



# **2008 Annual Report**

**Property Assessment  
Appeal Board**

**British Columbia**



## PROPERTY ASSESSMENT APPEAL BOARD

Suite 10, 10551 Shellbridge Way  
Richmond, B.C. V6X 2W9

Telephone: (604) 775-1740  
Facsimile: (604) 775-1742

E-Mail: [office@paab.bc.ca](mailto:office@paab.bc.ca)

Web site: [www.assessmentappeal.bc.ca](http://www.assessmentappeal.bc.ca)

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The Honourable Kevin Krueger  
Minister of Community Development  
Parliament Buildings  
Victoria, British Columbia  
V8W 9E2

Dear Minister:

It is my pleasure to present the Annual Report of the Property Assessment Appeal Board for the year ending December 31, 2008, in compliance with section 49 of the *Assessment Act*.

Yours truly,

Cheryl Vickers  
Chair, Property Assessment Appeal Board



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## BOARD MEMBERS



*Left to right:* John Bridal, Bruce Maitland, Simmi Sandhu, Don Risk, Eric Hayne, Kenneth Thornicroft, Sheldon Seigel, Paula Barnsley, Rob Fraser, Cheryl Vickers, Shiela Toth, Keith Pritchard, Wayne Morson, Audrey Suttorp, Rod MacDonald, Rosemary Barnes, Brian McConnell, Mark Goodall, Jack Hall, Patricia Begg (missing from this picture).

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# Board Profile

**T**he Property Assessment Appeal Board is a quasi-judicial administrative tribunal established under the *Assessment Act*. The Board's mandate is to resolve appeals from decisions of the Property Assessment Review Panels.

The *Assessment Act* provides for the preparation of an annual assessment roll on land and improvements, the delivery of a notice of assessment to the owners or occupiers of taxable property, and a process to appeal first to the Property Assessment Review Panels, and then to the Board.

The Board has an inquisitorial function and the discretion to examine the whole property assessment to ensure that it is accurate. It also has the discretion to ensure that similar properties are assessed in a consistent manner in the municipality or rural area. An effective appeal system is critical to maintain confidence in the accuracy and integrity of the roll.

The Board's objectives are:

- To resolve appeals justly and consistently, in accordance with the principles of natural justice and procedural fairness.
- To complete appeals as quickly and efficiently as possible, within budget and at minimum cost to participants and the Board.

Appeals are filed to the Board by April 30 in each year following the completion of the assessment roll.

The Board is independent from the Property Assessment Review Panels and BC Assessment and is accountable to the Minister of Community Development (in 2008, it was accountable to the Minister of Small Business and Revenue). The Board has a full-time Chair, two full-time Vice Chairs, 17 part-time members, a Registrar and five support staff. Biographical notes on the Board members are included in Appendix 2.

An explanation of how the Board does its job is detailed in Appendix 3, and a glossary of terms used in this report is in Appendix 4.

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# Report on Performance

## KEY CHALLENGES AND TARGETS

Based on the appeals outstanding at the end of 2007 and the anticipated new appeals in 2008, the Board identified the following challenges and performance targets:

1. To resolve the newly filed 2008 appeals in a timely manner.
2. To complete the older active appeals.
3. To resolve appeals, which come out of the contingent category, once related Court cases are completed.
4. To complete a stakeholder meeting by May 31, 2008 to review the appeal management strategy for 2008.
5. To register and acknowledge the 2008 appeals by May 31, 2008.
6. To issue at least 90% of written decisions within 90 days from the hearing.
7. To complete or schedule for hearing by March 31, 2008, 70 to 80% of the active 2007 commercial and industrial appeals.
8. To complete or schedule for hearing by March 31, 2009, 75 to 85% of the active 2008 commercial and industrial appeals.
9. To complete or hear by December 31, 2008, 90 to 100% of the 2008 residential, farm and recreation property appeals.

Given the performance in previous years, the Board set more aggressive targets for timeliness of decisions and completion of 2008 appeals.

## RESULTS

Results in relation to the above challenges and targets are summarized as follows:

Challenge	Result by Dec. 31, 2008
1 2008 appeals	reduced by 67%
2 older appeals (2007 and earlier)	reduced by 66%
3 contingent appeals	reduced by 55%
4 stakeholder meeting to review approaches for 2008	completed on May 1, 2008
5 registration of 2008 appeals	completed on May 21, 2008
6 timeliness of written decisions	93% completed within 90 days
7 2007 commercial & industrial property appeals	91% completed or scheduled for hearing by Mar. 31, 2008
8 2008 residential, farm & recreational property appeals	96.5% completed or heard by Dec. 31, 2008

The Board would not have been able to meet the above targets without the cooperation of BC Assessment, property tax agents and legal counsel.

The following table illustrates the activities compared to the previous two years:

Activity	2008	2007	2006
New appeals received in year <sup>1</sup>	1,707	1,883	2,168
Carry over from earlier years	619	1,359	1,371
Total appeal workload	2,326	3,242	3,539
Appeals completed during the year	1,565	2,603	2,182
# and % of appeals resolved without a hearing	1,376 (88%)	2,370 (91%)	2,011 (92%)
Direct costs per completed appeal <sup>2</sup>	\$646	\$435	\$467

Notes:

1. 2006 and 2007 included parking site appeals. The parking site tax was repealed for 2008.
2. Direct costs vary with appeal volume therefore this can only be considered a rough indicator of efficiency and cost effectiveness.

In 2008, the Board received 1,707 property assessment appeals – roughly the same as in 2007. Higher numbers of appeals and completions in 2007 and 2006 are, in part, due to the parking tax appeals. The government repealed the parking tax for 2008, resulting in no new parking tax appeals being filed. In 2008, the Board completed the remaining 20 parking tax appeals outstanding from 2006 and 2007.

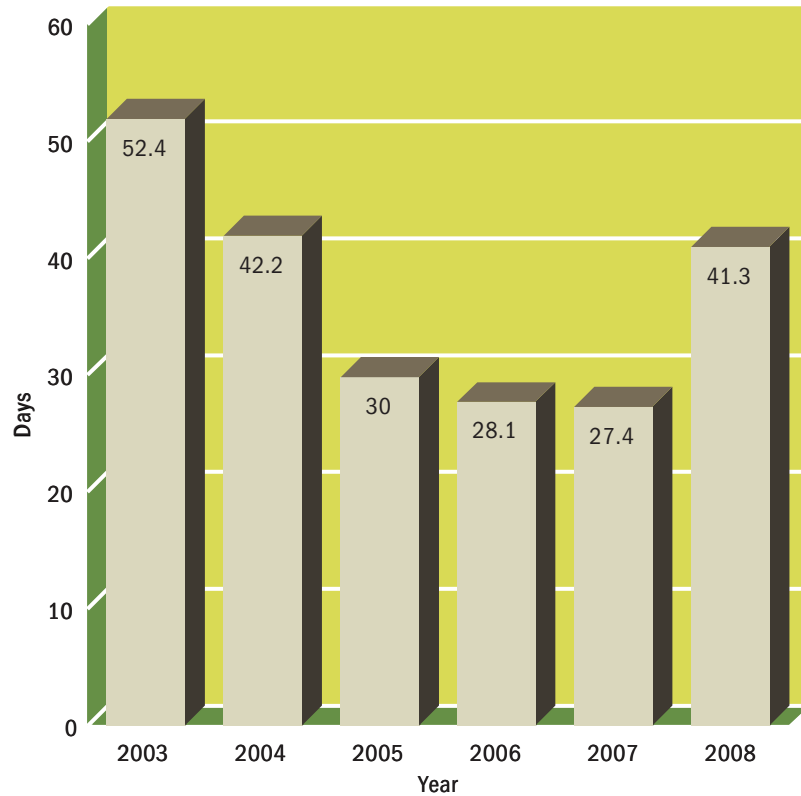
The Board exceeded its targets for completing 2007 commercial and industrial appeals and 2008 residential, farm and recreational property appeals, although the total number of completions in 2008 was less than in the two previous years. As of December 31, 2008, the Board had fewer outstanding prior year appeals than in previous years. With a completion target of March 31, 2009, it is too early to assess the Board's success in completing the 2008 commercial and industrial appeals.

