

**2009 Annual Report**

**Property Assessment Appeal Board**

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## Board Profile

The 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 and consistent with the assessments of other similar properties 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 and Rural Development. The Board has a full-time Chair, two full-time Vice Chairs, 16 part-time members, a Registrar and five support staff.

A glossary of terms used in this report is in Appendix 1.

## Board Members



Top row (left to right): Patricia Begg, Bruce Maitland, Shiela Toth, Jack Hall, Bob Kasting, Rod MacDonald, Kenneth Thornicroft, Brian McConnell, John Bridal

Bottom row (left to right): Chris Hope, Audrey Suttorp, Rob Fraser, Cheryl Vickers, Simmi Sandhu, Sheldon Seigel, Rosemary Barnes, Don Risk

Missing from this picture: Paula Barnsley and Mark Goodall

## Report on Performance

### Key Challenges and Targets

At the end of 2008 the Board identified the following challenges and performance targets for 2009:

1. To resolve the newly filed 2009 appeals in a timely manner.
2. To complete the older active appeals.
3. To register and acknowledge the 2009 appeals by May 31, 2009.
4. To issue at least 90% of written decisions within 90 days from the hearing.
5. To complete or schedule for hearing by March 31, 2009, 75 to 85% of the active 2008 commercial and industrial appeals.
6. To complete or hear by December 31, 2009, 90 to 100% of the 2009 residential, farm and recreation property appeals.

### Results

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

<b>Challenge or Target</b>	<b>Result by Dec. 31, 2009</b>
1. 2009 appeals	reduced by 82%
2. older appeals (2008 and earlier)	reduced by 75%
3. registration of 2009 appeals	completed on May 22, 2009
4. timeliness of written decisions	93% completed within 90 days
5. 2008 commercial & industrial property appeals	89% completed or scheduled for hearing by Mar. 31, 2009
6. 2009 residential, farm & recreational property appeals	97% completed or heard by Dec. 31, 2009

The Board has benefited from excellent cooperation over the last few years between the main parties to appeals, namely, BC Assessment, property tax agents and legal counsel. This level of cooperation has made it possible for the Board to resolve a high number of appeals and exceed its performance targets.

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

<b>Activity</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>
New appeals received in year <sup>1</sup>	1,412	1,707	1,883
Carry over from earlier years	781	619	1,359
Total appeal workload	2,193	2,326	3,242
Appeals completed during the year	1,749	1,565	2,603
# and % of appeals resolved without a hearing	1,580 (90%)	1,376 (88%)	2,370 (91%)

Notes:

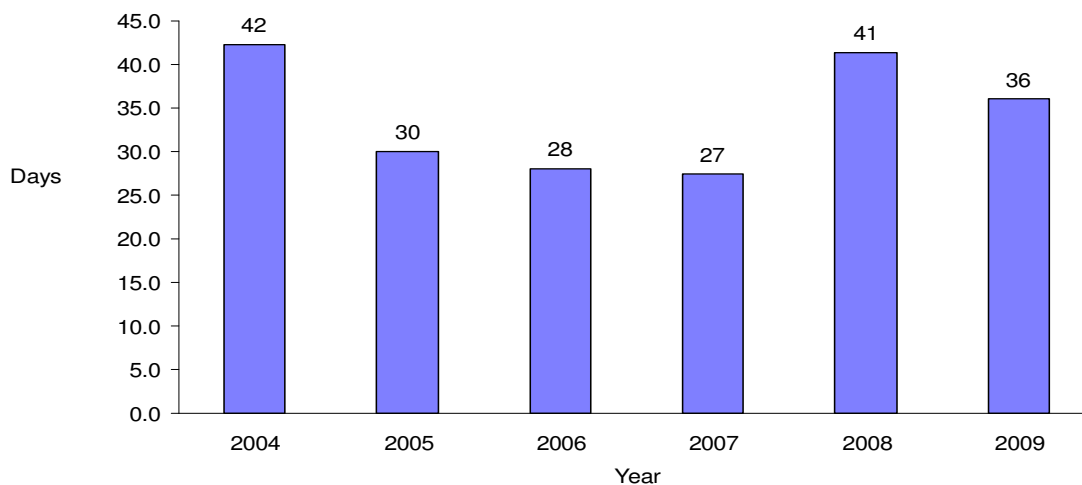
1. The activity in 2007 included parking site appeals. The parking site tax was repealed for 2008 and later years.

