



BOARD OF REVISION

**Thursday, February 6, 2014
9:30 AM**

Larry Schneider Board Room



**Public Agenda
Board of Revision
Thursday, February 6, 2014**

Appointment of Chairperson for 2014

Approval of Public Agenda

Minutes of the meeting held on February 28, 2013.

City Clerk's Reports

BR14-1 2013 Final Statistical Overview

Recommendation

That this report be received and filed.

BR14-2 2014 Hearing Schedule

Recommendation

That for the purpose of hearing and rendering decisions on 2014 appeals, the Board Chairperson be requested to appoint members to three panels and that two of the members be appointed as panel chairs.

BR14-3 Amendments to *The Cities Act*

Recommendation

That this report be received and filed.

2014-4 2014 Legal Counsel

Recommendation

That Mr. Bill Johnson, Q.C. be appointed the Board of Revision Legal Counsel for 2014.

BR14-5 2014 Board Member Training

Recommendation

That the Board determine whether any other training sessions should be pursued in 2014 to assist the members in preparing for hearings.



Office of the City Clerk

BR14-6 Review of 2014 Board of Revision Policy Guidelines

Recommendation

That the Regina Board of Revision Board Policy Guidelines attached as Appendix “A” be approved.

BR14-7 Review of 2014 Decision Wording Precedent Document

Recommendation

That the Decision Wording Precedent Document attached as Appendix “A” be approved.

Adjournment

AT REGINA, SASKATCHEWAN, THURSDAY, FEBRUARY 28, 2013

AT A MEETING OF THE BOARD OF REVISION

HELD IN PUBLIC SESSION

AT 9:30 AM

These are considered a draft rendering of the official minutes. Official minutes can be obtained through the Office of the City Clerk once approved.

Present: Joanne Moser, in the Chair
Walter Antonio
Michael Brassard
Stella Dechaine
Sheila Hart
Cyril Kesten
Don Molesky
George Peters
Linda Paidel

Regrets: N/A

Also in City Clerk, Joni Swidnicki
Attendance: Committee Assistant, Mavis Torres

APPROVAL OF PUBLIC AGENDA

Sheila Hart moved, AND IT WAS RESOLVED, that the agenda for this meeting be approved, as submitted.

ADOPTION OF MINUTES

Walter Antonio moved, AND IT WAS RESOLVED, that the minutes for the meeting held on February 17, 2012 be adopted, as circulated.

CITY CLERK'S REPORTS

BR13-1 Amendments to *The Cities Act*

Recommendation

That this report be received and filed.

Linda Paidel moved, AND IT WAS RESOLVED, that this report be received and filed.

BR13-2 2013 Legal Counsel

Recommendation

That this report be received and filed.

Stella Dechaine moved, AND IT WAS RESOLVED, that this report be received and filed.

BR13-3 Review of 2013 Board of Revision Policy Guidelines

Recommendation

That the Regina Board of Revision Board Policy Guidelines attached as Appendix "A" be approved.

George Peters moved, AND IT WAS RESOLVED, that the Regina Board of Revision Board Policy Guidelines attached as Appendix "A" be amended to include reference to the Board working independently of the City of Regina, and the requirements for impartiality and confidentiality subject to a review of the Board of Revision Bylaw.

BR13-4 Review of 2013 Decision Wording Precedent Document

Recommendation

That the Decision Wording Precedent Document attached as Appendix "A" be approved.

Don Molesky moved, AND IT WAS RESOLVED, that the recommendations contained in the report be concurred in.

BR13-5 2013 Hearing Schedule

Recommendation

That for the purpose of hearing and rendering decisions on 2013 appeals, the Board Chairperson be requested to appoint members to three panels and that two of the members be appointed as panel chairs.

Mike Brassard moved, AND IT WAS RESOLVED, that the recommendations contained in the report be concurred in.

BR13-6 2013 Board Member Training

Recommendation

That the Board determine whether any other training sessions should be pursued in 2013 to assist the members in preparing for hearings.

Sheila Hart moved, AND IT WAS RESOLVED, that this report be received and filed.

ADJOURNMENT

Walter Antonio moved, AND IT WAS RESOLVED, that the meeting adjourn.

The meeting adjourned at 11:45 a.m.

Chairperson

Secretary

February 6, 2014

To: Members,
Board of Revision

Re: 2013 Final Statistical Overview

RECOMMENDATION

That this report be received and filed.

CONCLUSION

The activities of the Board of Revision are summarized in a report each year for the information of the Board members and for the record.

BACKGROUND

The purpose of this report is to provide the Board with a statistical overview of the Board's activities from 2006 to the conclusion of the 2013 appeal season.

DISCUSSION

Detailed below are a series of tables which describe the activities of the Board since 2006. Also included are tables which provide information on the appeals that have been submitted to the Saskatchewan Municipal Board Assessment Appeals Committee (SMB) since 2006.

BOARD OF REVISION STATISTICS

Table 1 - 2013 Appeals to the Board of Revision:

Status	Commercial	Condo	Multi-Family	Residential	LIP	Amended	Supp	Total
Received	169	8	1	28	0	17	7	230
Agreements (A)	22			8			2	31
Insufficient (I)		1					1	2
Late (L)		1		2				
Withdrawn (W)	30	4		13		5	2	53
Total A/I/L/W	52	6	0	23	0	5	5	91
Appeals Heard	117	2	1	5	0	12	2	139

Table 2 - 2013 Decisions of the Board of Revision:

Status	Commercial	Condo	Multi-Family	Resi	LIP	Amended	Supp	Total
Decisions to Render	117	2	1	5	0	12	3	140
Denied	115	2	1	3		11		132
Granted	2			2		1	1	6
Agreement During Hearing								0
Granted – No change in assessment								0
Appeal Not Heard								1
Total Decisions Rendered	117	2	1	5	0	12	2	139

Table 3 - Board of Revision Appeals by year:

Year	2013	2012	2011	2010	2009	2008	2007	2006
Received	230	62	172	149	233	77	123	205
Heard	138	51	141	118	123	35	62	169

SASKATCHEWAN MUNICIPAL BOARD – ASSESSMENT APPEALS COMMITTEE STATISTICS

Table 4 – 2013 Appeals to the SMB:

Appeal Type	Commercial	Residential Condo	Multi-Family	Resi	LIP	Amended	Supp	Total
Decision of the Board of Revision	120	1		2				123

Table 5 – Appeals to the SMB by year

2013	2012	2011	2010	2009	2008	2007	2006
123	40	128	109	111	8	36	29

RECOMMENDATION IMPLICATIONS

Financial Implications

None for this report.

