



PROPERTY ASSESSMENT APPEAL BOARD

# Stakeholder Forum

April 8, 2022



# Zoom Instructions

- Please mute your microphones unless you wish to speak
- We are not recording the Forum and ask that no one else records
- If you have a question or comment, try to use the chat function. The Board is monitoring the chat for questions or comments. We will periodically be reviewing the questions/comments and address them throughout the presentation
- If you have any technical issues during the session, please contact us at [office@paab.bc.ca](mailto:office@paab.bc.ca)



# Territorial Acknowledgement

The Board gratefully and respectfully acknowledges that our work spans across the traditional territories of 198 First Nations and 98 Métis chartered communities in British Columbia.

Our offices are located on the traditional and unceded territories of the Musqueam, Skwxwú7mesh, and Tsleil-Waututh First Nations.



PROPERTY ASSESSMENT APPEAL BOARD

# Welcome and Introductions



# Agenda

1. Welcome and Introductions
2. Update & Report on 2021 Activities
3. Board's Role and Jurisdiction
4. 2022 Appeal Management
5. Stakeholder Questions
6. Wrap up & Closing



PROPERTY ASSESSMENT APPEAL BOARD

# Update & Report on 2021 Activities



## PROPERTY ASSESSMENT APPEAL BOARD

Target		Result
2021 commercial and industrial appeals	Complete or set for hearing 75 to 85% of appeals by Mar. 31, 2022	<b>79%</b>
2021 residential appeals	Complete or hear 90 to 100% of appeals by Dec. 31, 2021	<b>97%</b>
Decisions following a hearing	Issue decisions (on average) within 60 days	<b>55</b>
Appeal resolution without a hearing – 90% or greater	90% or greater	<b>96%</b>



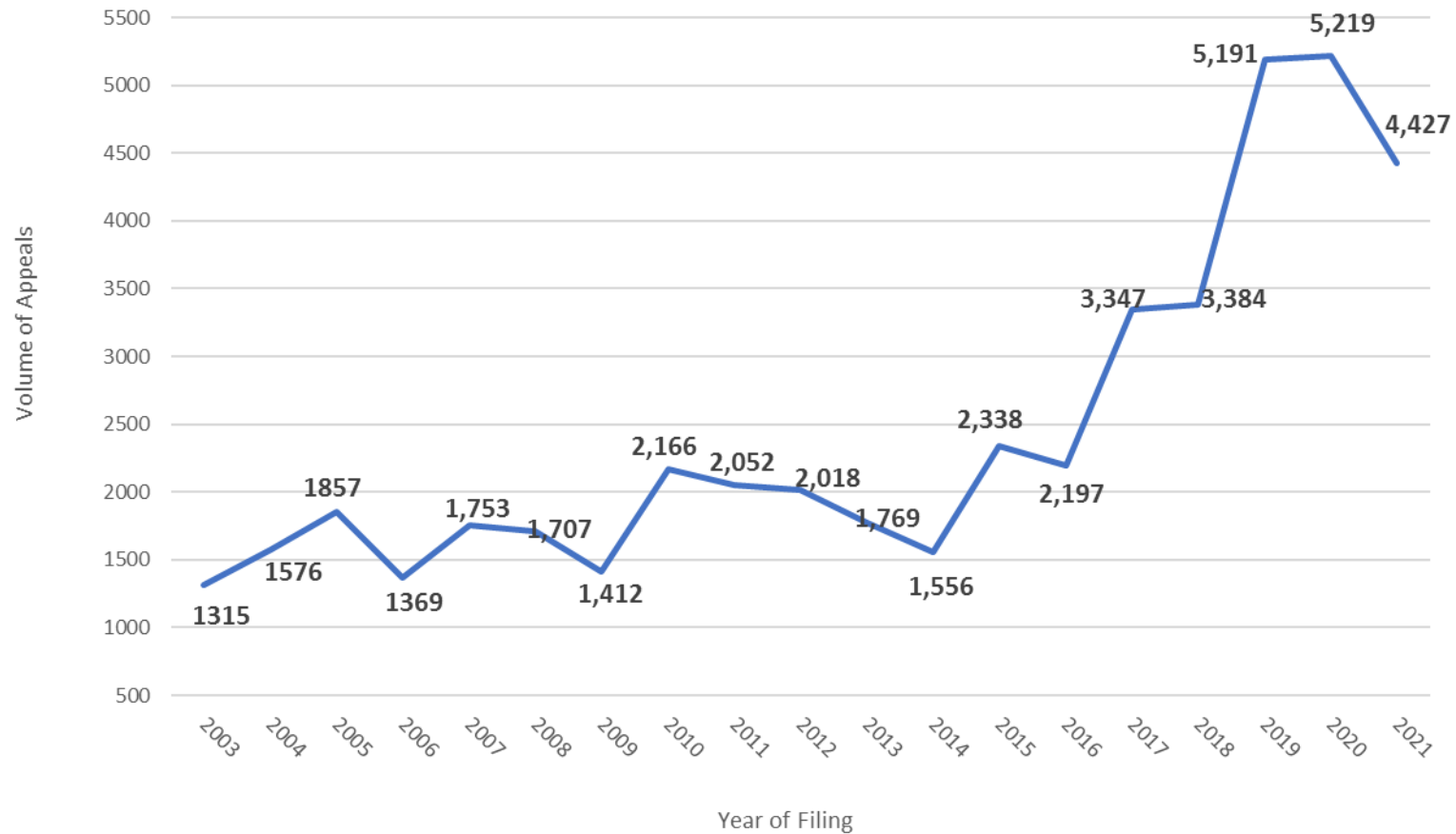
## PROPERTY ASSESSMENT APPEAL BOARD

<b>Activity</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>
New appeals received in year	4,427	5,219	5,191
Carry over from earlier years	3,882	3,325	1,891
Total appeal workload	8,309	8,544	7,082
Appeals completed during the year	5,225	4,662	3,757
# and % of appeals resolved without a hearing	4,994 (96%)	4,387 (94%)	3,522 (94%)