The Board exceeded its targets for completing appeals, with a high portion (90%) completed using alternative dispute resolution techniques. When appeals settle they are either withdrawn (i.e. there is no change to the assessment) or the parties reach an agreement to change the assessment. If an appeal is not settled, the Board will make a decision following an oral hearing or written submissions from the parties. Appendix 3 provides statistics on how the Board completed appeals in 2009.

Approximately 48% of the Board's decisions (whether by agreement or adjudication) resulted in a change to the assessment.

As illustrated in Figure 1, the average time to complete a written decision following a hearing was well within the Board's service objectives of 60 days for residential appeals and 90 days for commercial and industrial appeals. This statistic varies from year to year depending on the availability of Board members and the complexity of appeals.

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

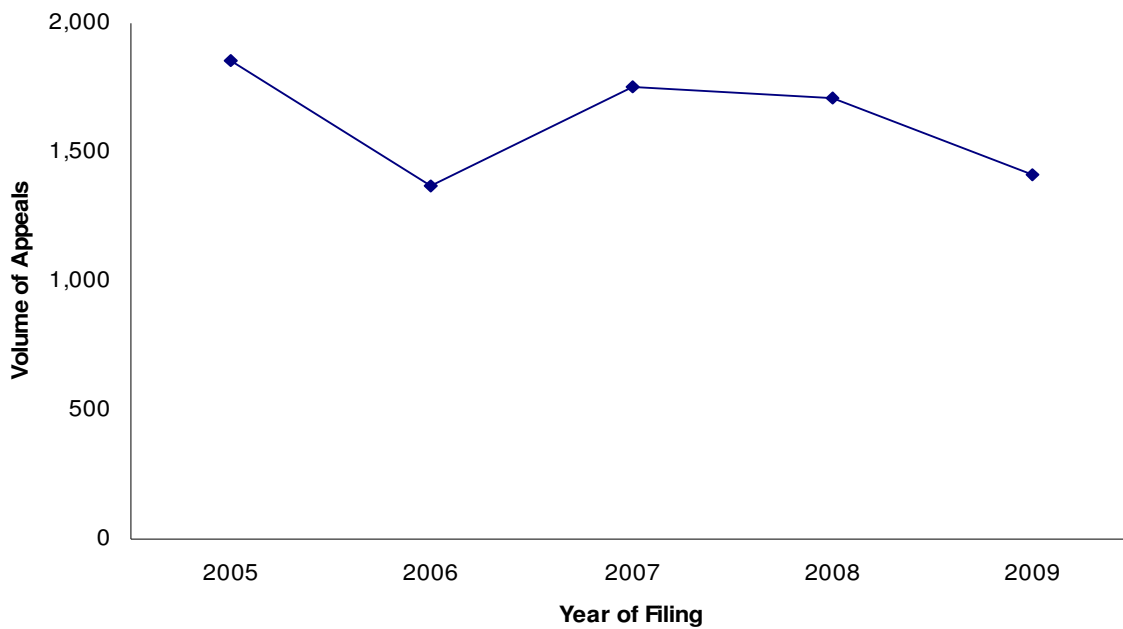


## Analysis of Outstanding Appeals

### Volume of New Appeals

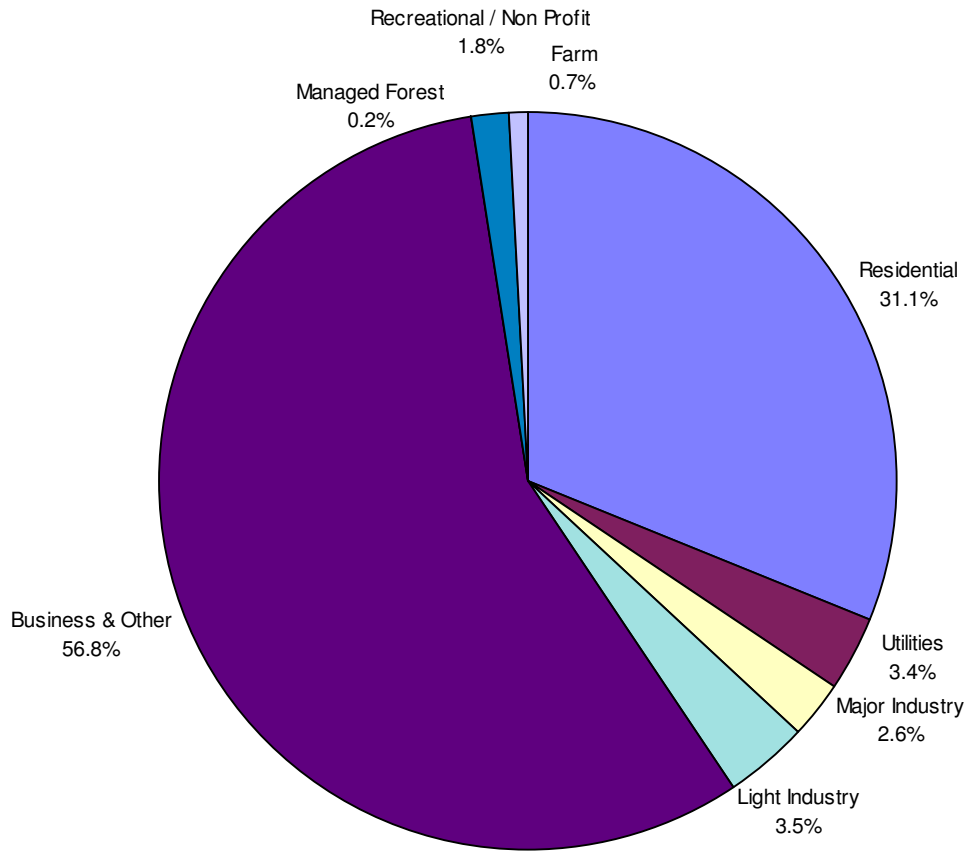
In 2009, the Board received 1,412 property assessment appeals, down 296 appeals over the previous year. Residential appeals decreased significantly (down by one-third), likely due to Bill 45 which provided owners with the lower of the actual value in 2007 or 2008. Commercial and industrial appeals decreased by only 11%.

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



The majority of appeals in 2009 were for “Business and Other” classed properties, followed by Residential classed properties.

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

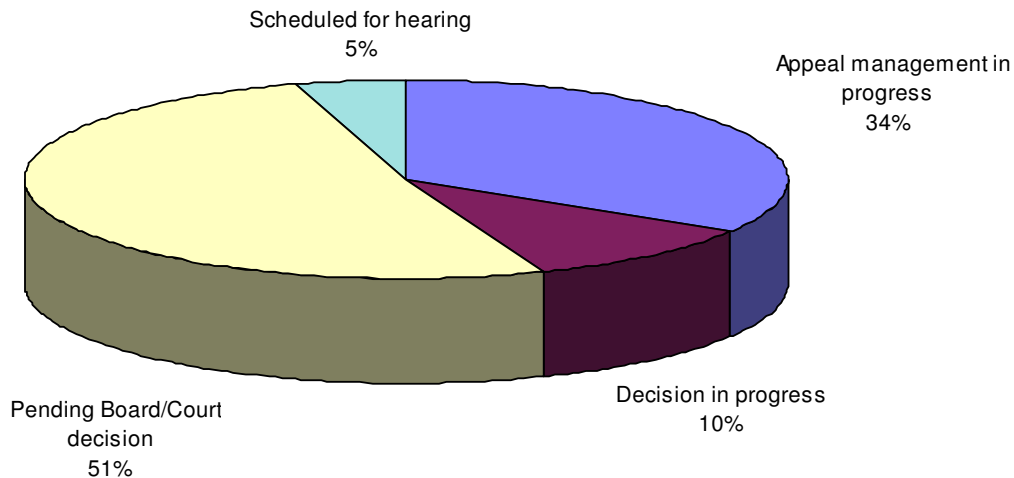




## Year-end Position

As of December 31, 2009, there were 444 outstanding appeals.