Environmental Implications

None for this report.

Strategic Implications

None for this report.

Accessibility Issues

None for this report

Other Implications

None for this report.

COMMUNICATIONS

The Board of Revision statistics will be distributed to interested parties, as required.

DELEGATED AUTHORITY

The Board has authority for the disposition of this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jim Nicol', with a stylized flourish at the end.

Jim Nicol, Secretary
Board of Revision

February 6, 2014

To: Members,
Board of Revision

Re: 2014 Hearing Schedule

RECOMMENDATION

That for the purpose of hearing and rendering decisions on 2014 appeals, the Board Chairperson be requested to appoint members to three panels and that two of the members be appointed as panel chairs.

CONCLUSION

The Board of Revision Office has received 188 annual assessment appeals to date. The 2014 hearing schedule has been set based on the availability of members, the appellants and the Assessor. It is proposed that three panels of three members each be established to hear appeals.

BACKGROUND

Section 199 of *The Cities Act* (the “*Act*”) provides that the Secretary of the Board of Revision shall set a date, time and location for a hearing before the Board of Revision. The Board Secretary has traditionally worked with Appellants, the City Assessor and the Board to evaluate the needs of all parties prior to determining a hearing schedule.

The purpose of this report is to update the Board on the status of the appeals and the plan for scheduling the 2014 appeal hearings.

DISCUSSION

2014 Annual Notices of Assessment were sent out on November 8, 2013 and the deadline for submitting appeals to the Board of Revision for 2014 was December 9, 2013. Amended Notices of Assessment were sent out on January 17, 2014, the deadline for submitting amended appeals is February 18, 2014.

The following chart summarizes the results of the Secretary’s review of the 188 appeals received to date in 2014. Additional Notices of Appeal may be received for the Board later in the year as a result of Amended or Supplemental Notices of Assessment being sent out by the Revenue and Administration Department.

2014 APPEAL STATISTICS AS AT JANUARY 31, 2014							
	COMM	CONDR	MULTI-FAMILY	RESI	LIP	AMENDED	TOTAL
Appeals Received	166	0	20	2	0	0	188
Agreements – Withdrawn							0
Insufficient – Grounds							0
Insufficient – Fee							0
Late							0
Late (To SMB)							0
Withdrawn	5		18				23
Sub-Total – Agreements, Insufficient, Late, Withdrawn	5	0	18	0	0	0	23
Appeals to be Heard	161	0	2	2	0	0	165

The agreements, insufficient and withdrawn appeals have not been scheduled to be heard by the Board. A total of 165 appeals have been scheduled to be heard by the board in 2014. To date, no amended appeals have been received. Should any amended appeals be filed, they will be scheduled as soon as possible.

After contacting appellants and consulting with the City Assessment staff, 165 appeals have been scheduled to be heard by three panels during the period from Thursday 13, 2014 to Thursday, April 17, 2014.

The panels will be appointed in accordance with Section 192(6) of the *Act*, which states that the Board Chairperson shall appoint a chairperson for each panel and appoint panels of not less than three persons. For 2014, the Board is made up of 8 members. Members will be provided with notice as soon as possible after the Chairperson has selected the panels for hearing the appeals.

In 2014, an effort has been made to have each panel deal with appeals on a particular issue. The hearings will be held in Henry Baker Hall, main floor of City Hall.

The following is a schedule of the dates set for each panel:

PANEL #	HEARING DATES
Panel 1	March 13, 17, 18 & 31 April 1, 15, 16, 17 & 22
Panel 2	March 25, 26 & 27
Panel 3	April 3, 4, 7, 8, 9 & 10

Section 210(4) of the *Act* provides that the Board of Revision shall make all decisions on appeals within 180 days after the Assessment Notices are sent out. For 2014, the deadline for rendering decisions on the annual assessment appeals is Wednesday, May 7, 2014.

Section 360(9) of the *Act* addresses a process for seeking an extension of time, if required. Since the decision deadline is May 7th and the hearings are scheduled to conclude on April 17, 2014, an application should not be required to extend the deadline, unless the Board feels it is necessary.

RECOMMENDATION IMPLICATIONS

Financial Implications

The 2014 Budget includes funds for the operation of the Board of Revision.

Environmental Implications

None for this report.

Strategic Implications

None for this report.

Other Implications

None for this report.

Accessibility Implications

None for this report.

COMMUNICATIONS

None for this report.

DELEGATED AUTHORITY

The Board has authority for the disposition of this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jim Nicol', with a stylized flourish at the end.

Jim Nicol, Secretary
Board of Revision

February 6, 2014

To: Members,
Board of Revision

Re: Amendments to *The Cities Act*

RECOMMENDATION

That this report be received and filed.

CONCLUSION

Information on amendments to *The Cities Act* is being provided to the Board for their review. During consideration of the policy and precedent document reports, the Board should determine if any changes are required to these documents as a result of the amendments.

BACKGROUND

In December 2002, City Council adopted a resolution to continue under the authority of *The Cities Act* effective January 1, 2003. Section 192 through 212 of *The Cities Act* address Board of Revision.

DISCUSSION

Amendments that are relevant to the Board since 2009 are detailed below for the Board's review:

Current Legislation	Change
Section 195(1) (a) strike out "property" after "total"	195(1) This section applies, at the option of the appellant, to an appeal concerning the assessment of: (a) a single family residential property regardless of the total assessment; or
Section 195(1) (b) strike out "fair value" after "total"	195(1)(b) any property that has a total assessment of \$250,000 or less
Section 196(1) strike out "intervener" after party	196(1) Subject to subsection (6), a council may set fees payable by persons wishing to appeal their assessments or to be involved as a party in a hearing before the board of revision and for obtaining copies of the board of revision's decisions and other documents
Section 196(5) repealed	Replaced with: 196(5) If an appellant fails to pay the fees required pursuant to subsection (1) within the 30-day period mentioned in subsection 198(1) or within the 60-day period mentioned in subsection 198(1.1), as the case may be, the appeal is deemed to be dismissed.
Section 198(1) strike out "with the secretary of the board of revision" after "section 196"	198(1) A notice of appeal must be filed, together with any fee set by the council pursuant to section 196 at the address shown on the assessment notice.