Direct costs per completed appeal increased by \$211 to \$646, primarily due to spreading fixed costs over fewer appeal completions. These costs are in line with previous years with similar completion volumes.

As illustrated in Figure 1, the average time to complete a written decision following a hearing was 41 days, well within the Board's service objective to complete residential appeals within 60 days and commercial and industrial appeals within 90 days. The average time to complete written decisions varies depending on the availability of Board members and the complexity of appeals.



**Figure 1** — Average Number of Days from Hearing to Decision



Appendix 6 provides a breakdown on how the Board completed appeals in 2008. Appeal Management and Settlement Conferences are alternative dispute resolution techniques used by the Board to resolve the majority of appeals without the need for a hearing. After these discussions, the party appealing (called the Appellant) sometimes decides not to continue with the dispute which, for statistical purposes, is called a “withdrawal”. In addition, a small portion of the appeals (5% in 2008) are dismissed either due to the Board not having jurisdiction or the Appellant not complying with a Board order during the management of the appeal. When appeals are withdrawn or dismissed, there is no change to the assessment as determined by the first level of appeal.

In a significant portion of other appeals, the parties reach an agreement to change the assessment, usually to decrease the assessed value or to change the classification. If the appeal is not resolved through alternative dispute resolution efforts, the Board will make a decision following an oral hearing or written submissions from the parties.

Approximately 44% of the Board’s decisions in 2008 (whether by agreement or adjudication) resulted in a change to the assessment.

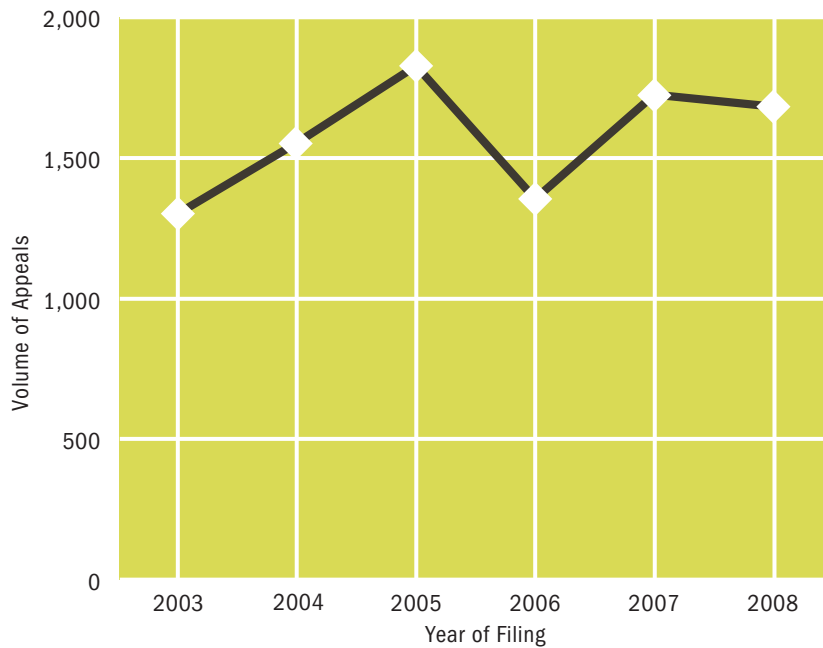
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# Analysis of Outstanding Appeals

## VOLUME OF NEW APPEALS

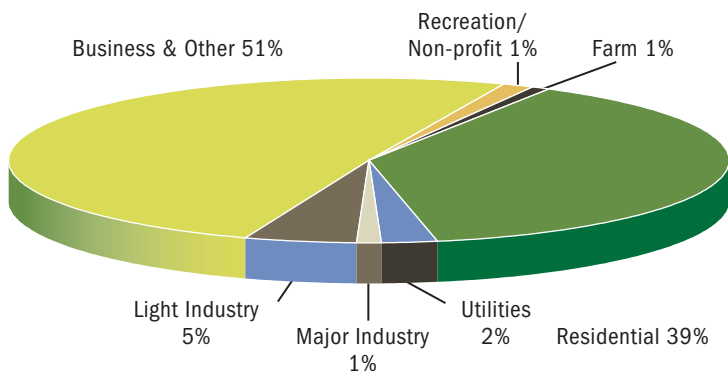
As illustrated in Figure 2, the Board received slightly fewer (46) property assessment appeals in 2008 than in 2007.

**Figure 2** — Change in Volume of Property Assessment Appeals



The majority of appeals in 2008 were for “Business and Other” classed properties, followed by Residential classed properties.

**Figure 3** — Portion of Appealed Properties by Classification

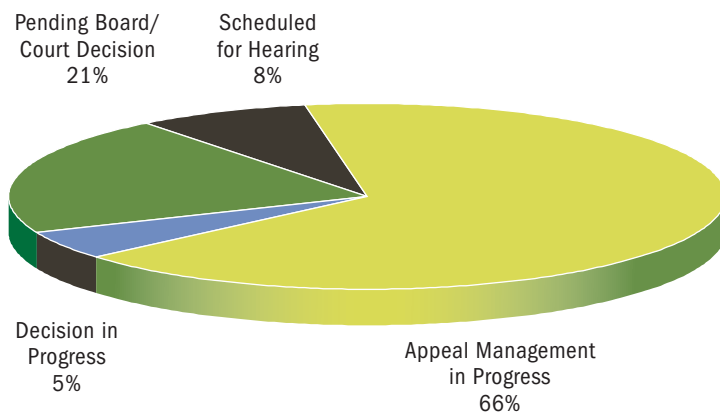


## YEAR-END POSITION

As of December 31, 2008, there were 781 outstanding property assessment appeals.

As outlined in Figure 4, 66% of the appeals were under active case management which involves working with the parties to identify the specific areas of disagreement and resolving as many of the issues as possible through mutual agreement. When it becomes evident that further discussion will not result in resolution, a written submission or in-person hearing is scheduled. As of December 31, 8% of the outstanding appeals were scheduled for hearing.