**Figure 4 - Status of Outstanding Appeals**



34% of the outstanding 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. 5% were scheduled for a written submission or in-person hearing.

When appeals have very similar issues to others that are being heard by the Board or are before the Court on appeal, the Board will hold these appeals pending the resolution of the related issues. 51% of the appeals were in this category, known as “contingent”.

The proportion of contingent appeals increases with older appeals. At year-end, 31% of the outstanding 2009 property assessment appeals were contingent, whereas 76% of the outstanding 2008 and older appeals were in this category. The majority of the older appeals are pending resolution of a single issue: whether taxing jurisdiction 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 issue is not one over which the Board has jurisdiction.

As might be expected, given the population and business distribution throughout the Province, the majority of outstanding appeals (59%) are in Greater Vancouver.

**Figure 5 - Regional Distribution of Appeals**

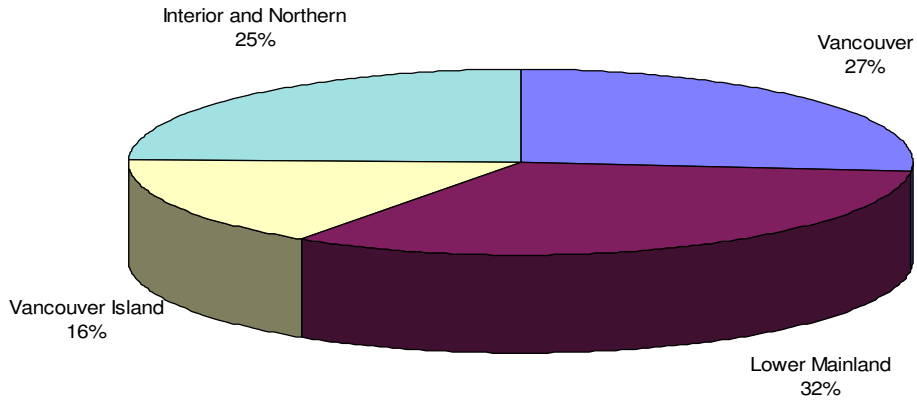
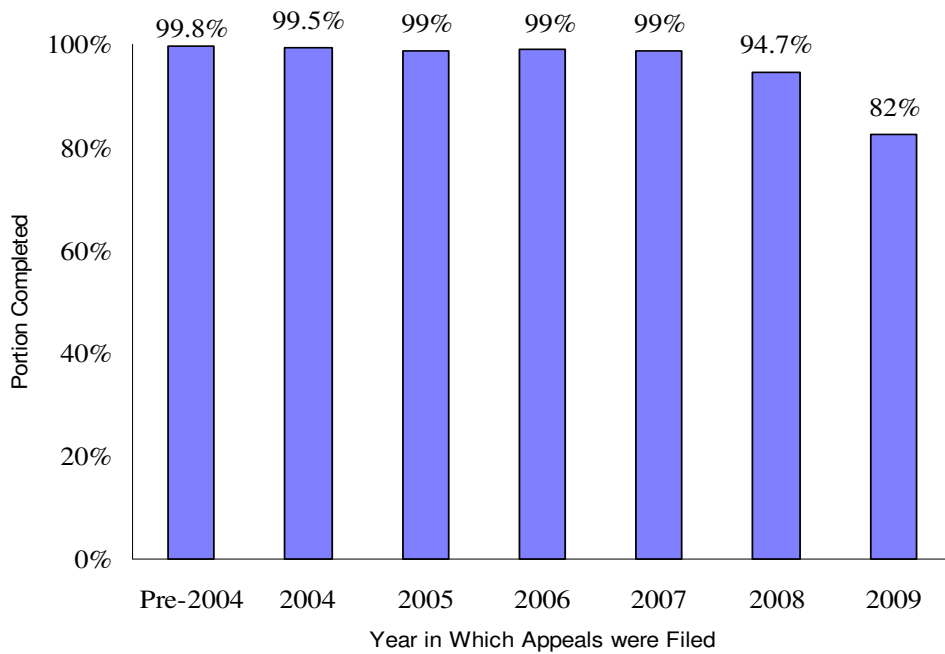