Current Legislation	Change
Section 198(1.1) - new legislation	198(1.1) Notwithstanding clauses (1)(a) and (b), in the year of a revaluation pursuant to <i>The Assessment Management Agency Act</i> , a notice of appeal must be filed, together with any fee set by the council pursuant to section 196, within 60 days after the date mentioned in those clauses.
Section 199(6)(b) repealed	Replace with: 199(6)(b) grant the appellant one 14-day extension to perfect the notice of appeal.
Section 199(7) add ", which action is deemed to be a refusal by the board of revision to hear the appeal" after "notice of appeal"	Replace with: 199(7) If the appellant does not comply with a notice given pursuant to subsection (6), the secretary of the board of revision may refuse to file the notice of appeal, which action is deemed to be a refusal by the board of revision to hear the appeal.
Section 203.1 - new legislation	203.1 If directed to do so by the board of revision, the person having charge of the assessment roll, or any person having charge of any books, papers or other documents relating to the matter on appeal, shall: (a) appear at the hearing of the appeal; and (b) produce the assessment roll and all books, papers and other documents in his or her custody relating to the matter on appeal.
Section 210(1.1) - new legislation	210(1.1) Notwithstanding subsection (1), a non-regulated property assessment shall not be varied on appeal using single property appraisal techniques.
Section 210(3) - repealed	210(3) Notwithstanding subsection (1), an assessment shall not be varied on appeal if equity has been achieved with similar properties.
Section 163.1 – add Quality assurance standards reports	163.1(1) An assessor shall provide to the agency in the form and at the times required by the agency any information that the agency considers necessary for the purposes of reviewing the city's compliance with the quality assurance standards mentioned in subclause 163(f.1)(iv). (2) The agency shall post on its website notification of compliance with the standards pursuant to subclause 163(f.1)(iv) for each city in which compliance has been achieved".
Section 166(2)(c)	amended by striking out "classified according to the use to which the land or improvements or land and improvements are put".
Subsection 171(8) amended Subsection 171(8.1) – new	amended by striking out the portion preceding clause (a) and substituting the following: "On or before September 1 in each year, every owner or operator of a petroleum oil or gas well shall furnish the assessor with a certified statement showing the following information as of July 1 in the current year:". (2) The following subsection is added after subsection 171(8): "(8.1) On or before September 1 in each year, every owner or operator of a battery or gas handling site shall furnish the assessor with a certified statement showing the following information as of July 1 in the current year: (a) a list of the surface locations of battery and gas handling sites mentioned in clause 169(2)(b) that are situated within the city; and (b) any change in the information mentioned in clause (a) that has occurred since the last information was furnished to the assessor".

Current Legislation	Change
<p>Subsection 185(1.1) amended</p> <p>Subsection 185(1.2) – new</p>	<p>amended by striking out “or amended assessment notice”.</p> <p>(2) The following subsection is added after subsection 185(1.1): “(1.2) Subsection (1.1) does not apply to an amended assessment notice or a notice of supplementary assessment”.</p>
<p>Subsection 189(1) amended</p>	<p>amended:</p> <p>(a) by striking out “or” after clause (c); and</p> <p>(b) by adding the following after clause (d): “(e) subdivision of the property; or “(f) issuance of titles pursuant to a condominium plan that is approved by the Controller of Surveys”.</p>
<p>Subsection 197(5) amended</p>	<p>amended by striking out “give” and substituting “file”.</p>
<p>Subsection 197(6) amended</p>	<p>is amended:</p> <p>(a) by adding the following clauses after clause (a): “(a.1) set out the name of the appellant and the name of the agent who will represent the appellant, if the appellant has named an agent; “(a.2) explain how the appellant has an interest in the property”; (b) in clause (d): (i) in the portion preceding subclause (i) by striking out “a statement that”; and (ii) in subclause (i) by adding “a statement that” before “the appellant”; and (c) by repealing clause (e) and substituting the following: “(e) include the mailing address and facsimile number of the appellant and the mailing address and facsimile number of the appellant’s agent, if the appellant has named an agent”.</p> <p>(3) The following subsection is added after subsection 197(6): “(6.1) Regardless of whether or not the appellant has named an agent in the notice of appeal pursuant to subsection (6), the appellant retains the right to name an agent, change an agent or use additional agents at any time during the appeal process”.</p>
<p>Subsection 198(2) amended</p>	<p>amended by striking out “give” and substituting “file”.</p>
<p>Subsection 199(3) repealed</p>	<p>repealed and the following substituted: “(3) The secretary of the board of revision may serve notice pursuant to this section by personal service, by registered mail, by ordinary mail or by facsimile on the appellant: (a) at the mailing address or facsimile number included in the notice of appeal; or (b) if no mailing address or facsimile number is included in the notice of appeal, at the address entered on the assessment roll”.</p>
<p>Subsection 210(5) repealed</p>	<p>repealed and the following substituted: “(5) After a decision is made pursuant to subsection (1), the secretary of the board of revision shall send by registered mail or personally deliver to each party: (a) a copy of the decision together with written reasons for the decision; and (b) a statement informing the party of the rights of appeal available pursuant to section 216 and the procedure to be followed on appeal”.</p>
<p>Subsection 214(1)(a) repealed</p>	<p>repealed and the following substituted: “(a) the person has an interest in the assessed properties”.</p>

Current Legislation	Change
Subsection 217(4) amended	amended by striking out “file” and substituting “serve”.
Subsection 217(5) repealed	repealed and the following substituted: “(5) Subject to subsections (5.1) and (6), if an appellant does not serve a notice of appeal in accordance with this section, the appeal is deemed to be dismissed”.
Subsection 223(1)(b) amended	amended by striking out “make a decision” and substituting “hear or decide an appeal”.
Subsection 226(1) amended	is amended: (a) by striking out “or” after clause (a); and (b) by repealing clause (b) and substituting the following: “(b) modify the decision of the board of revision to ensure that: (i) errors in and omissions from the assessment roll are corrected; and (ii) an accurate, fair and equitable assessment for the property is placed on the assessment roll; or “(c) set aside the assessment and remit the matter to the assessor to ensure that: (i) errors in and omissions from the assessment roll are corrected; and (ii) an accurate, fair and equitable assessment for the property is placed on the assessment roll”.

RECOMMENDATION IMPLICATIONS

Financial Implications

None for this report.

Environmental Implications

None for this report.

Strategic Implications

None for this report.

Other Implications

None for this report.

COMMUNICATIONS

None for this report.