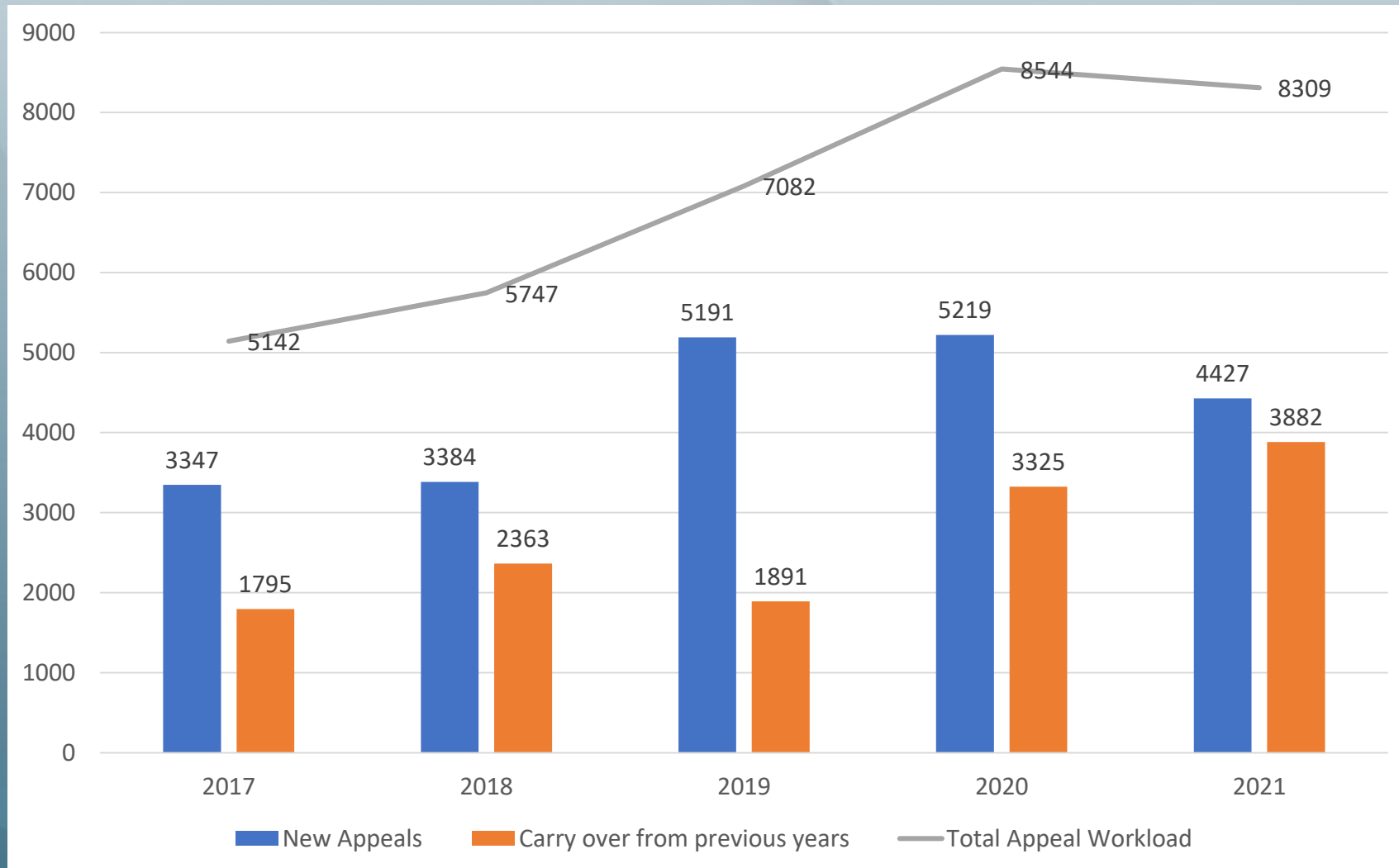


# Volume of New Appeals



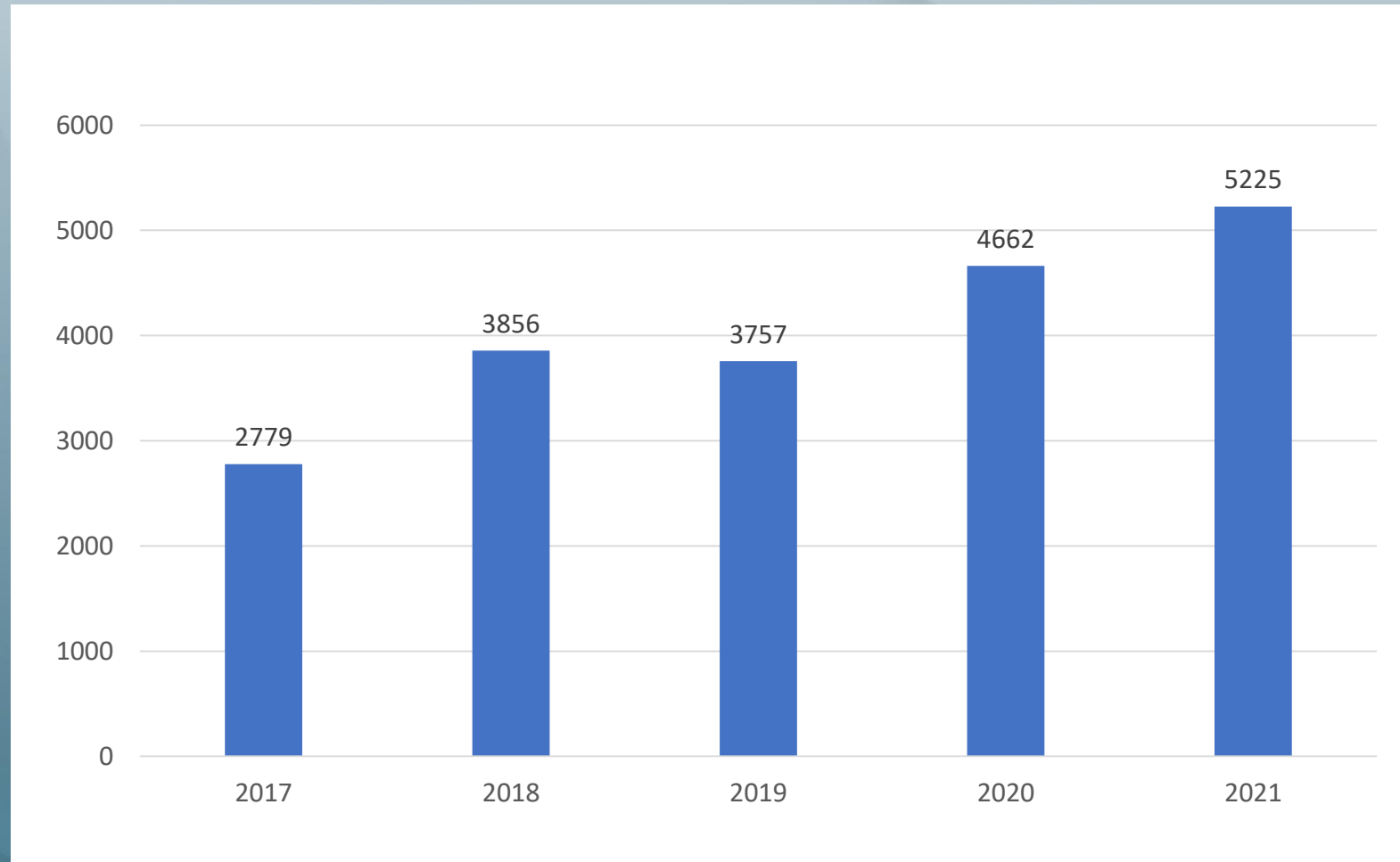


# Total Appeal Volume



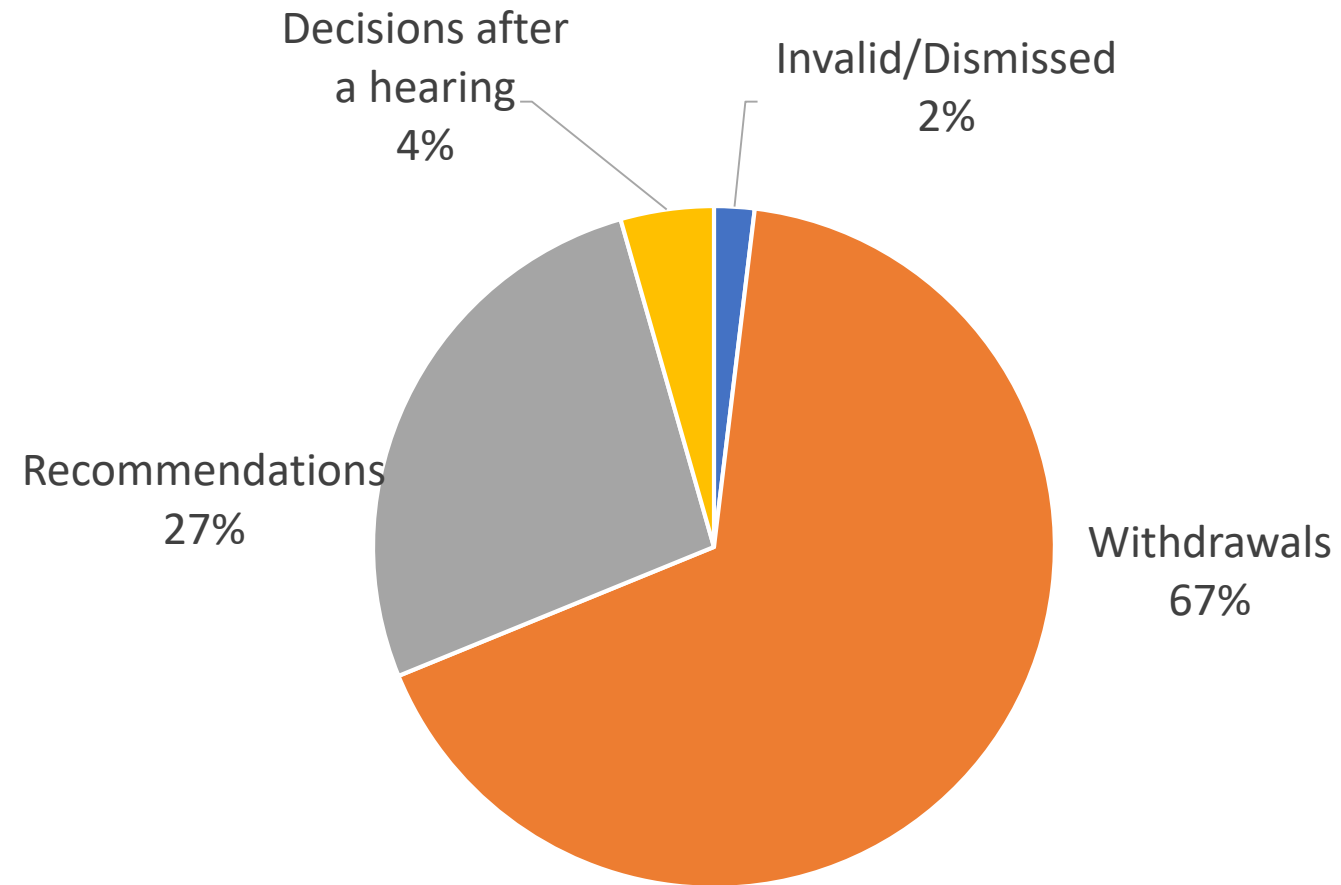


# Total Appeal Completions



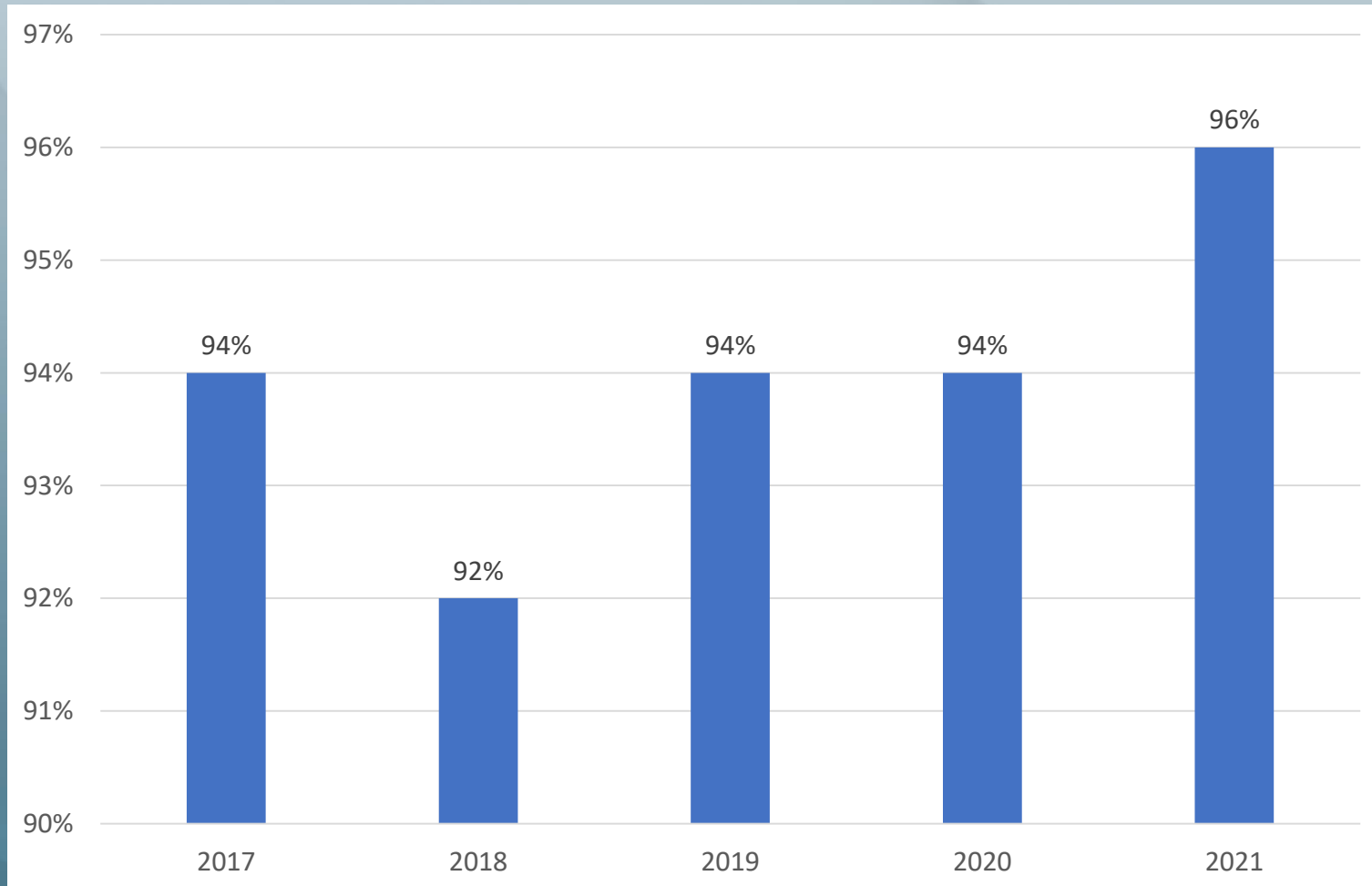


# Method of Completion



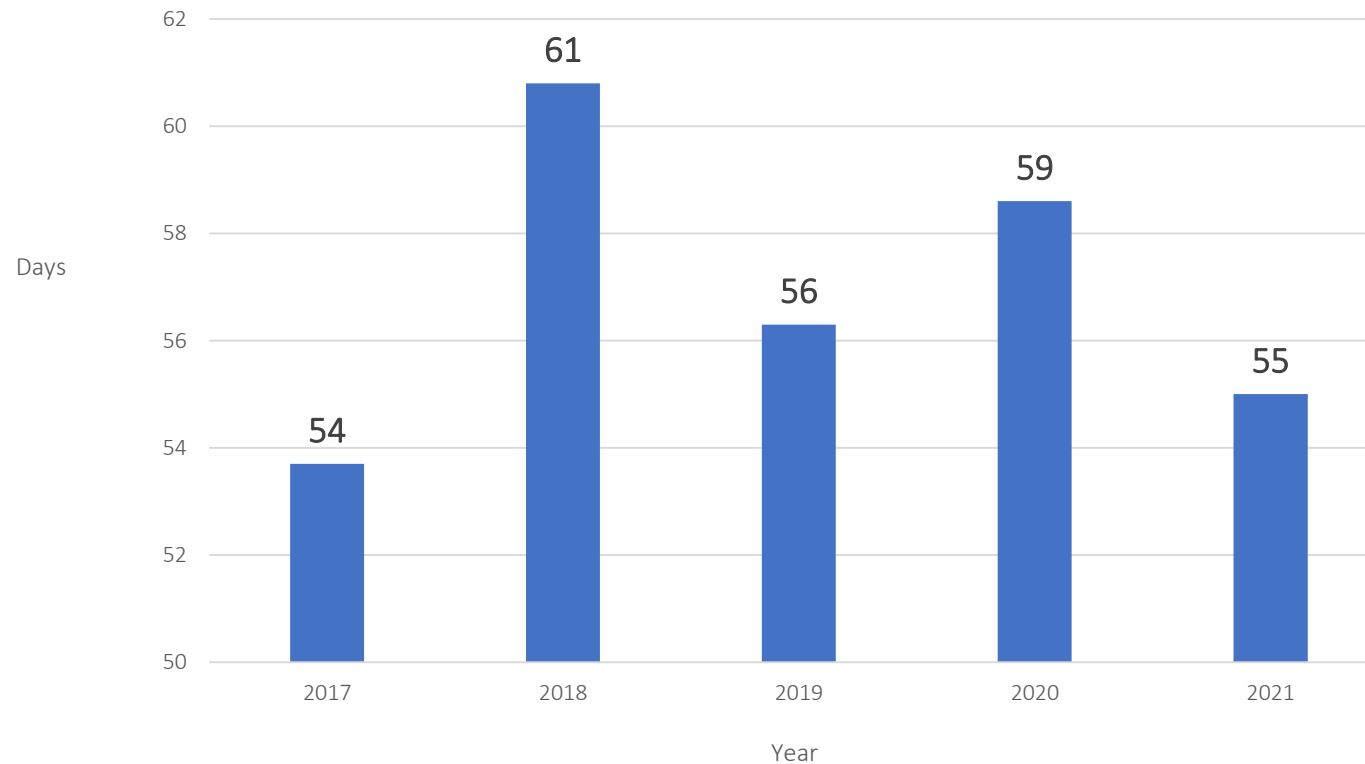


# Appeals Resolved Without a Hearing



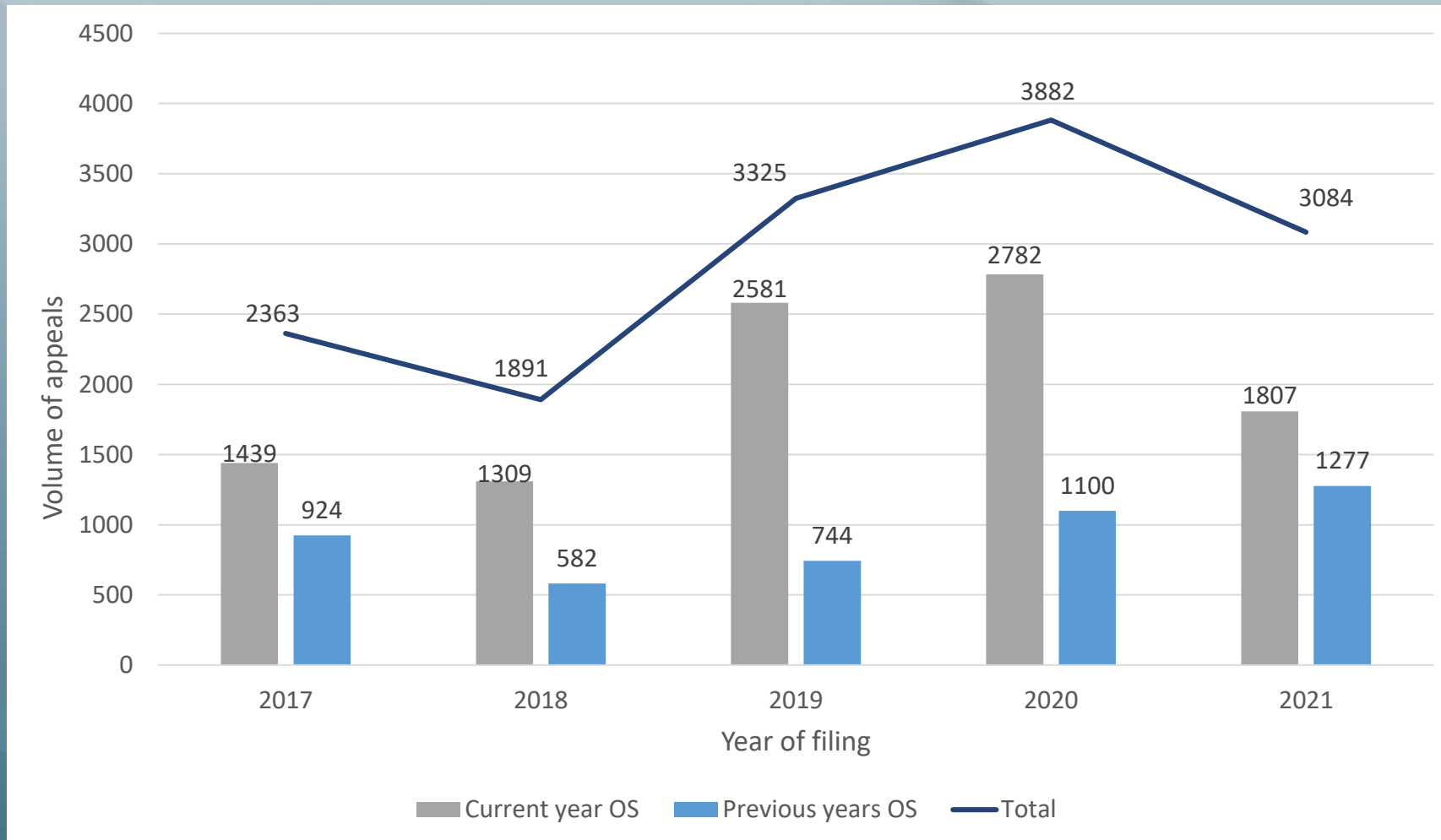