**Figure 4** — Status of Outstanding Appeals



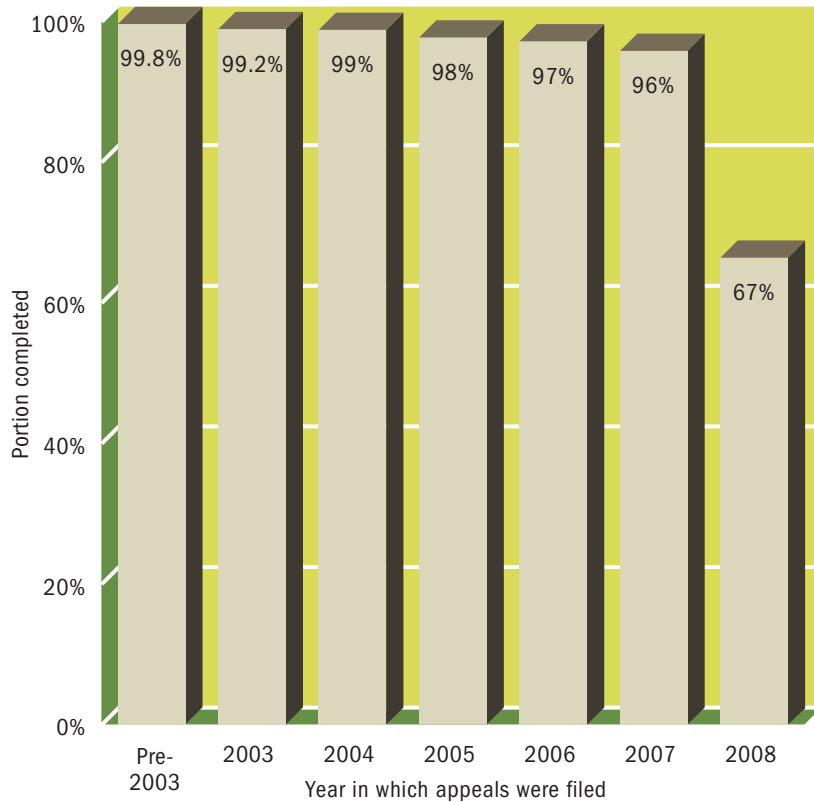
When appeals have very similar issues to others being heard by the Board or before the Courts, the Board will hold these appeals pending the resolution of the related issues. These appeals are known as “contingent”. At year-end 21% of the appeals were contingent.

The proportion of contingent appeals increases dramatically with older appeals. At year-end, 8% of the outstanding 2008 property assessment appeals were contingent, whereas 66% of the outstanding 2006 and older appeals were in this category. The majority of these older appeals are pending resolution of a

single issue: whether taxing jurisdiction for the property rests with a First Nation or a municipal or provincial authority. Once the issue of taxing jurisdiction is determined, either by the courts or by negotiation, these appeals will almost immediately be resolved. This is not an issue over which the Board has jurisdiction.

Figure 5 illustrates the portion of appeals completed by appeal year.

**Figure 5** — Completed Appeals by the Year of Original Filing



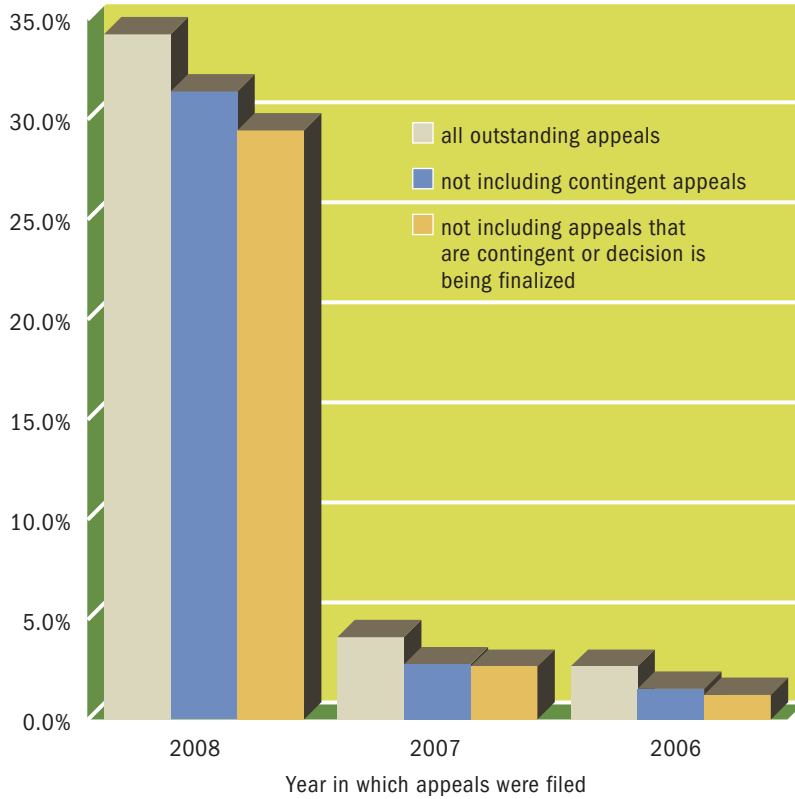
While the number of completions was down in 2008, the year-end position is more indicative of the Board's relative success. Four years ago, the Board raised a concern with the growing number of prior year appeals. This picture improved over the last two years, and is not an issue as of December 31, 2008. At year-end, only 4% of the 2007 appeals (or 70 appeals) were outstanding. This is compared to 8.5% of the 2006 appeals outstanding as of December 31, 2007.

Figure 6 illustrates outstanding appeals as a percentage of the total originally filed. For a more accurate picture of the unresolved appeals at year-end, the portion outstanding is adjusted for:

1. Appeals that are contingent; and
2. Appeals that are effectively complete (i.e. have been heard or resolved but the Board's final orders were not yet published).

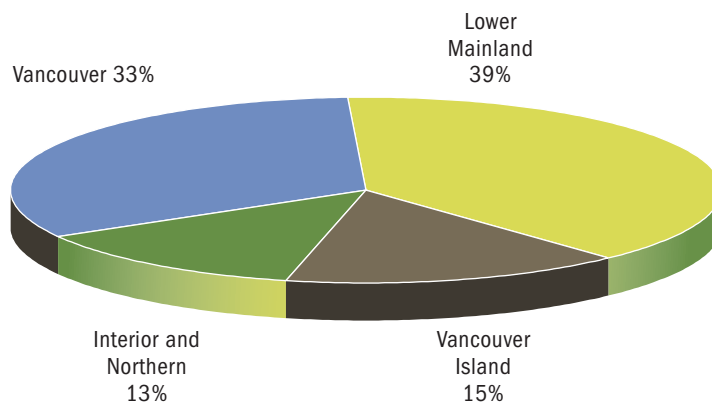
After these adjustments, the effective portion of the 2006, 2007 and 2008 appeals that were outstanding is 1.2%, 2.6% and 28.8%, respectively.

**Figure 6** — Portion of Appeals Outstanding



As might be expected, given the population and business distribution throughout the Province, the majority of appeals (72%) are in Greater Vancouver.

**Figure 7** — Regional Distribution of Appeals



More detailed statistics are provided in Appendices 5 to 10.

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# Appeals to the Courts

**A** person affected by a decision of the Board may appeal to the B.C. Supreme Court on a question of law using a process called a stated case. The request to state a case must be made within 21 days of receiving the Board's decision. The decision of the Supreme Court may be appealed to the B.C. Court of Appeal with leave.

At the beginning of 2008, 13 stated cases from previous years were outstanding before the B.C. Supreme Court. During the year, 11 new stated cases were filed. The Court confirmed the Board's decision in nine appeals, referred two back to the Board and four stated cases were abandoned. At year-end, nine stated cases were still before the B.C. Supreme Court.

At the beginning of 2008, two cases were before the Court of Appeal. During the year, the Court granted leave to appeal for one new case. The Court of Appeal confirmed the Board's decision in two cases and one case was outstanding at year-end.

There were no applications in 2008 for leave to appeal to the Supreme Court of Canada.