DELEGATED AUTHORITY

The Board has authority for the disposition of this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'J. Nicol', written in a cursive style.

Jim Nicol, Secretary
Board of Revision

February 6, 2014

To: Members,
Board of Revision

Re: 2014 Legal Counsel

RECOMMENDATION

That Mr. Bill Johnson, Q.C. be appointed the Board of Revision Legal Counsel for 2014.

CONCLUSION

Bill Johnson, Q.C. of Gerrand, Rath & Johnson will be engaged to provide legal support to the 2014 Board of Revision.

BACKGROUND

The purpose of this report is to advise on the appointment of legal counsel for the 2014 Board of Revision.

DISCUSSION

The City of Regina is responsible for providing legal support to the Board of Revision. The appointment of the legal counsel is determined by the Board of Revision in consultation with the City Solicitor and with the budgetary approval of City Council. In recent years, the practice has been to appoint legal counsel outside the office of the City Solicitor. The selected individual should be familiar with the legislation and processes that are required to be followed by quasi-judicial boards, such as the Board of Revision. The professional ethics of the individual engaged as legal counsel for the Board will insure objective and independent advice on issues requiring review on behalf of the Board.

For the years 2000 to 2013, Bill Johnson, Q.C. of Gerrand, Rath & Johnson Law Firm was appointed as legal counsel to the Board. Mr. Johnson has provided the Board with several written opinions which are available for Board members to reference. Mr. Johnson will be engaged to represent the Board as required in 2014.

RECOMMENDATION IMPLICATIONS

Financial Implications

The 2014 Board of Revision budget includes an allowance for legal counsel.

Environmental Implications

None for this report.

Strategic Implications

None for this report.

Other Implications

None for this report.

Accessibility Implications

None for this report.

COMMUNICATIONS

None for this report.

DELEGATED AUTHORITY

The Board has authority for the disposition of this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jim Nicol', with a stylized flourish at the end.

Jim Nicol, Secretary
Board of Revision

February 6, 2014

To: Members,
Board of Revision

Re: 2014 Board Member Training

RECOMMENDATION

That the Board determine whether any other training sessions should be pursued in 2014 to assist the members in preparing for hearings.

CONCLUSION

The training of Board of Revision members is important for ensuring the proper conduct of the Board's business. The Board should determine if there is any other training that should be provided to assist members in carrying out their duties and responsibilities.

BACKGROUND

City Council appointed the following 9 members to the Board of Revision:

Walter Antonio (2012-2014)
Michael Brassard (2013-2014)
Stella Dechaine (2013-2015)
Sheila Hart (2013-2014) **Resigned – December 2013**
Don Molesky (2013-2015)
Cyril Kesten (2013-2014)
Joanne Moser (2013-2014)
Linda Paidel (2012-2014)
George Peters (2012-2014)

The purpose of this report is to facilitate a Board decision on the training that should be provided for members in 2014.

DISCUSSION

The following training sessions have been scheduled for February 6, 2014:

- Decision writing training facilitated by Joanne Moser

All Board members have a member manual, which includes various documents, legal opinions, court decisions and other information to assist in answering questions that may arise when conducting Board business.

The Board Chairperson and the Panel Chairs are available to other members to consult on matters related to hearing appeals and writing decisions. For 2014, it is proposed that the Board Chairperson consider attending one or two sessions of the other panels to facilitate discussions among Board members on how the Board operates and opportunities for improvement.

There is no specific training available for Board members on how assessment is done in Regina. The Saskatchewan Assessment Management Agency manuals are available to members for review and information is provided on the legislative framework for the operation of the Board of Revision. Much of the knowledge required by members on assessment comes from on the job experience in hearing appeals and writing decisions. The assistance and support of experienced Board members in coaching new Board members on their duties and responsibilities is also an important part of the orientation for new members.

The Board should determine if there are any other forms of training that should be provided in 2014 to assist members in carrying out their duties and responsibilities as members of the Board of Revision.

RECOMMENDATION IMPLICATIONS

Financial Implications

The 2014 budget for the Board includes an allowance for training members.

Environmental Implications

None for this report.

Strategic Implications

None for this report.

Accessibility Implications

None for this report.

Other Implications

None for this report.

COMMUNICATIONS

None for this report.

DELEGATED AUTHORITY

The Board has authority for the disposition of this report.

Respectfully submitted,



Jim Nicol, Secretary
Board of Revision

February 6, 2014

To: Members,
Board of Revision

Re: Review of 2014 Board of Revision Policy Guidelines

RECOMMENDATION

That the Regina Board of Revision Board Policy Guidelines attached as Appendix “A” be approved.

CONCLUSION

The Board should review the attached Board Policy Guidelines to determine if any further changes are required.

BACKGROUND

The purpose of this report is to facilitate a review of the Board’s Policy Guidelines to determine if any changes are required based on the experience of the Board in 2013.

DISCUSSION

The Board Policy Guidelines were established in 1997 to summarize information on the role and responsibilities of the Board and to provide guidelines for conducting hearings and writing decisions. The document assists in maintaining continuity on Board procedures and practices. It has been customary for the Board to review the document prior to beginning hearings each year and at the end of the year to determine if any changes are required.

At the last meeting of the Board, held on February 28, 2013, the Board adopted the following resolution:

“That the Board of Revision Board Policy Guidelines attached as Appendix “A” be approved
The updated document is attached as Appendix “A”.

RECOMMENDATION IMPLICATIONS

Financial Implications

None for this report.

Environmental Implications

None for this report.

Strategic Implications

None for this report.

Other Implications

None for this report.

Accessibility Implications

None for this report.

COMMUNICATION PLAN

The Board Policy Guidelines will be distributed to interested parties, as required.

DELEGATED AUTHORITY

The Board has authority for the disposition of this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jim Nicol', with a stylized flourish at the end.

Jim Nicol, Secretary
Board of Revision

Attachments

BOARD OF REVISION



Board Policy Guidelines

Last updated: January 2014

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PURPOSE:

The purpose of this document is to summarize information on the role and responsibilities of the Board and to detail the policy guidelines of the Board for conducting hearings and writing decisions.

A. STRUCTURE

1. COMPOSITION

The Board of Revision is appointed by resolution of City Council, pursuant to Section 192 of *The Cities Act* (the "*Act*"). The Board cannot have less than three members. The Chairperson of the Board may appoint panels of not less than three persons from the members of the Board and appoint a chairperson for each panel. Subject to the conditions prescribed in Section 195 of the *Act*, the Chairperson of the Board may appoint a panel consisting of only one person from among the members of the Board to hear and rule on simplified appeals.