Figure 6 illustrates the portion of appeals completed by appeal year.

**Figure 6 - Completed appeals by the year of original filing**



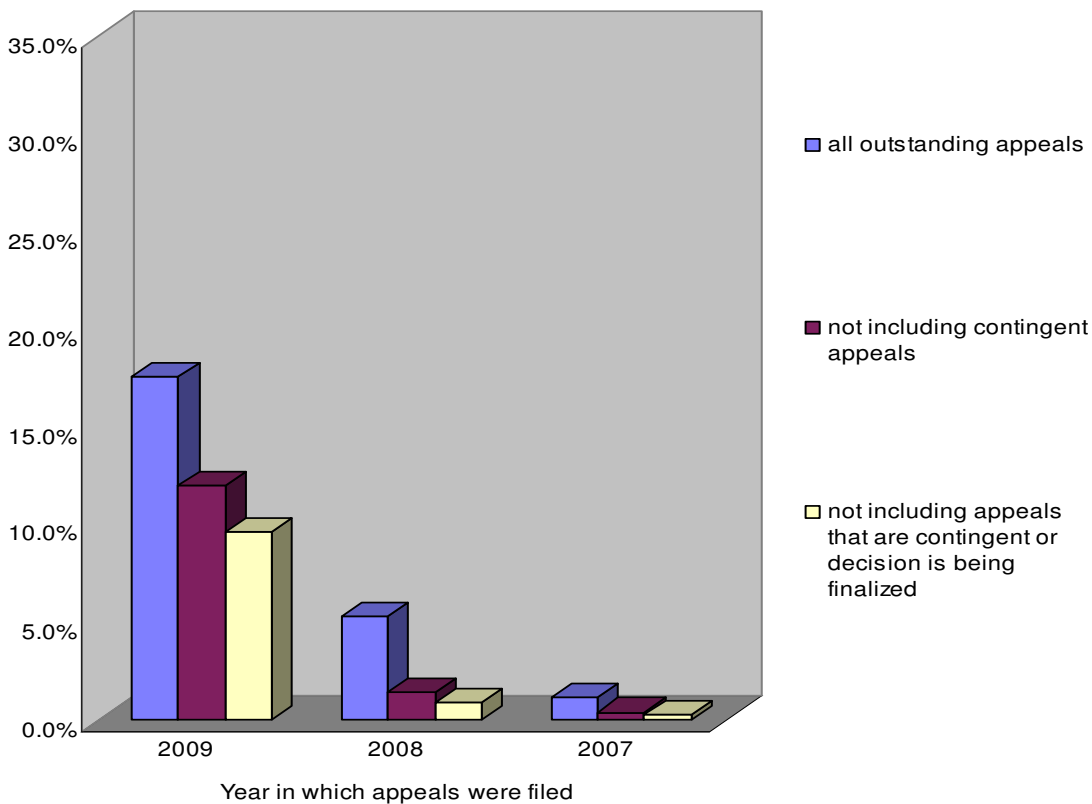
There are significantly fewer appeals outstanding as of December 31, 2009 compared to the same time last year. With fewer new appeals, the Board was able to complete higher proportions of the 2009 and older appeals. The total number of completions increased by 12% in 2009 over the previous year.

Figure 7 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 have not been published).

After these adjustments, the effective portions of outstanding 2007, 2008 and 2009 appeals as of December 31, 2009 were 0.3%, 0.9% and 9.6%, respectively.