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# Responses to Challenges in 2008

The Board undertook the following strategies to resolve appeals:

1. Required the parties in residential appeals to attend a teleconference with a summary of their evidence and assisted them to assess the merits of their positions in an effort to encourage settlement.
2. Decided most residential appeals, that were not resolved, by way of written submission. This method is less costly than in-person hearings, as participants do not have to travel to a hearing or take time off work to attend. It also allows appeals to be completed sooner.
3. Managed commercial and industrial appeals “in parallel” with residential appeals and used in-person meetings to deal with groups of appeals. This group approach is more efficient and effective than traditional appeal management practices dealing with appeals on an individual basis.
4. For some complex commercial and industrial appeals, required the parties to exchange Statements of Issues, Evidence, and Analysis. This tool accelerates the disclosure and examination of the detailed appeal issues and can assist in the earlier resolution of appeals.
5. Required early disclosure of assessment and property information between the parties, eliminating associated delays and allowing the Board to focus resources on the substantive issues rather than procedural disputes.
6. Used Settlement Conferences to narrow the appeal issues and, in some cases, settling appeals without the need for hearings.
7. Completed the remaining 2006 and 2007 parking site appeals through alternative dispute resolution processes upon the repeal of the parking site tax for 2008.

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# Other Activities

## **CONSULTATION WITH THE ASSESSMENT COMMUNITY**

On May 1, 2008, the Board held a forum with legal counsel, tax agents and members of BC Assessment to obtain feedback on the appeal management strategy for upcoming 2008 commercial and industrial appeals.

The community expressed satisfaction with the Board's recommendation to continue with appeal settlement strategies adopted over the last four years. The Board reinforced expectations for early identification of issues, disclosure of appeal and property information and settlement discussions.

## **BOARD MEMBER TRAINING AND CONTINUING EDUCATION**

The Board held its annual meeting and continuing education session in April 2008. This year, the primary purpose of the session was to upgrade members' adjudicative and decision writing skills and to review approaches to common challenges in hearings, including dealing with technical appraisal issues.

Three new part-time members, appointed in March 2008, attended an additional full day training and orientation session. Several Board members also participated in other education programs offered by the British Columbia Council of Administrative Tribunals.

## **MEDIATION AND ARBITRATION BOARD**

In July 2007, the Chair and two Vice-Chairs of the Property Assessment Appeal Board were also appointed as part-time members to the Mediation and Arbitration Board. This Board deals with disputes over compensation payable to landowners for surface access to develop subsurface resources and is accountable to the Minister of Energy, Mines and Petroleum Resources. The Property Assessment Appeal Board provides administrative services to the Mediation and Arbitration Board. The Board's time and expenses are charged to the Mediation and Arbitration Board, effectively reducing the Property Assessment Appeal Board's budget requirements.



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# Board Finances

The Board's budget for April 1, 2008 to March 31, 2009 is \$1.5 million, fully funded from the property tax levy and appeal fees.

The budget and estimated expenditures for 2008/2009 compared with the past five fiscal years are as follows:

**Figure 8** — Budget versus Actual Expenditures by Fiscal Year (\$000's)

Fiscal Year	Budget <sup>1</sup>	Actual	Under/(Over)	%
2008/09 <sup>2</sup>	\$1,578	\$1,512	\$66	4%
2007/08	\$1,448	\$1,394	\$54	4%
2006/07	\$1,474	\$1,410	\$64	4%
2005/06	\$1,360	\$1,315	\$45	3%
2004/05	\$1,346	\$1,354	(\$8)	(1%)
2003/04	\$1,395	\$1,160	\$235	17%

Notes:

1. The above budget figures are inclusive of revenue from appeal fees.
2. Expenditures for fiscal year 2008/09 are forecasted based on actual expenditures to January 31, 2009.

The Board forecasts it will be approximately \$66,000 (or 4%) under budget for fiscal 2008/09. The Board collected \$104,406 in appeal fees and forecasts billing the Ministry of Energy, Mines and Petroleum Resources \$100,000 for services to the Mediation and Arbitration Board. These revenues reduce the overall funding requirement from the property tax levy.

A further breakdown of expenditures is provided in Appendix 10, including comparisons to the previous 7 years. Costs per completed appeal were up in 2008 to a total of \$866, \$646 of which was comprised of direct costs (salaries, Board Member fees and expenses, and hearing facility costs). Costs per appeal are most sensitive to volume of appeal completions.

The majority of Board expenditures are for managing and resolving appeals, including appeal registration, alternative dispute resolution, hearings and decision writing.

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# Looking Forward

## CHALLENGES FOR 2009

As a result of legislation passed in late 2008, for 2009 only, assessed values will be the lower of actual value as of July 1, 2007 or July 1, 2008. It is difficult to predict the effect this legislative change may have on the Board's 2009 workload. While it is possible, the volume of appeals may be lower in 2009, it is also likely the Board will face some new and challenging issues and arguments that could increase the number and length of hearings. As with any year, the Board will not know the volume of new appeals until the April 30th appeal deadline.

In addition to managing the newly filed 2009 appeals, the Board will need to:

- Complete the older appeals that are currently active;
- Resolve appeals, which come out of contingent category, once related Court cases are completed.

## TARGETS FOR 2009

Based on the Board's mission, objectives and past performance, the following targets have been set for 2009:

1. To complete a stakeholder meeting by May 31, 2009 to seek input on the Board's 2009 appeal management strategy.
2. To complete registration and acknowledgement of the 2009 appeals by May 31, 2009.
3. To issue at least 90% of written decisions within 90 days from the hearing.
4. To complete or schedule for hearing by March 31, 2009, 75 to 85% of the active 2008 commercial and industrial appeals.
5. To complete or hear by December 31, 2009, 90 to 100% of the 2009 residential, farm and recreation property appeals.
6. To complete or schedule for hearing by March 31, 2010, 75 to 85% of the active 2009 commercial and industrial appeals.

The completion targets for 2009 will be reviewed once the volume of appeals is known after the April 30th appeal deadline. The Chair of the Board will discuss any proposed revisions with the Minister of Community Development. In addition, despite any performance target, the Board must ensure, at all times, that appeals are resolved in accordance with the legislation and the principles of natural justice. Whenever there is a conflict between a performance target and these principles, natural justice and due process must prevail.



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# Appendices

# APPENDIX 1

## STAFF MEMBERS



*Left to right:* Steve Guthrie, Registrar; Michelle Hannigan, Administration & Systems Coordinator; Estrellita Gangoso, Decision Processor; Rob Fraser, Vice Chair; Cheryl Vickers, Chair; Leslie Gilker, Deputy Registrar; Simmi Sandhu, Vice Chair; and Isabella Chin, Business Analyst. Gwen Marriott, Administrative Assistant (missing from this picture).

## A P P E N D I X 2

### BIOGRAPHICAL INFORMATION ON BOARD MEMBERS

#### ROSEMARY BARNES

Rosemary Barnes has been a licensed Realtor since 1976. She obtained her real estate agent's license from UBC in 1984 and her residential appraisal designation in 1994. Rosemary is experienced in mediation and arbitration, and is an instructor with the Real Estate Board of Greater Vancouver and the B.C. Real Estate Association. In July 2004, she was elected as Chair of the Real Estate Council of British Columbia and continues to serve as a member of that body. Rosemary has been a member of the Property Assessment Appeal Board since 1998.

#### PAULA BARNESLEY

Paula Barnesley is a member of the Law Society of British Columbia. She retired from full time private practice of law in July 2006 but continues her association with Cundari & Company Law Corporation in Kamloops on a part time basis. Paula holds a Bachelor of Laws from Dalhousie University and a Master of Laws from UBC. Her graduate work focused on tax policy. She has been called to the Bar in Nova Scotia, New Brunswick and British Columbia. She also holds a Masters of Education from Memorial University in Newfoundland. Paula has been a member of the Property Assessment Appeal Board since 2000.