A panel of Board members has jurisdiction to hear and rule on appeals as though it were the Board of Revision in every instance, pursuant to subsection 192(8) of the *Act*. A person appointed from among the members of the Board, pursuant to subsection 195(3) of the *Act*, has jurisdiction to hear and rule on simplified appeals as though that person were the Board of Revision in every instance.

On November 21, 2011, City Council adopted a resolution appointing the following three members to the 2012-2014 Board of Revision, for a three-year term: Walter Antonio, Linda Paidel and George Peters. On December 17, 2012, City Council adopted a resolution appointing the following four members to the 2013-2014 Board of Revision, for a two-year term: Michael Brassard, Sheila Hart, Cyril Kesten and Joanne Moser. And the following two members, to the 2013-2015 Board of Revision, for a three-year term: Stella Dechaine and Don Molesky. Sheila Hart submitted a letter of resignation effective October 2, 2013, and as such a vacancy will remain on the board until City Council appoints an interested party.

2. JURISDICTION

The Board of Revision adjudicates appeals as provided for under the provisions of Sections 192-212 of the *Act* and Sections 33-36 of *The Local Improvement Act, 1993*.

3. REMUNERATION

Members of the Board of Revision are not employees of the City of Regina.

Pursuant to subsection 192(4) of the *Act*, City Council established the current rates of remuneration for members on October 18, 2004.

4. CHAIRPERSON

The Chairperson for the Board is elected by the other members of the Board.

The duties and responsibilities of the Chairperson include:

- Chairs Board meetings.
- Appoints panel chairpersons.
- Assigns members to panels.
- Ensures that all panels and members follow Board policies and procedures.
- Chairs a panel of the Board that deals primarily with commercial appeals.
- Makes decisions on behalf of the Board concerning the need for legal opinions.

5. PANEL CHAIRS

The duties and responsibilities of a panel chairperson include:

- Chairs a panel, as assigned.
- Ensures that the panel follows Board policies and procedures.
- Reviews panel decisions to ensure that all the issues under appeal have been addressed and takes corrective measures, as required.
- Assigns or re-assigns the writing of appeal decisions and ensures that panel members prepare their assigned decisions in accordance with the “Decision” section of these policy guidelines.
- Controls the procedures, sets the ground rules and maintains order at the hearing.

6. MEMBERS

The duties and responsibilities of a member include:

- Attends Board meetings.
- Follows Board policies and procedures.

- Attends assigned hearings.
- Reviews appeal dockets in preparation for hearings.
- Contributes at hearings by taking accurate notes, participating in discussions/deliberations and by respecting the role of the panel chair.
- When the Board Assistant is not present in the hearing room, one member is assigned to complete the duties of the Assistant. Refer to Section #8 Board Assistant - “When present in the hearing room” - for the duties that are to be performed.
- Declares any conflict of interest regarding appeals and informs the panel chairperson of any potential conflict of interest in advance of the hearing.
- Writes appeal decisions, as assigned.

7. *SECRETARY*

City Council, by resolution on September 22, 1997 appointed the City Clerk as the Secretary to the Board of Revision.

The duties and responsibilities of the Secretary include:

- Facilitates the orientation/training of Board members on legislative requirements, the assessment system, hearing protocol, and decision writing.
- Ensures that notices of appeal are submitted in prescribed form and contain the information set out in subsection 197(6) of the *Act*.
- Collects and/or reimburses appeal filing fees pursuant to subsection 196(4) of the *Act*.
- Schedules hearings and produces hearing dockets for panels.
- Serves Notice of Hearing at least 30 days prior to the hearing date.
- Processes requests for recording hearings and the production of transcripts.
- Posts a list in the municipal office of the appeals to be heard and ensures the list remains posted during the sittings of the Board.

- Issues Subpoenas to persons as requested by a party to an appeal pursuant to subsection 205 (2) of the *Act* or the Board pursuant to subsection 205 (3) of the *Act*.
- Distributes decisions to parties within 14 days of a panel's decision, with instructions regarding appeals to the Saskatchewan Municipal Board Assessment Appeals Committee (SMBAAC).
- Prepares agendas for and attends Board meetings.
- Transmits appealed records to the Saskatchewan Municipal Board Assessment Appeals Committee (SMBAAC).
- Arranges for legal opinions and/or presentations from the Board's legal counsel, as required.
- Amends the Board Policy Guidelines document as required to update items that become out of date as a result of decisions of either the Board or City Council.
- Processes requests to withdraw appeals pursuant to subsection 197 (7) of the *Act* at any time prior to evidence being heard by the Board on the appeal. When an appeal is withdrawn prior to the distribution of the docket, the appeal will be removed from the hearing docket.

8. BOARD ASSISTANT

The duties and responsibilities of the Board Assistant include:

- Handles general inquiries from the public prior to the appeal hearings regarding hearing protocol and the status of appeals.
- Provides information to panel members on the hearing schedule and the status of appeals.
- Handles requests for rescheduling appeals that occur before the hearing docket has been prepared.
- Processes requests for taping and transcription services.
- Prepares and circulates hearing dockets.
- Posts a list, outside of the meeting room, of the appeals to be heard.
- Prepares the meeting room.

- When present in the hearing room:
 1. Greets Appellants as they arrive at the hearing to confirm who is in attendance and advises the Appellants when they can expect to be heard by the panel.
 2. Advises Court Reporter who is in attendance (Panel Members, Assessor, Appellants/Agents) and who will be charged for Court Reporting Service.
 3. Advises the panel chair which Appellants are in attendance and which appeals, if any, have been rescheduled.
 4. Advises the panel of any issues on the appeals.
 5. Call Appeals/Appellants forward for their hearing in the order that they appear on the schedule, unless otherwise directed by the panel chair.
 6. Pulls the relevant file, as each appeal is called, and ensures that any necessary forms are completed (e.g. Board Orders, Court Reporter Form, Evidence and Attendance Sheets)
 7. Provides copies of Board Orders, issued by the panel, to the Assessor, Appellant/Agent and Panel members and files Board Orders in the appeal file.
 8. Receives and labels documents submitted from the Appellant or Respondent (as instructed by the panel chair) and provides a copy to the panel members and retains a copy for the appeal file.
 9. Records information on the “*Evidence and Attendance*” sheet such as documents received by the panel, who is in attendance at the hearing and which member is assigned to write the decision.
 10. Administers oaths or affirmations to witnesses.
 11. Accesses information, as required, on legislative or SAMA manual references made during the hearing for the review of panel members.
 12. Assists panel members, as required, during hearings.
- Communicates with Appellants and Respondents, as required, on any interim orders or proceedings associated with a hearing.
- Arranges for appeal decisions to be typed and returned to the author.
- Distributes appeal decisions to the Appellants and Respondents, in accordance with legislative requirements.
- Ensures that the file for each appeal is complete and in good order.