**Figure 7 - Portion of Appeals Outstanding**



More detailed statistics are provided in Appendices 2 to 5.

## **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 2009, nine stated cases from previous years were outstanding before the B.C. Supreme Court. During the year, 10 new stated cases were filed. The Court confirmed the Board's decision in seven appeals and referred one back to the Board. At year-end, 11 stated cases were still before the B.C. Supreme Court.

At the beginning of 2009, one case was before the Court of Appeal. During the year, the Court granted leave to appeal for two new cases. These cases were still outstanding at year-end.

There were no applications in 2009 for leave to appeal to the Supreme Court of Canada.

## Responses to Challenges in 2009

The Board undertook the following strategies to resolve appeals:

1. Teleconferences for all residential appeals to assist the property owners and BC Assessment with reassessing the merits of their respective positions to encourage settlement.
2. Adjudication by written submission hearing for residential appeals that did not settle (unless circumstances required an oral hearing). This method of adjudication 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. In-person meetings with tax agents and BC Assessment to deal with groups of commercial and industrial appeals. This approach is more efficient and effective than the traditional appeal management practice of dealing with appeals on an individual basis.
4. Exchange of Statements of Issues, Evidence, and Analysis for more complex commercial and industrial appeals. This tool accelerates the disclosure and examination of the *detailed* appeal issues and can assist in the earlier resolution of appeals.
5. Require early disclosure by the parties of assessment and property information eliminating associated delays and allowing the Board to focus resources on substantive rather than procedural disputes.
6. Settlement Conferences to narrow the issues and settle appeals without the need for hearings.

## **Other Activities**

### **Consultation with the Assessment Community**

On March 30, 2009, the Board held a forum with legal counsel, tax agents and members of BC Assessment to obtain feedback on the appeal management strategy for 2009 commercial and industrial appeals. As a result, no significant changes were introduced from the approaches adopted over the last several years. The Board reinforced expectations for early identification of issues, disclosure of appeal and property information, and settlement discussions.

### **Redesigned Website**

The Board launched a redesigned website and a new appeal guide targeted to provide more user friendly and detailed guidance to the public, especially to clients who are not familiar with how to prepare and present their case. The website navigation was improved to make it easier for users to locate resource materials.

### **Board Member Training and Continuing Education**

The Board held its annual meeting in March 2009 to upgrade members' adjudicative and decision writing skills.

Cabinet appointed two new part-time members in November 2009. They will be provided with orientation and training in early 2010 along with two other new members appointed effective January 31, 2010. Several Board members also participated in other education programs offered by the British Columbia Council of Administrative Tribunals.

## Board Finances

The Board's budget for April 1, 2009 to March 31, 2010 is \$1.5 million, fully funded from the property tax levy and appeal fees.

The budget and estimated expenditures for 2009/2010 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)	%
2009/10 <sup>2</sup>	\$1,486	\$1,389	\$97	7%
2008/09	\$1,578	\$1,504	\$74	5%
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%)

Notes:

1. The above budget figures are inclusive of revenue from appeal fees.
2. Expenditures for fiscal year 2009/10 are forecasted based on actual expenditures to Dec. 31, 2009.

The Board forecasts it will be approximately \$97,000 (or 7%) under budget for fiscal 2009/10. The Board collected \$68,796 in appeal fees and forecasts billing the Ministry of Energy, Mines and Petroleum Resources \$60,000 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 6. Board Member fees and expenses decreased in 2009/10 due to a lower volume of appeals.

## **Looking Forward**

### **Challenges for 2010**

The Board is entering a new appeal year in a favourable position with a low number of outstanding 2009 and earlier appeals. The majority of Board resources can be concentrated on resolving the newly filed 2010 appeals.

In 2010, the Province is returning to the normal assessment system valuing properties as of a single valuation date (July 1, 2009). It is yet to be seen whether this “return to normal” will impact appeal volumes in 2010. As in previous years, the Board will not know its appeal workload until after the April 30, 2010 appeal deadline.

