appeal board, impractical or inappropriate; or
- (d) a proposal submitted by the owner will provide accessibility that is equal to or better than that which is required or intended by the accessibility standards.

12(3.1) An order pursuant to subsection (3) must be in writing and must be served on the owner by registered mail addressed to the owner at his or her last known address.

12(4) Within 30 days after service of the order, an owner aggrieved by the order may appeal the order to a judge of the court on a question of law alone.

12(5) The decision of a judge pursuant to subsection (4) is final.

18(1) An owner of a building may appeal an order made pursuant to section 17 within 15 days after service of the order on the owner by:

- (a) filing a written notice of the appeal with the chief building official;
- (b) submitting to the chief building official all substantiating information considered necessary by the chief building official; and
- (c) placing a deposit in the prescribed amount with the chief building official.

18(2) Within 30 days after all of the things described in clauses(1)(a) to (c) have been done, the appeal board shall conduct a hearing, consider the matter and render its decision in writing.

18(3) On an appeal of an order made pursuant to subsection 17(1) or (2), the appeal board shall make an order:

- (a) confirming the order appealed against where the appeal board is satisfied that compliance with the order would result in compliance with the building standards or the accessibility standards; or
- (b) revoking or varying all or any part of the order appealed against where the appeal board is satisfied that:
 - (i) compliance with the order would not result in compliance with the building standards or the accessibility standards; or
 - (ii) a proposal submitted by the owner will result in conditions that are equal to or better than those that are required or intended by the building standards or the accessibility standards.

18(4) On an appeal of an order made pursuant to subsection 17(3), the appeal board shall make an order:

- (a) confirming the order appealed against where the appeal board is satisfied that the building official's order was reasonable in the circumstances;
- (b) revoking the order appealed against where the appeal board is satisfied that the order was not necessary to bring about compliance with the building standards or the accessibility standards; or
- (c) varying the order appealed against where, in the opinion of the appeal board, sufficient cause is established.

18(5) On an appeal of an order made pursuant to subsection 17(4), the appeal board shall make an order:

- (a) confirming the order appealed against where the appeal board is satisfied that an unsafe condition exists and that the steps prescribed in the order are necessary to eliminate the unsafe condition;
- (b) revoking the order appealed against where the appeal board is satisfied that:
 - (i) an unsafe condition does not exist; or
 - (ii) the steps prescribed in the order are not necessary to eliminate the unsafe condition; or
- (c) varying the order appealed against where, in the opinion of the appeal board, sufficient cause is established.

18(6) An order pursuant to subsection (3), (4) or (5):

- (a) may be made subject to any conditions that the appeal board considers necessary;
- (b) must be in writing; and
- (c) must be served on the owner by registered mail addressed to the owner at his or her last known address.

19(1) Within 30 days after service of an order of the appeal board pursuant to section 18, an owner aggrieved by the order may appeal the order to a judge of the court on a question of law alone.

19(2) The decision of a judge pursuant to subsection (1) is final.

20(1) Unless otherwise ordered by the appeal board, an appeal pursuant to section 18 does not operate as a stay of the order of a building official.

20(2) Unless otherwise ordered by a judge of the court, an appeal pursuant to section 19 does not operate as a stay of the decision of the appeal board.