9. *LEGAL COUNSEL*

The Board Secretary shall arrange for legal counsel to be available to the Board, as required.

10. BOARD MEETINGS

Formal Board meetings can be scheduled in the following manner;

- Resolution of the Board.
- The Secretary shall call a meeting of the Board whenever requested to do so by the Chairperson or a majority of the members.
- The Chairperson may call a meeting with less than twenty-four (24) hours notice, either verbally or in writing, if all members give written consent to the notice before the commencement of the meeting.

When a meeting is to be held, the Secretary shall provide, whenever possible, written notice of the time, date and place of the meeting to all members at least twenty-four (24) hours prior to the meeting. The notice shall also include information on the business to be transacted at the meeting. The notices shall be delivered to the usual place where members have requested that their dockets and other Board information be delivered.

The Secretary, or the Secretary's designate, shall attend all formal meetings of the Board to record the decisions of the Board.

Quorum for Board meetings is a majority of Board members. A quorum shall be required to be present to hold a formal Board meeting. If a quorum is not present within fifteen minutes of the scheduled time for the meeting, the meeting shall be deemed to be cancelled, due to lack of quorum.

The Board may hold informal meetings at any time for orientation, training, or other purposes.

B. CONFLICTS OF INTEREST

In accordance with Bylaw No. 2002-57 "The Regina Code of Conduct and Disclosure Bylaw", the onus is on each Board member to make immediate disclosure to the panel chairperson upon becoming aware that he/she is or may be in a conflict of interest in connection with an appeal. Where the possibility of a conflict exists, a member must not sit on that appeal. If the member becomes aware of a conflict during a hearing, the member must immediately advise the panel chair, excuse himself/herself from the remainder of the hearing and take no part in deliberations of the panel.

Where there is merely a possibility of a conflict, the best course of action is to withdraw from the hearing. It is costly for all concerned if Board decisions are challenged on the basis of perceived bias; a reasonable perception of bias (rather than actual proof of bias) is all that need be shown to invalidate a Board decision.

It is not possible to outline all circumstances where conflicts of interest might arise for Board members; however, the following examples represent clear instances where a Board member should disclose his/her potential conflict:

- The member is a director or officer or shareholder, or has some other material interest in any “person” (including a corporation or partnership) that has a direct interest in the appeal. “Material interest” will include the existence of a material contract between the Appellant and the “person” in which the member has a material interest.
- The member is a director or officer or shareholder, or has some other material interest in any “person” (including a corporation or partnership) that is a direct business competitor with the Appellant.
- The member has any other pecuniary interest in the outcome of the appeal.
- The member is a member of the Appellant’s family, or is a friend of the member.
- The member bears personal antipathy towards the Appellant.
- There is, for some other reason, a reasonable basis for believing that the member may not act impartially towards one of the parties.

These instances are taken from general law. As well, subsection 192(3) of the *Act* states that no member shall hear or vote on any decision that relates to a matter with respect to which the member has a pecuniary interest within the meaning of Section 115. ‘Pecuniary interest’ is defined, in Section 115, as follows:

- 115(1) Subject to subsection (2), a member of council has a pecuniary interest in a matter if:
- (a) the member or someone in the member’s family has a controlling interest in, or is a director or senior officer of, a corporation that could make a financial profit from or be adversely affected financially by a decision of council, a council committee or a controlled corporation; or
 - (b) the member of council or a closely connected person could make a financial profit from or be adversely affected financially by a decision of council, a council committee or a controlled corporation.

- (2) A member of council does not have a pecuniary interest by reason only of any interest:
- (a) that the member or a closely connected person may have as an elector, taxpayer or public utility customer of the city;
 - (b) that the member or a closely connected person may have by reason of being appointed:
 - (i) by the council as a director of a company incorporated for the purpose of carrying on business for an on behalf of the city; or
 - (ii) as the representative of the council on another body;
 - (c) that the member or a closely connected person may have with respect to any allowance, honorarium, remuneration or benefit to which the member or person may be entitled by being appointed by the council to a position described in clause (b);
 - (d) that the member may have with respect to any allowance, honorarium, remuneration or benefit to which the member may be entitled by being a member of council;
 - (e) that the member or a closely connected person may have by being employed by the Government of Canada, the Government of Saskatchewan or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the member or person is an employee;
 - (f) that someone in the member's family may have by having an employer, other than the city, that is monetarily affected by a decision of the city;
 - (g) that the member or a closely connected person may have by being a member or director of a non-profit organization as defined in section 125 or a service club;
 - (h) that the member or a closely connected person may have:
 - (i) by being appointed as the volunteer chief or other volunteer officer of a fire or ambulance service, emergency measures organization or other volunteer organization or service; or

- (ii) by reason of remuneration received as a volunteer member of any of those voluntary organization or services;
 - (i) that the member or a closely connected person may hold in common with the majority of electors of the city or, if the matter affects only part of the city, with the majority of electors in that part;
 - (j) that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member of council;
 - (k) that a member may have by discussing or voting on a bylaw that applies to businesses or business activities when the member or a closely connected person has an interest in a business, unless the only business affected by the bylaw is the business of the member or closely connected person; or
 - (l) that the member may have by being the publisher of a newspaper who publishes advertisements for or on behalf of the city in that newspaper, as long as only the regular advertising rate is charged and the advertisement before council for consideration is for a notice or other matter required by statute or regulation to be published in a newspaper.
- (3) Clauses 2(g) and (h) do not apply to a member of council who is an employee of an organization, club or service mentioned in those clauses.”

A suggestion by a party to an appeal that a member may be in a conflict of interest, or that there is reason to believe that the member is biased, or may not be impartial must never be dismissed out of hand. The panel should always take the time to consider whether there is a reasonable apprehension of bias. The Secretary and the counsel to the Board may be consulted. Where the allegation of conflict or bias is clearly unfounded after deliberation, the panel may proceed as originally constituted. If there is real doubt, the simple and sensible solution is to replace the member for the hearing of that appeal and avoid future challenges.