# Average Number of Days from Hearing to Decision





# Status of Outstanding Appeals (Current year Vs. Previous years)





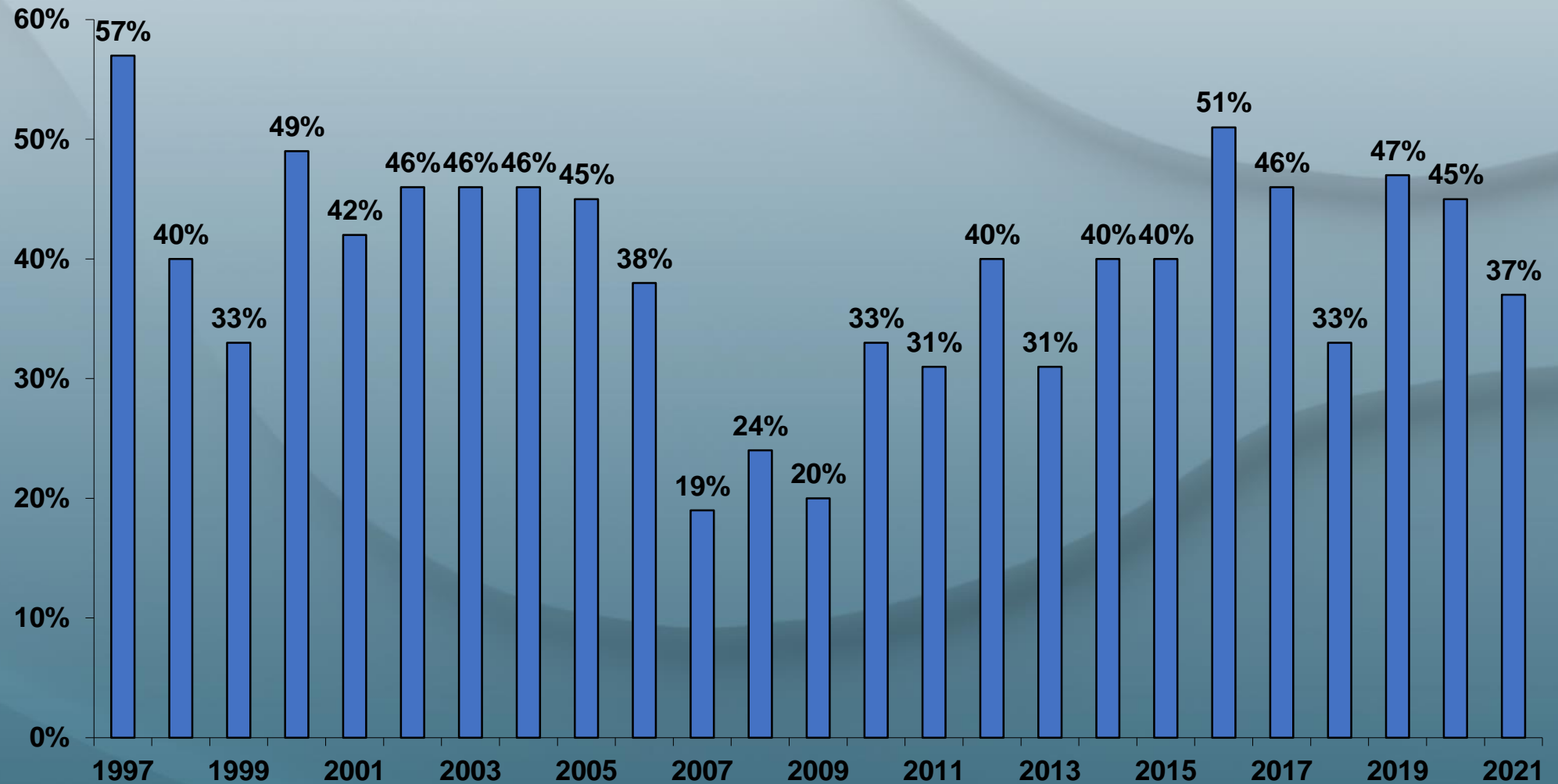
# Status of Outstanding Appeals

Year	Total Outstanding Appeals - Prior Years	Pending Board/Court Decision - Prior Years	Total Outstanding Vs. Pending Decision
2021	1,277	871	68%
2020	1,100	565	51%
2019	744	266	36%



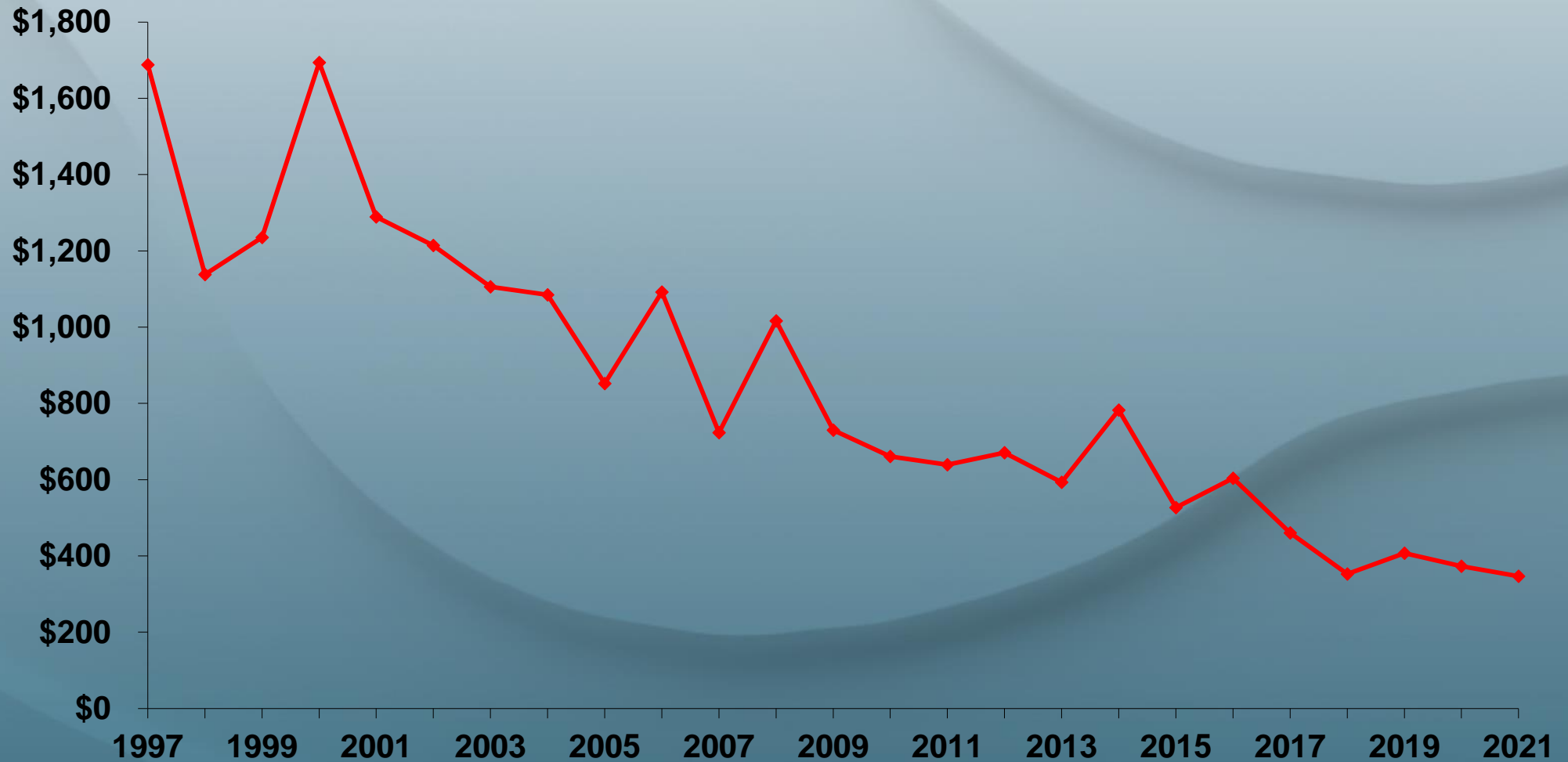


# Percentage of Outstanding Appeals - Historic





# Cost per Completed Appeal





# Key Performance Indicators

## Targets for 2022:

1. To complete or schedule for hearing, by March 31, 2022, 75 to 85% of the active 2021 commercial and industrial appeals.
2. To complete or hear, by December 31, 2022, 90 to 100% of the 2022 residential appeals.
3. To issue written decisions within 60 days (on average) of a hearing.
4. Appeal resolution without a hearing, 90% or greater



PROPERTY ASSESSMENT APPEAL BOARD

# Board's Mandate & Jurisdiction



# The Property Assessment System

- *Assessment Act* (the *Act*): provides for an annual assessment roll for the purpose of levying property taxes by local governments and other taxing jurisdictions in the following calendar year.
- Section 19(2): Assessor must determine and enter on the assessment roll the actual value of land and improvements.
- For this purpose, BC Assessment uses a mass appraisal approach that involves the collection and analysis of market data to generate through computer modeling an estimate of value.
- This changes when an appeal is filed and properties are individually reviewed and valued at which point valuation evidence specific to the appealed property is presented.



