



# PROPERTY ASSESSMENT APPEAL BOARD

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## **GUIDELINES AND EXPECTATIONS FOR APPEAL MANAGEMENT OF COMMERCIAL AND INDUSTRIAL APPEALS** **APRIL 2015**

The purpose of these Guidelines is to provide direction to the parties for the management of appeals in order to increase the number of appeals that can be resolved before the end of 2015. The Board continues to expect parties to work towards having as many appeals resolved as possible before the end of the calendar year and will utilize the various tools available in the Rules toward that end.

These Guidelines are intended to apply to “typical” commercial and industrial appeals where the property owner is represented by a tax agent or “in-house” personnel with similar expertise. For appeals that are more complex, the Board may need to engage in appeal management over an extended period, as it may not be realistic to expect that the appeals can be resolved before the end of the year. The parties are asked to assist the Board with identifying complex appeals early on so that an appropriate appeal management plan can be developed.

The Board’s target is to have 75%-85% of the 2015 commercial and industrial appeals resolved or scheduled for hearing by March 31, 2016. To that end, the Board will provide agents and area offices with reports showing the number of appeals completed and outstanding, and the status of outstanding appeals at the end of July, in mid-October and in mid-December, 2015. The Board may also provide more frequent reports and other statistical information. The Board may remove any portfolio from self-management if concerned there is a likelihood the target for completion may not be met.

### **“Self-Managed” Appeals**

Agents/taxpayers and area assessment offices may agree to “self-management” plans for the management of a portfolio of appeals. However, it is in the Board’s discretion as to whether appeals will be self-managed.

Agents are asked to identify any appeals that they do not see as appropriate for self-management as soon as possible before providing a self-management plan so that AMC’s may be scheduled for these appeals.

### **Road Maps or Self-management Plans**

Appellants should provide a proposed road map for self-managed appeals as soon as possible but no later than May 31. The plan or map must set out the dates for appeal activities including, at a minimum, dates for:

- Production of relevant documents and information;
- In person meetings;
- Equity PVS production;
- Production of SIEA’s; and
- Status reporting (either dates or reporting frequency)

As soon as possible following receipt of a proposed road map, and no later than June 15, the Assessor should indicate agreement or disagreement with the appeals to be included in the self-management plan and the proposed dates. In the event of disagreement as to either the appeals to be included in a self-management plan or the proposed dates, the Assessor should submit a proposed revised road map. If the parties do not agree on a self-management plan, the Board will schedule AMC's.

Unless otherwise agreed, self-management plans or road maps will set out appeal activities within the **outside** dates set out below:

Activity	Outside dates*
Road map from Appellant	May 31
Acceptance or revisions to map from Assessor	June 14
Equity PVSs provided	June 21
Production of relevant docs and info	July 31
SIEA from Appellant	Sept 30
SIEA from Assessor	<ul style="list-style-type: none"> <li>• within 60 days if Appellant SIEA by Aug 15</li> <li>• Dec 15 (if Appellant SIEA not until Sept 30)</li> </ul>

\*Wherever possible, parties should strive to complete activities in advance of these outside dates.

The Board may remove appeals from self-management where these deadlines are not met.

### Exchange of Information

All relevant documentation and information, including the provision of equity PVS's, should be exchanged no later than July 31, unless mutually agreed by the parties and the Board. Wherever possible, parties should aim to have equity PVS's provided by June 21.

Parties should alert the Board to any contested requests for information, so that the Board may schedule an AMC to deal with any issues. The Board may agree to have an appeal return to self-management if appropriate following any required Board interventions to deal with particular issues as they arise.

### Statements of Issues, Evidence and Analysis

An Appellant road map should set dates for the provision of SIEA's in each self-managed appeal no later than September 30. Wherever possible, Appellant's SIEA's should be provided in advance of September 30. Where September 30 is the agreed date in a road map for the provision of an Appellant's SIEA, the Assessor's SIEA will be provided no later than December 15, and wherever possible, in advance of that date. If an Appellant's SIEA is received by August 15 or earlier, the Assessor's SIEA will be provided within 60 days of receipt of the Appellant's SIEA.

Unless otherwise arranged with the appeal manager, the parties should provide copies of their SIEA's to the Board.

If following SIEA exchange, equity or other issues beyond those initially raised are introduced, the appeal will come out of self-management and the Board will schedule an AMC to ensure closure of issues.