C. ISSUANCE OF SUMMONS

The Board of Revision has the statutory authority under subsection 205(3) of the *Act* to issue a summons to any person to appear as a witness at an appeal and produce documents.

The following must be submitted before a request for a summons will be considered:

- The completed form of summons; including:
 - An explanation of what evidence is sought and why it is relevant and necessary; and
 - A statement that the party believes that the witness has the evidence sought in his/her possession.

Where the request appears to be over-board, or excessive, or to relate entirely to matters clearly irrelevant to the appeal, the panel may, at its discretion, refuse to issue the summons or instruct the parties to the appeal to attend a pre-hearing meeting to make submissions concerning the request.

Responsibility for serving a summons rests entirely with the party requesting it, as does responsibility for calculation and payment of proper conduct money (for attendance and travel expenses) pursuant to subsections 205(7) and (8) of the *Act*.

The panel may, at its discretion, amend or quash a summons issued by it, if subsequent information is received that warrants such action.

D. HEARINGS

Hearings of the Board of Revision are open to the public and the media may attend, subject to subsection 202(2)(a) of the *Act*.

Once the hearing schedule has been confirmed, the Board will only consider rescheduling a hearing for extenuating circumstances. Rescheduling requests should be made in writing to the Secretary of the Board for consideration at least 15 days prior to the date of the hearing, along with information on the reasons for the request. The Appellant may be required to appear before the Board to present the request.

1. SCOPE OF THE APPEAL

The hearing reviews the correctness of the assessment being appealed. The panel must find an error in the assessment before applying remedies, keeping in mind the limitations of subsection 210(3) of the *Act*. Hearings will be conducted according to the rules of natural justice and procedural fairness, consistent with subsection 203 of the *Act*.

NATURAL JUSTICE AND PROCEDURAL FAIRNESS

Natural justice means that the law requires all parties be given a fair hearing.

A fair hearing takes place where:

- The parties to the hearing have had proper notice of the hearing.
- All parties know the case made against them and are given a fair chance to present their case.
- All parties are given the opportunity to dispute, correct, or contradict any evidence, which is prejudicial to their position.
- All parties present arguments and evidence to fully support their case.
- The adjudicator who hears the case decides the case free from bias.

2. *HEARING DOCKET*

Hearing dockets will be prepared for each panel on a weekly basis. The docket will contain the details of each appeal together with any supporting evidence/submissions received from the Appellant and/or City Assessor and/or the Saskatchewan Assessment Management Agency. Copies will be made available to each member of the panel and, if requested, to the City Assessor. Dockets will be delivered to the members on the Wednesday of the week prior to the scheduled hearings.

3. *LOCATION*

The Board of Revision will hold hearings at City Hall, 2476 Victoria Avenue.

4. *QUORUM*

A majority of the members of the Board or panel constitutes a quorum for the purpose of a hearing. In order to obtain alternates for hearings, Board members are requested to contact the Secretary, or the Board Assistant, at least one day in advance of any absence. Pursuant to Section 119(1) of *The Cities Act*, any member who declares a pecuniary interest pursuant to Section 117 is not to be counted for the purpose of determining whether a quorum is present.

5. *CONDUCTING THE HEARINGS*

The panel chair controls the procedures and rules to be followed at the hearings. The panel chair will set the ground rules and maintain order.

6. **EXPERT WITNESSES**

Where an Appellant or the Assessor wishes to call an expert witness (i.e., a person who has specialized training and expertise in some or all of the issues in the hearing), they will have to “qualify” the expert before the Board will grant the person expert witness status. This will occur at the beginning of that witness’s testimony. The party calling the witness will ask the witness to testify about their expertise, and then will ask the Board to accept the witness “. . . as an expert in . . .”. The other party will then receive an opportunity to cross-examine the witness on their expertise. Once that cross-examination is complete, the Board will ask the other party if they object to acceptance of the witness as an expert. If they do, they should outline those objections and the parties can make argument on those points. The objecting party might argue, for example, that the witness is not an expert at all, or that the witness’s expertise does not support the description of the expertise put forward by the party calling the witness. The Board must then decide whether or not to accept the witness as an expert, as requested by the party calling the witness. (If appropriate, the Board may limit the description of expertise more narrowly than that put forward by the party calling the expert witness.) The Board shall be guided by the Court of Appeal for Saskatchewan decision *Kolitsas Holdings Ltd. v. The City of Regina and Saskatchewan Assessment Management Agency*, 2003 SKCA 74, August 12, 2003 regarding expert testimony as follows:

“The introduction of expert testimony before a Board of Revision or the Committee must be determined on a case by case basis. Before expert opinion evidence is admitted, the moving party must demonstrate that such evidence is required on some matter beyond the common store of knowledge of the trier of fact, and about which the trier of fact would be unlikely to reach a correct decision without the expert’s help.

In assessment cases, the Board of Revision and possibly the Committee must assume the role of a trial judge and act as the “gatekeeper” in determining such an admissibility issue: See *R. v. J.J.*, [2002] 2 S.C.R. 600; 148 C.C.C. (3d) 487 at 499-500.

Since the admissibility issue is not squarely before us in this case, we go no further than refer to the criteria for admissibility of expert opinion evidence articulated by the Supreme Court of Canada in *R. v. Mohan*, *supra*. In *Mohan*, Sopinka J., speaking for the Court, outlined the following criteria that must be satisfied to permit the introduction of such evidence:

- 1) Relevance
- 2) Necessity
- 3) Absence of any exclusionary rule; and
- 4) A properly qualified expert.

It is for the “gatekeeper” to determine on a case by case basis whether such criteria have been satisfied.”

The expert may give opinion evidence and may also give factual evidence. Opinion evidence may be given hypothetically. If this is done, the party calling the witness should set out a hypothetical question stating all of the assumptions necessary for the expert to give the opinion. Then that hypothetical question can be applied to the facts of the case. Opinion evidence may also be given based on the expert’s knowledge of the facts of the case. In that event, the expert should describe the factual bases to support his/her conclusions.

An oath/affirmation may be administered by any Board Member hearing the appeal pursuant to subsection 203(3) of the *Act*, or by a Commissioner for Oaths, if such person is available at the hearing.

Oaths/Affirmations

- Ask the witness if he/she wishes to swear an oath on the Bible or affirm.