#### PATRICIA BEGG

Patricia Begg is a member of the BC Arbitration and Mediation Institute and the Alternative Dispute Resolution Institute of Canada. She is a chartered arbitrator and a member of the Real Estate Institute of Canada and the Real Estate Institute of British Columbia. Patricia's experience includes managing government and private sector commercial and residential real estate holdings. She is currently employed with the BC Housing Management Commission as Senior Development Project Manager and was formerly employed with the Vancouver Police Department as Manager of Facilities and was a senior property negotiator for the City of Vancouver Real Estate Services. Patricia is past President for the Greater Vancouver Chapter of the Real Estate Institute of Canada. She was appointed to the Property Assessment Appeal Board in March 2006.

#### JOHN BRIDAL

John Bridal is the Manager of Program Development in the Real Estate Division, Sauder School of Business at UBC. He is responsible for overseeing the development and delivery of the Division's distance education real estate courses. He is an Honours graduate from UBC with a Bachelor of Commerce in Urban Land Economics. He also holds a Master of Education from UBC. He is a member of the Real Estate Institute of BC and has been with the Property Assessment Appeal Board since 2003.

#### ROB FRASER

Active in the real estate industry for many years, Rob Fraser has been a sales person, agent/manager, owner, local board president, provincial association president, and chair of a real estate related insurance company. In addition to his extensive experience and training in real property valuation, Rob has expertise and training in conflict resolution, mediation, arbitration, and negotiation. He has a BA, an MA and did doctoral studies specializing in micro-demographic models. A member of the Property Assessment Appeal Board since 1992, Rob was appointed as a Vice Chair in 1998.

#### MARK GOODALL

Mark Goodall has been involved in various aspects of the real estate industry since 1971 when he first worked as a residential mortgage appraiser and underwriter with Montreal Trust Company. Since that time he has worked as a land negotiator with the BC Ministry of Highways and the BC Ministry of Crown Lands, as an appraiser with BC Hydro, a real estate manager with BC Buildings Corporation and as a commercial mortgage underwriter with Yorkshire Trust Company. In addition, he has ten years experience working as a fee appraiser for two major Vancouver appraisal companies. Most recently he worked as a real estate manager for the Vancouver Port Authority, where he was responsible for leasing, acquisition and exchange of properties for Port purposes. He holds a BA from the University of Western Ontario, an AACI with the Appraisal Institute of Canada, an RI(BC) with the Real Estate Institute of British Columbia, and is a member of the International Right of Way Association and the BC Expropriation Association. Mark was appointed to the Property Assessment Appeal Board in 2008.

## JACK HALL

Jack Hall is the proprietor of CSM Services. Previously, he was a director at 617548 Company, Vice President of Development and Marketing at Land & Water BC Inc. and the Chair of Duke Point Development Ltd. Jack was also employed at a senior level with BC Assets and Land Corporation, BC Parks, and Whistler Land Corporation. He currently serves on the Board of Governors of the Real Estate Foundation of BC and was previously with the Saanich Board of Variance, Smithers Rotary Club, Bulkley Valley Hospital Board, the Industrial Township Commission and Toastmasters International. Jack has a Bachelor of Science from the UBC. He was appointed to the Property Assessment Appeal Board in 2006.

## ERIC HAYNE

Eric Hayne has over 20 years senior management experience with Canadian chartered banks and credit unions in Toronto, Calgary, Edmonton and Vancouver. He moved to B.C. after serving five and a half years with the City of Edmonton Assessment Review Board. He is a graduate of the School of Business, University of Alberta and the Banff School of Advanced Management. He was appointed to the Property Assessment Appeal Board in 2007.

## RODERICK MACDONALD

Rod MacDonald has been a practising lawyer since 1971 and now has a practice in Tofino. His areas of practice include general corporate and commercial matters, family law, wills and estates and litigation. Much of his practice is related to real estate, including subdivision and land development. Rod served on the Board from 1985 to 1995 and was re-appointed in 2003.

## BRUCE MAITLAND

Bruce Maitland has worked in real estate consulting, appraisals, sales and development in both the public and private sectors since his 1971. He has a Bachelor of Commerce and Business Administration majoring in Urban Land economics from UBC. He is a member of the Professional Division, Real Estate Institute of BC. He is a past Vice President of the International Right of Way Association and a past member of the Association of Professional Economists of BC. Bruce was Director of Real Estate Services for the City of Vancouver responsible for land acquisition, sales, leasing, development and economic analysis. He was appointed to the Property Assessment Appeal Board in 2006.

## BRIAN MCCONNELL

Brian McConnell has been in private appraisal practice since 1979. He has been published in the Appraisal Institute of Canada's national magazine on numerous occasions and has lectured on the appraisal process. He has been called as an expert witness before federal and provincial courts as well as other tribunals. Brian holds his Bachelor of Arts from the University of Victoria and an AACI from the Appraisal Institute of Canada. He was appointed to the Property Assessment Appeal Board in 2008.

## WAYNE MORSON

Wayne Morson was a mortgage manager and appraiser with Canada Permanent Trust Company, owned and operated his own commercial mortgage brokerage company, and was a branch manager at Canada Trust. He has been involved in real estate appraisal, development, and financing and formerly chaired the commercial Property Assessment Review Panel in Victoria. Wayne is a public appointee on the Board of the College of Psychologists of British Columbia. He was President of the Victoria Downtown Rotary Club and Chair of the Queen Alexandra Foundation for Children. He was appointed to the Property Assessment Appeal Board in 2007.

## KEITH PRITCHARD

Keith Pritchard is President of Isle West Appraisals. He has a Bachelor of Science from the College of Estate Management, University of Reading and is an Accredited Appraiser with the Appraisal Institute of Canada, a Fellow of the Royal Institution of Chartered Surveyors and a professional member of the Real Estate Institute of BC. He is past President of the BC Association of the Appraisal Institute of Canada and is a member of the Board of Examiners for the Institute. Keith has 38 years experience in appraisal of residential, commercial, industrial, forestry and agricultural properties. He has also acted as an expert witness for the Supreme Court of BC and the Superior Court of Washington State. Keith served on the Board from 1991 to 1993 and was re-appointed in 2003.

## DON RISK

Don Risk has extensive experience as a senior corporate commercial lawyer and as a member and chair of boards of directors of a number of business and not-for-profit entities. Prior to his retirement, he concentrated his law practice on corporate governance. Don continues to provide strategic business advice to executives and boards of firms engaged in harvesting timber, manufacturing, pulp, paper and lumber, and distribution and ocean shipping of forest products. He also advises client firms in the property and casualty and life insurance industries, financial services sector and other industries. Don was appointed to the Property Assessment Appeal Board in 2008.

#### SIMMI SANDHU

Simmi Sandhu is a lawyer, called to the BC Bar in 1990. Her areas of practice included administrative law, civil litigation, corporate/commercial law and real estate transactions. In addition, she has extensive experience in quasi-judicial proceedings, having acted as a chair of the Board of Referees for over six years. She also has training and experience in conflict resolution and mediation. Simmi is on the Board of Directors of the British Columbia Council of Administrative Tribunals. She was appointed as a Vice Chair of the Property Assessment Appeal Board in 2001.