### Status Reports

Road maps should include dates or frequency for status reporting to the Board. Parties are asked to ensure the Board is advised in a timely manner when agreed dates are not being met or if problems arise in the self-management of any appeal. The Board expects Appellant Agents to take primary responsibility for status reporting in self-managed appeals. The expected minimum content for status reports are set out below under the General Appeal Management Guidelines. Parties may use a spreadsheet for providing status reports for large portfolios of appeals as long as the required content is included. If status reporting is deficient or late, the Board may remove appeals from self-management.

### Extension requests

If a party requires an extension to a date agreed in a road map, a request for the extension should be made in advance of the deadline.

### Removal from Self-management

Either party may ask the Board to remove an appeal from self-management if road map timelines are not complied with. If a party intends to opt out of self-management, they should give the other party courtesy notice to allow for possible rectification of any problem. The Board may remove appeals from self-management if self-management plans are not adhered to or if concerned that appeals are not progressing in a timely way.

### Non-Self-managed Appeals

For non-self-managed appeals, at the initial AMC, parties should be prepared to identify in a preliminary way the issues in an appeal and deal with disclosure and production issues. The parties should endeavour to ensure the production of "routine", non-controversial, relevant information whenever possible **in advance** of the first AMC. The Board will set dates for the completion of various appeal activities. If there has been little or no discussion of the issues by the parties, or if the appeal manager believes it will assist in resolving appeals, the Board will likely require production of SIEA's.

For AMC's dealing with a portfolio of appeals, parties should be prepared to "triage" appeals into those that likely will settle without a great deal of Board involvement or process and those that will likely require more involvement or process. At the initial AMC, the parties and the Board can make decisions respecting continued group management and the timing of process towards resolution.

## **Appeal Management Generally**

The following guidelines and expectations apply whether appeals are self-managed or not.

### **Communicating with the Board in an Appeal**

As required by the Board's Rules, when communicating with the Board, **include the Appeal Number on all correspondence**. All correspondence to the Board, whether by letter, fax, or e-mail, **must be copied to the other party or parties**.

### **Appeal Management Conferences**

While the Board may conduct AMC's informally where all parties are equally familiar with the Board's processes, the Board will not be as inclined to informality when parties may not be familiar with its processes. Parties are reminded that they should not address the Board in a familiar manner in circumstances that may give rise to any concerns by the other party about the independence or neutrality of the Board.

### **Confidentiality, "prejudice", and SIEA's**

SIEA's serve two purposes. The first is to clearly and comprehensively identify the issues so as to provide closure on issues. A party may not add an issue to an appeal after SIEA's are filed by all parties without leave of the Board. The identification of issues is "with prejudice".

The second purpose of a SIEA is to advance the settlement process by providing disclosure of a party's potential evidence and analysis. A SIEA is intended to encourage meaningful settlement discussions. As a settlement-like process, discussions are confidential and are on a without prejudice basis. The summary of evidence, analysis and legal principles are without prejudice to what a party may present in adjudication. The recommendation for the disposition of the appeal provided in a SIEA is, likewise, without prejudice. The panel member designated to hear an appeal will not be privy to any without prejudice portions of a SIEA unless the party providing the SIEA consents or in circumstances where an appeal manager or settlement conference facilitator is designated as a panel member to hear the merits of an appeal with the parties' consent.

Settlement Conference confidentiality attaches to evidence, including documents provided with the SIEA. Evidence produced with a SIEA may not be used by the other party in the adjudication of an appeal without a party's consent or an order of the Board. The Board may order the production of any document or information that may be relevant to an issue in an appeal. If the Board orders a party to produce documents or information to another party, and does not order that the production is subject to confidentiality, the document or information may be submitted by any party in the adjudication of an appeal. It is up to the panel hearing an appeal to rule on the admissibility of any evidence submitted.

## Status Reports

Where the parties are required to provide a Status Report by a particular date, the Status Report should include the following information:

- Status of information exchange indicating whether relevant information has been produced or is outstanding;
- Status of issue identification, including a summary of the issues;
- Whether appeals or issues within an appeal are resolved or outstanding;
- Proposed next steps with dates.

Where there are outstanding information requests or issues around production of information, the Status Report should provide details and the Board will schedule an AMC to deal with the production issues.

Where the parties do not provide a Status Report as required, or provide a Status Report that is lacking in detail, the Board may intervene and may make orders or schedule an AMC.

## Non-compliance

If timelines for the production of information or identification of issues are not met, the parties should expect the Board to intervene. If parties anticipate that they will not be able to meet a timeline, they are expected to apply for an extension and provide reasons for requiring an extension in advance of the deadline.