The Board will, therefore, face traditional challenges in 2010:

- Complete the older appeals that are currently active;
- Resolve appeals from the contingent category once related Court cases are completed;
- Complete the newly filed 2010 appeals, resolving as many as possible using alternative dispute resolution techniques.

### **Targets for 2010**

The Board has set the following targets for 2010 based on its mission, objectives and past performance:

1. To complete registration and acknowledgement of the 2010 appeals by May 31, 2010.
2. To issue at least 90% of written decisions within 90 days from the hearing.
3. To complete or schedule for hearing by March 31, 2010, over 90% of the active 2009 commercial and industrial appeals.
4. To complete or hear by December 31, 2010, 90 to 100% of the 2010 residential, farm and recreation property appeals.
5. To complete or schedule for hearing by March 31, 2011, 75 to 85% of the active 2010 commercial and industrial appeals.



The completion targets for 2010 will be reviewed once the volume of appeals is known - following the April 30<sup>th</sup> appeal deadline. The Chair of the Board will discuss any proposed revisions with the Minister of Community and Rural Development. Despite any performance target, the Board must ensure that appeals are resolved in accordance with the principles of natural justice. Whenever there is a conflict between a performance target and these principles, natural justice and due process must prevail.

## Appendix 1

### 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:

1. The Board does not have jurisdiction to deal with an appeal; or
2. 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 conform with its mandate to ensure the accuracy and consistency of assessments, 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. A Board member facilitates this Conference 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.

## Appendix 2

### 2009 Property Assessment Appeal Completion Results Compared to 2008

Period	Appeals at Beginning of Period	Appeals at December 31	Appeals Completed Within Period	% Completed in Period
<b>2009</b>				
New Appeals	1,412	248	1,164	82%
Prior Year Appeals	781	196	585	75%
<b>Year 2009 Total</b>	<b>2,193</b>	<b>444</b>	<b>1,749</b>	<b>80%</b>
<b>2008</b>				
New Appeals	1,707	571	1,136	67%
Prior Year Appeals	619	210	409	66%
<b>Year 2008 Total</b>	<b>2,326</b>	<b>781</b>	<b>1,545</b>	<b>66%</b>

## Appendix 3

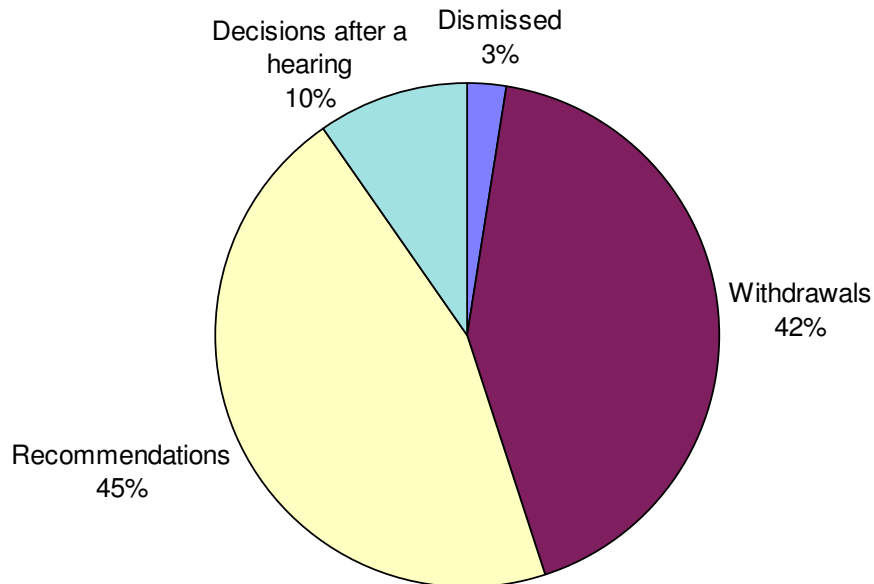
### Property Assessment Appeals Completion Results by Appeal Year