#### SHELDON SEIGEL

Sheldon Seigel is a Chartered Arbitrator, Chartered Mediator, and a Fellow of the Chartered Institute of Arbitrators, UK. He is a lawyer of more than 20 years standing (BC and Ontario). Sheldon taught administrative law, civil procedure, and alternative dispute resolution at UBC and the University of Victoria, and is a regular lecturer for the British Columbia Council of Administrative Tribunals. He is a graduate of the University of Ottawa Faculty of Law (1983) and Harvard Law School Negotiation Project for Lawyers (Roger Fisher). Currently Sheldon restricts his professional activities to adjudication and Board work. He holds contracts with both the Federal and Provincial governments and sits on several boards and quasi-judicial administrative tribunals. Sheldon has been with the Property Assessment Appeal Board since 2003.

#### AUDREY SUTTORP

Audrey Suttorp is a tutor in the Real Estate Division of the Sauder School of Business, UBC. She was a senior appraiser at Burgess Cawley Sullivan and Associates. Audrey holds a Bachelor of Commerce with honours, specializing in Urban Land Economics from UBC and is an accredited appraiser (A.A.C.I and R.I. (BC)). She also served on the Advisory Planning Commission for the City of New Westminster. She was appointed to the Property Assessment Appeal Board in 2006.

#### KENNETH THORNICROFT

Kenneth Thornicroft is Professor of Law and Labour Relations with the University of Victoria's Faculty of Business and an adjunct professor with UBC's Sauder School of Business. He holds a law degree from UBC and a doctorate in Labour and Human Resource Policy/Employment Law from the Weatherhead School of Management, Case Western Reserve University in Cleveland, Ohio. Ken's professional practice is restricted to arbitration and alternative dispute resolution. He is a member of the Delta Police Board and has been a member of the Property Assessment Appeal Board since 2003.

#### SHIELA TOTH

Shiela Toth has ten years experience as an appraiser and specialized in farm, commercial and industrial properties. She presently works as an office manager and has taken the Advanced Decision Writing, Hearing Skills, and Administrative Justice courses sponsored by the BC Council of Administrative Tribunals. Shiela previously worked in project engineering after receiving an Honours Diploma in Industrial Engineering Technology from the Southern Alberta Institute of Technology. She has been with the Property Assessment Appeal Board since 2000 and currently also serves on the Employment and Assistance Appeal Tribunal.

#### CHERYL VICKERS

Cheryl Vickers is a lawyer and formerly practiced in a variety of fields, including administrative law. She was active in the development of the British Columbia Council of Administrative Tribunals (BCCAT), and served on their Board of Directors including as Secretary from 1996 to 1998 and as President from 2004 to 2006. Cheryl assisted in curriculum development for BCCAT courses and is an instructor of the Administrative Justice for Decision Makers, Foundations of Administrative Justice for Professional Regulatory Tribunals, Staff Foundations courses, and the Decision Writing and Hearing Skills workshops. Appointed in 2003 as Chair, Cheryl served on the Property Assessment Appeal Board as Vice-Chair since 1995 and as a part-time Board member from 1993 to 1995.



# APPENDIX 3

## HOW THE BOARD DOES ITS JOB

### THE INITIAL PROCESS

BC Assessment completes the assessment roll and mails notices to property holders by December 31. Properties are valued as of July 1 of the previous year, based on the physical condition and use as of October 31. For example, the 2008 roll was completed by December 31, 2007 with a valuation date of July 1, 2007 and a "state and condition" date of October 31, 2007.

If a person is dissatisfied with their notice, a complaint must be filed to the local Property Assessment Review Panel no later than January 31. The Review Panels conduct hearings over a six week period, ending mid-March. Their Decision notices are mailed by April 7.

If a party is dissatisfied with the decision of the Review Panel, an appeal must be filed to the Board by April 30. Each year, the Board typically receives 1,000 to 1,800 property assessment appeals.

### APPEALS TO THE BOARD

Parties may appeal:

- ◆ the assessed value and/or classification of a property;
- ◆ the granting or withholding of an exemption to a property;
- ◆ an error or omission in the assessment roll respecting the name of a person or land or improvements; or
- ◆ the omission or refusal of the Property Assessment Review Panel to adjudicate a complaint made to it.

The Board is also the first level of appeal against the Commissioner's Rates prescribed for valuing linear, utility properties.

Appeals involve all types of properties from single family residences to major industrial plants, throughout the Province.

Valuation appeals involve the determination of actual value, which for most properties means market value. For major industrial improvements, actual value is determined by the application of costing manuals. The valuation of certain utility properties is determined through the application of Commissioner's Rates. Valuation appeals include both appraisal and legal issues.

Classification appeals involve a determination of the correct property class, for example whether a property is entitled to farm class, whether strata hotel units are entitled to residential class, and other issues involving legal interpretation of the various classification regulations.

Exemption appeals involve a determination of whether a property is entitled to a specific statutory exemption, for example, the exemption given to the property of a non-profit society "used for the demonstrable benefit of members of the community".

Commissioner's Rate appeals involve determining whether the Commissioner's Rates for such things as fibre optic cables or pipelines, have been developed in accordance with the *Assessment Act*.

As soon as an appeal is filed, the Board starts work. All appeals are processed as quickly as possible, to provide the earliest possible certainty of the assessment for both property owners and local governments. Some appeals take longer to resolve because of their complexity and the availability of the parties, experts and counsel.

The Board's first step is to review each appeal to ensure that it has been filed by the deadline, the appropriate fee has been paid, and that the notice of appeal meets the statutory requirements. The next step is to assign the appeals for case management.

### APPEAL MANAGEMENT

Case management is primarily conducted through Appeal Management Conferences (AMCs).

The main purpose of an AMC is to identify and resolve as many appeal issues as possible. This can result in the settlement or withdrawal of an appeal without a hearing, thereby contributing to quick and cost effective resolution. Even if case management does not resolve the appeal, the hearing will usually be shorter and more efficient.

AMCs are usually conducted by telephone, but are sometimes held in-person. During a conference, the parties are required to discuss and clarify the appeal issues. The parties may be ordered to produce documents and reports to each other.

Depending on the complexity of the appeal, several AMCs may be held. If a party fails to comply with a Board order, the Board may sanction the party by requiring them to pay costs or, in extreme cases, by dismissing the appeal.

### RECOMMENDATIONS AND WITHDRAWALS

Often appeal management is a catalyst for further discussions between the parties. Sometimes an Appellant will decide to discontinue or withdraw the appeal. The Board must approve withdrawal before the appeal is closed. In other cases, the parties may submit a recommendation to the Board to change the assessment roll. The Board reviews the reasons for the proposed change. If it is satisfied the proposed change will ensure accuracy of the roll, the Board will issue an order to change the assessment without a hearing being required.

### SETTLEMENT CONFERENCES

Parties may be required to attend a facilitated settlement conference. Even if settlement is not achieved on all matters in dispute, the issues are often narrowed and a subsequent hearing will typically take less time.

### PRE-HEARING STEPS

If the appeal cannot be resolved, the focus of appeal management shifts to ensuring the parties are properly prepared for the hearing and the hearing proceeds as efficiently as possible. To achieve this, the Board may make a number of different orders, such as the preparation of statements of agreed facts. The Board may also order that appeals with common issues, similar properties, or related owners be heard together.

Due to the volume of appeals, and to ensure proper notice to the parties, hearings are scheduled several weeks or months in advance. In the interim, recommendations or withdrawals may still be submitted, and if accepted, the hearing will be cancelled.