# Reviews of Property Assessments

4 Levels of review of property assessments in system:

- BC Assessment informal pre-roll and pre-PARP consultation: Property owners and third parties who have a complaint against the property assessment are encouraged to work with BCA staff to address concerns prior to filing a formal complaint. Not mandatory.
- PARP: Formal complaints against the property assessment roll are first heard by PARP. PARP's purpose is to ensure that: assessments reflect actual values (market value); assessments are applied consistently within a municipality or rural area.
- PAAB: Any person not satisfied with a decision of PARP may file an appeal to PAAB. The role of PAAB in relation to property assessment is to determine whether: the property is assessed at actual (market) value; the property is properly classified; or an exemption from property taxation applies. PAAB is independent of both the Property Assessment Review Panels and BC Assessment.
- Courts: Affected parties can appeal to the Courts. An appeal can only be made on a question of law and is known as a "stated case".



# Purpose of the Property Assessment Appeal System

- To provide a final check on accuracy and fairness of the assessment roll to determine whether there is evidence to support the roll or evidence to support a change to the roll.
- These reviews must be effective and fair, but also efficient and timely in the context of an annual roll.
- The Board's role in the system is to be a rigorous check on the assessment roll and an independent, neutral arbiter of appeals.



# Objectives of the Assessment Appeal System:

*Morguard Investments Inc. v. Assessor of Area #12 2006 BCCA 24:*

*“There is no doubt that two of the general objectives of the assessment and appeal scheme it incorporates are efficiency and certainty in the preparation of the assessment roll. However, they are not the only objectives. Two other clear policies of the [Act](#) are, to use a colloquial expression, to “get it right” and to have as open a process as possible. Presumably this is why the [Act](#) provides wide rights of appeal to those who may have information or arguments that the assessing authorities may not have considered or properly reflected in their decisions.... Moreover, there are various opportunities for delay in the assessment and appeal proceedings, notwithstanding the “timelines” specified in the [Act](#). [Section 57\(5\)](#), for example, provides that the assessor must enter any reassessments ordered under [s. 4](#) on a supplementary assessment roll, notwithstanding a twelve-month “deadline” imposed by [s. 12\(6\)](#). With respect to decisions of the Board, [s. 61](#) provides that the Board must issue its decision “at the earliest opportunity”, no doubt recognizing that it would be virtually impossible to impose a time limitation for this purpose. The Act does not specify any time within which notice of its decision must be given under [s. 62](#). Further, [s. 65\(6\)](#) provides that on a stated case, the Court must hear and determine it within two months; but non-compliance with that provision is unlikely to affect the validity of the appeal or the Court’s decision. ...All of these instances suggest that the **openness of the process and the full availability of rights of appeal may be as important legislative objectives as efficiency and finality in the statutory assessment scheme.**” (emphasis added)*





# The Property Assessment Appeal System

1. Property Assessment Review Panels are the first level of appeals.
  - Given the short legislated time frame and the volume of appeals, the Review Panels provide a relatively effective mechanism for correcting obvious errors in the roll and provide very expedited and summary adjudication of other disputes. The Review Panels are not well equipped to deal with complex appeals, in part, because of legislated time constraints.
  - Sec. 40 of Act: the complainant has the onus of proof before Review Panel



## Board's Mandate in Property Assessment System

2. The Board is the second level of appeals:
  - ensures assessments are accurate and consistently applied in the taxing jurisdiction – section 57 or “get it right”
  - Has an Inquisitorial jurisdiction
  - provides timely, efficient and cost effective resolution of appeals, including complex valuation and legal issues.



## Board's Public Interest Purpose

- Government, as the authority responsible for assessment, must protect individual's rights to a fair assessment.

The Board functions as a quasi-judicial audit of assessment integrity:

- Appeals to the Board provide an opportunity for a fair and impartial review of property assessments, independent of the Assessor and of government, providing property owners, the public, taxing jurisdictions and government with assurance that property assessments are made in accordance with the legislated directions.
- Taxpayers' acceptance of the integrity and accuracy of the assessment system requires an opportunity to appeal to an expert, independent tribunal, which will act fairly and consistently.

This **independent** review:

- protects the rights of individuals, the public and local governments to fair, accurate, impartial and timely assessments,
- provides a transparent, accessible and affordable alternative to the courts, and
- promotes confidence in the integrity and accuracy of the assessment roll.



## Key Stakeholders of Property Assessments:

- Property owners (individuals and corporations, including various provincial and local government entities) who pay taxes based on their property assessments
- Assessors, responsible for making the assessment, and the Assessment Commissioner, responsible for overseeing all BC assessments.
- Private sector property tax agents, who represent property owners.
- Local government/taxing jurisdictions, who use the assessments as the tax base against which property taxes are levied.
- The public, generally, in the fair allocation of property taxes in accordance with the government's policy direction.
- The government, as the policy making body.



## Why does the Board rely on Appeal Resolutions?

In 1998, and with stakeholder input, the Board underwent significant structural and operational changes because of increasingly adversarial processes leading to long, drawn out, costly hearings that resulted in significant appeal backlogs:

Changes included:

- Legislative amendments to provide clear powers and authority for case management and alternative dispute resolution, and to permit sanctions for non-compliance
- Implementing pro-active case management and alternative dispute resolution processes to resolve appeals without formal hearings when appropriate
- Merit-based Board appointments of members with in-depth expertise and knowledge of property valuation and assessment and administrative law
- On-going stakeholder consultation



## Board's Current Processes

The Board facilitates the earliest possible resolution of appeals, increasing the certainty of the property assessment roll and reducing the risk to property owners and local governments. The key strategies employed to accomplish this include:

- Re-directing the parties' focus and efforts from an adversarial hearing process to a collaborative approach to resolving appeals, without a hearing if possible, while ensuring compliance with the statutory requirements of accuracy and equity.
- Expanding appeal management to include all appeals, to provide greater opportunity for the parties to work toward resolution without a hearing, or if that is not possible, for orderly and efficient hearings.