Year filed	Appeals at Beginning of Year	Method of Completion				Total Completed	Appeals Outstanding at Dec 31/09
		Dismissed	Withdrawals	Recommendations	Decisions after a hearing <sup>1</sup>		
2009 <sup>2</sup>	1,412	43	560	480	81	1,164	248
2008	571	3	159	257	61	480	91
2007	70	0	7	34	9	50	20
2006	35	0	1	14	6	21	14
2005	38	0	2	7	7	16	22
2004	16	0	2	1	5	8	8
Pre-2004	51	0	10	0	0	10	41
<b>TOTAL</b>	<b>2,193</b>	<b>46</b>	<b>741</b>	<b>793</b>	<b>169</b>	<b>1,749</b>	<b>444</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 2009 appeals is from May 1 to December 31.

### Method of Completion of Appeals in 2009



## Appendix 4

### Summary of Outstanding Property Assessment Appeals

APPEAL STATUS	OUTSTANDING APPEALS						
	TOTAL	2009 APPEALS <sup>1</sup>			PRIOR YEARS <sup>2</sup>		
	Dec 31/09	Dec 31/09	April 30/09	Inc./.(Decr.)	Dec 31/09	Dec 31/08	Inc./.(Decr.)
Appeal Management in Progress	150	118	1,412	(92%)	32	518	(94%)
Scheduled for Hearing	21	18	0	N/A	3	60	(95%)
Pending Board or Court Decision	227	78	0	N/A	149	163	(9%)
Decision in Progress	46	34	0	N/A	12	40	(70%)
Total Outstanding Appeals	444	248	1,412	(82%)	196	781	(75%)

Notes:

1. April 30, 2009 was the filing deadline for the 2009 appeals.
2. Includes all outstanding appeals to the Board from the 2008 and earlier rolls.

## Appendix 5

### Board Activities in 2009 Compared to Prior Years

Board Activity	Results in year:				
	2009	2008	2007	2006	2005
<b>Overall Appeal Caseload</b>					
New Appeals Registered	1,412	1,707	1,883	2,168	1,868
Prior Year Appeals (beginning of year)	781	619	1,359	1,371	1,193
Total Appeals	2,193	2,326	3,242	3,539	3,061
<b>Appeal Management Conferences (AMCs)</b>					
# of AMCs Conducted	625	767	744	731	781
# of Appeals Involved	2,626	2,246	2,975	2,989	2,548
<b>Settlement Conferences Held</b>	44	23	29	25	43
<b>Hearing Statistics</b>					
# of In-Person Hearings	19	22	35	44	27
# of Hearing Days	40	48	76	53.5	62
# heard by way of Written Submissions	105	134	137	99	111
<b>Appeal Completion Method</b>					
By withdrawals/dismissal orders	787	730	1,355	1,001	804
By recommendations	793	626	1,015	1,010	671
By decisions after a hearing	169	189	233	171	215
<b>Appeals</b>					
Number Completed	1,749	1,565	2,603	2,182	1,690

Note: These activities also include parking site appeals for 2006, 2007 and 2008.

## Appendix 6

### Breakdown of Expenditures (\$000's)

Fiscal Year <sup>1</sup>	Salaries & Benefits	Members Fees & Exp.	Travel Expenses	Occupancy Expenses	Systems & Telecommun.	Office & Misc. Exp.	Total Expenses	Less MAB & GVTA <sup>2</sup>	Net Expenses
2009/10	786	195	40	111	222	35	1,389	60	1,329
2008/09	836	256	39	92	216	65	1,504	93	1,411
2007/08	827	209	35	81	177	65	1,394	125	1,269
2006/07	832	188	16	83	231	61	1,410	76	1,335
2005/06	788	172	25	83	190	58	1,315	0	1,315
2004/05	766	257	21	87	165	58	1,354	0	1,354

Notes:

1. Expenditures for fiscal year 2009/10 are forecasted based on actual expenditures to December 31, 2009.
2. The costs recovered for services to the Mediation and Arbitration Board and the Greater Vancouver Transportation Authority are deducted to arrive at the net expenses for the Property Assessment Appeal Board.