### NATURAL JUSTICE AND THE BOARD

As a quasi-judicial tribunal, the Board must apply the rules of natural justice and procedural fairness. Parties are entitled to know each other's case and to be heard on the issues, and the decision must be made by an impartial panel. To meet these requirements, the Board has enacted Rules of Practice and Procedure. The Board has a duty to act fairly in applying the rules, and in conducting appeal hearings.

Occasionally a hearing may have to be adjourned to ensure the principles of natural justice are met, in particular, to ensure a party has disclosure of relevant information and the opportunity to respond. While delaying the hearing may conflict with the Board's objective to resolve appeals in a timely manner, the duty to be fair must be given priority.

### AT THE HEARING

The Board usually follows standard procedures, which are similar to, but less formal than, court procedures. Information sheets on the hearing procedures are made available in advance of hearings, so the parties can properly prepare. The parties do not need a lawyer to represent them.

The Board is not required to apply the strict rules of evidence used in court and may accept any evidence it thinks would be of assistance. Appeal management assists in ensuring there are no surprises at the hearing by requiring the parties disclose evidence in advance.

Documents submitted to the Board as evidence in an in-person or written submission hearing become exhibits and are part of the public record.

The Board may conduct hearings in-person, by telephone or on the basis of written submissions. In-person hearings vary in length from a few hours to several days or weeks. Depending on the nature and complexity of an appeal, the hearing may be conducted by a single Board member or a panel of two or three members.

### ISSUING DECISIONS

After the hearing, the Board issues a written decision with reasons. The Board must consider and weigh the evidence admitted at the hearing. While not bound by its earlier decisions on an issue, the Board aims for consistency, or to explain any reason for an apparent inconsistency with an earlier decision. The Board must also consider any direction the courts have given in previous cases about how to interpret and apply the legislation.

Due to the volume of appeals and complexity of some hearings, it may take some time for the decision. All parties are sent a copy of the decision. The Board may amend the assessment or confirm the decision of the Property Assessment Review Panel. The Assessor must amend the assessment as ordered by the Board.

### APPEALS FROM THE BOARD

The Board's decision on factual matters is final and there is no right of appeal. A person affected by a decision of the Board may, however, appeal on a question of law to the B.C. Supreme Court.

If a party believes the Board was wrong in interpreting the law or applying the legislation or regulations, he/she may appeal by requiring the Board to state a case to the Supreme Court. The Board must receive the request for appeal, including the questions in law, within 21 days from when the party received the Board's decision. The Board is required to prepare and file the appeal with the Court within a further 21 days.

A party may appeal the decision of the B.C. Supreme Court to the B.C. Court of Appeal, with permission (leave) of that court.

# A P P E N D I X 4

## GLOSSARY OF TERMS

### APPEAL MANAGEMENT CONFERENCE (AMC)

The main purpose of an AMC is to clarify the issues and set steps to resolve the appeal. Most AMCs are conducted by telephone. The parties discuss the issues and the Board can make a variety of orders, such as for the disclosure of documents. If resolution does not appear likely, the appeal is usually scheduled for written submission or an in-person hearing. Some complex appeals may have several AMCs before they are heard.

### CONTINGENT

Contingent appeals are held pending action on other appeals before the courts or the Board. Usually this occurs when the appeal issues are very similar and it is more appropriate to hold the appeal until the court or Board makes a decision on the other appeal.

### DECISION IN PROGRESS

This term is used in the statistical appendices. It includes appeals that have had a hearing and the Board is in the process of preparing a written decision. It also includes appeals in which the Board is preparing an order on a dismissal, withdrawal or recommendation (to change the assessment).

### DISMISSAL ORDER

The Board may issue an order dismissing an appeal due to two circumstances:

- ◆ The Board does not have jurisdiction to deal with an appeal; or
- ◆ A party (specifically the Appellant) does not comply with a Board order during the appeal.

When appeals are received, the Registrar will write to the parties with his opinion on whether the Board has jurisdiction based on the criteria in the *Assessment Act*. If a party disagrees with the Registrar, he/she can ask the Board to reconsider.

### RECOMMENDATION

When the parties mutually agree to change the assessment, they submit a joint "Recommendation" to the Board. If the Board is satisfied that the recommended changes will result in an accurate assessment, it will issue an order requiring BC Assessment to implement the changes.

### ROLL NUMBER

The roll number is a distinctive number assigned to each entry on the assessment roll. Generally every property has a roll number and receives an individual assessment. Where the properties comprise a single entity, more than one property may be assigned one roll number. In some cases a property can have more than one roll number.

### SETTLEMENT CONFERENCE

The purpose of a Settlement Conference is to reach mutual agreement on all or some of the appeal issues. The Board facilitates this Conference using alternative dispute resolution techniques and discussions are held without prejudice to the position that may be taken if the appeal proceeds to a hearing. Discussions at Settlement Conferences are confidential and any documents submitted do not become part of the public record.

### WITHDRAWAL

An Appellant may apply to the Board to discontinue their appeal at any time before a hearing. If approved, the Board will issue an order permitting the withdrawal and closing the appeal.

# A P P E N D I X 5

## 2008 PROPERTY ASSESSMENT APPEAL COMPLETION RESULTS COMPARED TO 2007

Period	Appeals at Beginning of Period	Appeals at December 31	Appeals Completed Within Period	% Completed in Period
<b>2008</b>				
New Appeals	1,707	571	1,136	67%
Prior Year Appeals	619	210	409	66%
Year 2008 Total	2,326	781	1,545	66%
<b>2007</b>				
New Appeals	1,753	361	1,392	79%
Prior Year Appeals	885	258	627	71%
Year 2007 Total	2,638	619	2,019	77%

# A P P E N D I X 6

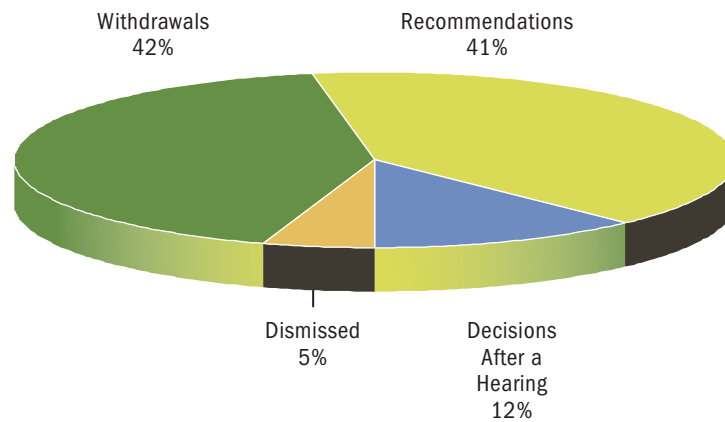
## PROPERTY ASSESSMENT APPEAL COMPLETION RESULTS BY APPEAL YEAR

Year filed	Appeals at Beginning of Year	Method of Completion				Total Completed	Appeals Outstanding at Dec 31/08
		Dismissed	Withdrawals	Recommendations	Decisions after a hearing <sup>1</sup>		
2008 <sup>2</sup>	1,707	70	487	442	137	1,136	571
2007	361	1	136	112	42	291	70
2006	116	7	21	45	8	81	35
2005	67	0	7	21	1	29	38
2004	22	0	0	6	0	6	16
2003	12	0	1	0	1	2	10
Pre-2003	41	0	0	0	0	0	41
<b>TOTAL</b>	<b>2,326</b>	<b>78</b>	<b>652</b>	<b>626</b>	<b>189</b>	<b>1,545</b>	<b>781</b>

Notes:

1. Decisions can be made through an in-person hearing or by way of written submissions from the parties.
2. With an appeal deadline of April 30th each year, the time period for completing 2008 appeals is from May 1 to December 31.