# Board's Mandate

## The Board:

- ensures assessments are accurate and consistently applied in the taxing jurisdiction – section 57
- focuses on complex valuation and legal issues of broad application and local significance
- uses transparent and accessible processes, balancing the need for early roll certainty with the need for measured consideration
- provides a fair, open, flexible and affordable process to hold BC Assessment Authority accountable for its assessments
- ensures public confidence in the assessment roll and property tax base so that taxpayers can be assured their taxes are proper and fair



# Board's Inquisitorial Jurisdiction

Section 57: can reopen property's entire assessment to ensure actual (market) value & equity

=

- *De Novo Appeals*
- No onus of proof on a party

Legislative rationale for this jurisdiction: to provide a final, independent check on the assessment roll and to determine whether there is sufficient evidence to support the roll or a change to the roll based on enumerated grounds. This check must be effective and fair, but also efficient and timely in the context of an annual roll.





# Board's Inquisitorial Jurisdiction

## Effect of Inquisitorial Jurisdiction on Board Processes:

- De novo appeal - can add issues not raised at first level or as a ground of appeal
- Dismissal -only dismiss for non-compliance of a Board Order (sec. 18 of ATA) NOT for lack of evidence and subject to common law principles of fairness and natural justice
- Costs – Rule 21: if a party's conduct is “frivolous, vexatious, egregious or an abuse of process”, or has “unreasonably delayed or lengthened the proceeding or failed to comply with a direction or order of the Board”
- Evidence: The Board can not rely on onus of proof to dismiss appeals or confirm assessments (ie the appellant has not provided sufficient proof of an inaccuracy). Rather, once it has opened the entire question of the assessment and if there is evidence that the assessment is more likely than not inaccurate, the Board must amend



PROPERTY ASSESSMENT APPEAL BOARD

# 2022 Appeal Management



# Residential Appeal Management Guidelines

Residential Target: To complete or hear 90- 100% of 2022 residential appeals by December 31, 2022

Includes: SFD, condominiums, residential strata, recreational residential properties, farm class appeals (includes any agent filed appeals)

- ▶ Will receive early registration
- ▶ Appellants will receive the option of ODR or telephone AMC
- ▶ If by telephone, the appeal will receive one AMC
- ▶ If the appeal does not resolve in ODR or in the AMC, it will be scheduled for written submissions unless there are issues of language, literacy or complicated appraisal/legal issues



# ICI Appeal Management Guidelines

Target: To complete or hear 75- 85% of 2022 Commercial and Industrial appeals by March 31, 2023

- General expectations of the Board in [Further Guidelines & Expectations for Appeal Management of Commercial & Industrial Appeals](#);
- Expectations on parties:
  - Work in collaborative, non-adversarial manner
  - Triage appeals
- Appeal manager has discretion to institute detailed appeal management plan



# ICI Appeal Management Guidelines – 3 Phases

## Phase 1 - Determining how assessment of the appealed property was arrived at:

1. The Property Valuation Summary (“PVS”) of the appealed property:

Practice Directive No. 2 “Disclosure Expectations in the Management of Commercial Appeals” (or “PD2”):

- BCA will provide to an appellant or their agent a copy of the PVS (or its equivalent) for the property appealed as soon as possible OR NO LATER THAN 14 DAYS FROM NOTIFICATION OF APPEAL, if not already produced
- 2. More detailed information or information not contained in the PVS:
  - For individual appeals, appellants or their agent can request an order from the Board that that the assessor to provide the PRC or equivalent subject to the *Berg* and *Mason* decisions, which order the Board can issue expeditiously.



# ICI Appeal Management Guidelines

## Phase 2 - Relevant Information should be Exchanged Prior to Issue Closure:

[Practice Directive No. 2](#): for the exchange of standard relevant information prior to issue closure (which disclosure should be no later than August 22).

### 1. Equity Comparables (no later than July 21):

- Request for PVS' of equity comparables: no later than 30 days after filing of the appeal;
- PVS' should be produced by the assessor: no later than 14 days after the request is made.

### 2. Financial Information (income approach, value is an issue, & subject is income producing, tenanted):

- Current I & E statement, most recent rent roll, & lease summaries: ASAP but no later than the closure of issues
- If requested, prior 2 year's I&E statements: within 21 days of the request

### 3. Other information: Parties collaborative on the exchange of other relevant information not covered by PD2 and apply to the Board for assistance when required.

### 4. Any Problems: Alert Board immediately if there is a problem and seek an order for production



# ICI Appeal Management Guidelines

## Phase 3 – Issue Identification & Closure:

- Must close issues early
- Outside deadlines for issue closure:
  - Wherever possible, an Appellant should ensure issues are fully identified and closed (either through a Form 11 or SIEA) **by July 15** or immediately after receipt of assessment information on the subject
  - If not, outside deadline for the appellant's issue closure (through a Form 11 or SIEA) **should be no later than July 29**, and BC Assessment **should be no later than October 31.**



# Practice Tips

## 1. Recommendations/Withdrawals

- Recommendations: Sufficient reasons required. Not enough to say: “actual value amended” or “equity” but why the amendment is recommended ie “economic rent too high” not “actual value” or “capitalization rate inequitable”. Are discloseable
- Withdrawal Requests: Clear intention to withdraw reflected in the request. It is NOT acceptable to say “appellant *intends* to withdraw” or “appellant is *considering* withdrawal”.

## 2. Missing Board Order Deadlines

- MUST ask for extension if you think you will miss a Board ordered deadline and not IGNORE
- Will be subject to dismissal process otherwise

3. Be more expressive in ground of appeal in NOA if possible. For example, if an appeal is being filed for AST or Amacon and awaiting the stated case or part of a group, put that in the NOA and this assists in our registration and reporting functions





# Remote Proceedings

- **Practice Notice on Remote Proceedings**

- Sets out the requirements and expectations for videoconference and telephone proceedings – including etiquette

- **Practice Notice on Resuming In person Hearings**

- Sets out requirements and expectations of any in person proceedings to ensure compliance with public health guidelines
- In person proceedings are only when necessary in the circumstances of an appeal, and only if an appeal cannot be adjudicated by remote hearing or written submissions hearing or a combination of both.

- **Practice Directive 5**

- Sets out requirements for electronic filing of written submissions/documentary evidence – must be complied with



# Questions & Wrap up

Thank you

For more feedback, contact Simmi K. Sandhu, Chair,  
[Simmi.sandhu@paab.bc.ca](mailto:Simmi.sandhu@paab.bc.ca)