**Method of completion of Appeals in 2008**



# A P P E N D I X 7

## SUMMARY OF OUTSTANDING PROPERTY ASSESSMENT APPEALS

Appeal Status	Outstanding Appeals						
	Total	2008 Appeals <sup>1</sup>			Prior Years <sup>2</sup>		
	Dec 31/08	Dec 31/08	April 30/07	Inc./(Decr.)	Dec 31/08	Dec 31/07	Inc./(Decr.)
Appeal Management in Progress	518	451	1,707	(74%)	67	214	(69%)
Scheduled For Hearing	60	41	0	N/A	19	90	(79%)
Pending Board or Court Decision	163	48	0	N/A	115	257	(55%)
Decision in Progress	40	31	0	N/A	9	58	(84%)
<b>Total Outstanding Appeals</b>	<b>781</b>	<b>571</b>	<b>1,707</b>	<b>(67%)</b>	<b>210</b>	<b>619</b>	<b>(66%)</b>

Notes:

1. April 30, 2008 was the filing deadline for the 2008 appeals.
2. Includes all outstanding appeals to the Board from the 2007 and earlier rolls.

# A P P E N D I X 8

## BOARD ACTIVITIES IN 2008 COMPARED TO PRIOR YEARS

Board Activity	Results in year:				
	2008	2007	2006	2005	2004
<b>Overall Appeal Caseload</b>					
New Appeals Registered	1,707	1,883	2,168	1,868	1,576
Prior Year Appeals (beginning of year)	619	1,359	1,371	1,193	1,000
Total Appeals	2,326	3,242	3,539	3,061	2,576
<b>Appeal Management Conferences (AMCs)</b>					
# of AMCs Conducted	767	744	731	781	699
# of Appeals Involved	2,246	2,975	2,989	2,548	2,714
<b>Settlement Conferences</b>					
Settlement Conferences Held	23	29	25	43	38
<b>Hearing Statistics</b>					
# of In-Person Hearings	22	35	44	27	60
# of Hearing Days	48	76	53.5	62	81
# heard by way of Written Submissions	134	137	99	111	88
<b>Appeal Completion Method</b>					
By withdrawals/dismissal orders	730	1,355	1,001	804	602
By recommendations	626	1,015	1,010	671	595
By decisions after a hearing	189	233	171	215	196
<b>Appeals</b>					
Number Completed	1,565	2,603	2,182	1,690	1,383

Note:

These activities include property assessment and parking site appeals for 2006, 2007 and 2008 and only property assessment appeals in earlier years.

# A P P E N D I X 9

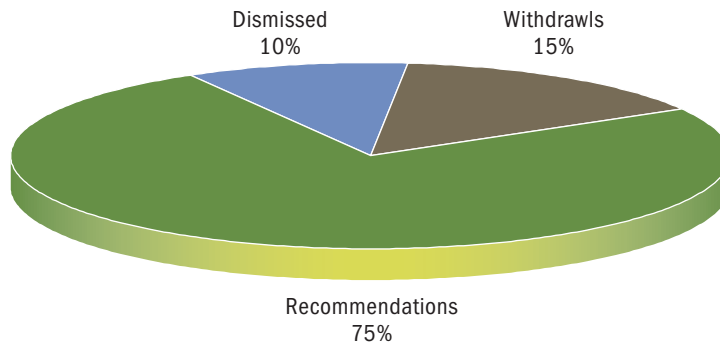
## PARKING SITE APPEAL COMPLETION RESULTS

Year	Appeals at Beginning of Year <sup>1</sup>	Method of Completion				Appeals Outstanding at Dec 31/08
		Dismissed	Withdrawals	Recommendations	Total Completed	
2008	6	2	0	4	6	0
2007	14	0	3	11	14	0
Total	20	2	3	15	20	0

Note:

1. The Government discontinued the parking site tax for the 2008 tax year.

**Method of Completion of Appeals in 2008**





# APPENDIX 10

## ANALYSIS OF EXPENDITURES

Breakdown of Expenditures by Calendar Year (\$000's)										
Calendar Year (Jan. 1 to Dec. 31) <sup>1</sup>	Salaries & Benefits <sup>2</sup>	Members Fees	Travel Expenses	Hearing Facilities	Office Supplies	Occupancy Expenses	Systems & Telecom.	Training Expenses	Misc. Expenses	Total Exp. <sup>3</sup>
2008	\$759.0	\$195.5	\$50.6	\$6.4	\$17.5	\$80.9	\$228.8	\$7.4	\$9.4	\$1,355.5
2007	\$850.0	\$230.2	\$45.5	\$5.9	\$34.3	\$81.4	\$227.9	\$8.9	\$7.3	\$1,491.5
2006	\$790.8	\$181.3	\$39.9	\$6.7	\$18.2	\$83.7	\$225.6	\$10.7	\$5.2	\$1,362.1
2005	\$799.9	\$157.7	\$48.9	\$8.0	\$22.9	\$83.8	\$181.6	\$29.1	\$12.4	\$1,344.3
2004	\$747.0	\$208.7	\$75.8	\$10.1	\$27.7	\$86.7	\$145.4	\$6.1	\$4.7	\$1,312.2
2003	\$667.1	\$139.3	\$31.0	\$14.8	\$18.9	\$65.4	\$135.3	\$18.5	\$28.6	\$1,118.9
2002	\$670.6	\$118.7	\$48.2	\$12.6	\$30.5	\$92.4	\$86.4	\$11.7	\$10.1	\$1,081.2
2001	\$707.5	\$81.7	\$56.1	\$8.8	\$25.2	\$76.3	\$104.2	\$9.3	\$9.7	\$1,078.8

Expenditures per Completed Appeal (\$000's)			
Year and (# of completed appeals <sup>4</sup> )	Direct Costs <sup>5</sup>	Indirect Costs <sup>6</sup>	Total Costs
2008 (1,565)	\$0.646	\$0.220	\$0.866
2007 (2,603)	\$0.435	\$0.138	\$0.573
2006 (2,182)	\$0.467	\$0.157	\$0.624
2005 (1,694)	\$0.600	\$0.195	\$0.795
2004 (1,383)	\$0.753	\$0.196	\$0.949
2003 (1,194)	\$0.714	\$0.223	\$0.937
2002 (1,038)	\$0.819	\$0.223	\$1.042
2001 (1,047)	\$0.816	\$0.215	\$1.030

Notes:

- For 2008 and 2007 expenditures were reduced by \$107,000 and \$51,000, respectively, for charges related to work for the Mediation and Arbitration Board.
- Includes contracts for recording secretaries for hearings.
- For comparability amortization and capital expenditures have not been included in these figures.
- The number completed is listed in brackets following the calendar year.
- Direct costs includes Salaries & Benefits, Members Fees, Travel Expenses and Hearing Facilities costs, listed in the table above.
- Indirect Costs includes Office Supplies, Occupancy Expenses, Systems and Telecommunications, Training Expenses and Miscellaneous Expenses, listed in the table above.

## PROPERTY ASSESSMENT APPEAL BOARD

Suite 10, 10551 Shellbridge Way  
Richmond, B.C. V6X 2W9

Telephone: (604) 775-1740  
Facsimile: (604) 775-1742

E-Mail: [office@paab.bc.ca](mailto:office@paab.bc.ca)

Web site: [www.assessmentappeal.bc.ca](http://www.assessmentappeal.bc.ca)