Oaths:

- Have the witness place the Bible in his/her right hand.

Ask the witness:

“Do you swear that the evidence you are about to give in these proceedings shall be the truth, the whole truth and nothing but the truth so help you God?”

Affirmations:

- For persons who do not swear an oath on the Bible and to a God, or when a Bible is unavailable.

Ask the witness:

“Do you affirm that the evidence you are about to give in these proceedings shall be the truth, the whole truth and nothing but the truth?”

7. EVIDENCE

A panel of the Board, through its chair, is required to make a decision on the admissibility of any documents submitted to the panel during the appeal hearing. Any documents that are considered to not be relevant to the appeal shall be returned to the individual who submitted them.

Procedure for Handling Information or Evidence:

In accordance with Section 200 of the *Act*, the Appellant's notice of appeal form and any written submissions received from the Appellant at least 20 days before the hearing or from the Respondent at least 10 days before the hearing shall be included in the docket for each appeal and form the basis of the appeal. The Appellant also has the option to provide a written response to the Respondent's submission at least 5 days before the hearing and this response shall be provided to the panel as soon as possible. It is not necessary to consider the admissibility of these documents or to record their receipt by the panel.

In accordance with s. 24 of *The Interpretation Act, 1995*, for the purpose of determining whether a submission was received 20, 10 or 5 days in advance of the hearing, the date of filing and the date of the hearing are not counted. There must be 20, 10 or 5 clear days between the date of filing and the date of the hearing. Where the date for filing falls on a weekend or holiday, the time for filing the submission is extended to the next day on which the Board of Revision office is open for business. The following procedure shall be used for recording the receipt of any other relevant documents from either the Appellant or the Respondent and for determining if the detail should be considered as information or evidence.

Submissions that are considered by the panel as relevant to the appeal but which are not considered to be evidence in support of the grounds of appeal shall be received as information (e.g. summary of the Appellant's arguments or presentation to the panel or a further report from the Respondent). Submissions deemed by the panel to be admissible as evidence shall be received as an exhibit and shall be referenced in the appeal decision. Any objections raised at the hearing related to the receipt of an exhibit shall also be referenced in the appeal decision.

On instruction from the panel chair, the Board Assistant shall label documents received by the panel as either information or an exhibit (evidence).

Document Labels:

Appeal Number

IA# Information Appellant

IR# Information Respondent

A# Exhibit Appellant

R# Exhibit Respondent

Reference number for the document

Detail on the documents retained by the Board for each appeal shall be recorded, by the Board Assistant, on the inside cover of the file for the appeal and the documents will be retained in the file and form part of the record for the appeal.

Information Documents:

Reference	Description	Number/Pages
IA#	Written submission on presentation	15
IR#	Further written argument	4

Evidence Documents:

Reference	Description	Number/Pages
A1	Photos of public walkway next to house	2
A2	Photos of basement condition	4
A3	Report on comparable properties	5
R1	Sales comparison report	5

The Board is not bound by the rules of evidence as set forth in section 203 of the *Act*; however, the Board has practiced the following:

Presenting Evidence:

The “rules of evidence” were developed for the courts to accomplish their mandate. The principles of evidence are a set of rules designed to ensure that the Board renders their decisions on relevant and reliable information. The rules of evidence are designed to address the following questions or concerns:

1. Is the material that the Board is relying on to make its decision, sufficient to support that decision?
2. Is the information relevant? That is, it must be capable of assisting the Board in reaching a conclusion about the existence of a fact that is related to one of the issues to be decided by the Board in an appeal.
3. How much can the Board rely on the information provided to make its decision?
4. Is the information provided subject to rules of exclusion?

Confidentiality of Information:

In accordance with section 202 (1) of *The Cities Act*, the Board may, by Board Order, declare information provided by a party to be confidential.

Admissibility:

Evidence is either admissible or inadmissible, there is no middle ground. Information becomes evidence (admissible) if it meets three conditions:

- a) it is relevant;
- b) it is not excluded by some other principle of evidence (see the exclusionary rules)
- c) it is submitted to the Board through the proper channels.

The Exclusion Rules:

These rules exclude relevant information on the basis of a competing and overriding interest which the lawmakers have decided must be protected, even if it means that the Board will be deprived of information that would have been helpful.

The main exclusionary rules are:

- a) protection of confidential relationships;
- b) illegally obtained evidence;
- c) settlement discussions;
- d) off the record discussions;
- e) state secrets;
- f) statutory privilege;
- g) the hearsay arguments;
- h) opinion evidence.

Summary of Evidence:

When all evidence has been tendered, the Appellant and the Respondent provide the Board with a summary of the evidence presented. The Appellant presents a summary, followed by the Respondent's summary. The Appellant may present a rebuttal summary, only where the Respondent has raised an issue, which was not previously mentioned by the Appellant.

All evidence presented at the hearing must relate to the applicable rules set out by legislation or the Saskatchewan Assessment Manual.

Section 206 of the *Act* requires all evidence to be tendered at the hearing. The Board will not accept any submissions after the hearing has closed, unless the parties are required to make submissions following the hearing pursuant to a Board Order.

8. DECISIONS

The panel chair, or member designated by the panel chair, will prepare a written decision for each appeal.

Panel members are responsible for taking accurate notes during the hearing process. The panel will hold a post hearing meeting to ensure proper summary of all facts presented at the hearing are documented and that all evidence is included in the decision. The Board Assistant will provide administrative/secretarial support.

Decisions on appeals shall be signed by the panel chair, and concurring member(s). The original draft of an appeal decision is due 21 days from the conclusion of the hearing with the final draft due within the following 7 days. In the event that the 21 day deadline is not met, the panel chair or Board chair may re-assign responsibility for writing the decision to another member of the panel. A panel member is entitled to write dissenting reasons. In that event, the signature line of the dissenting member will reflect that the member dissents. No decision is final until reviewed by the panel members and signed by a quorum of the panel.

In rendering a decision, the Board shall request the Assessor to provide assessment figures based on the decision of the Board. The Appellant may contact the Assessor for information on how the assessment figures were calculated based on the Board's decision.

The Secretary shall serve the written decisions on the parties in accordance with *The Act*.

The decision format shall include the following headings:

- Introduction
- Preliminary Matters
- Issues
- Facts
- Rules/Legislation
- Analysis/Conclusion
- Decision.

Decisions will include references to adjournments, exhibits, Board orders and other preliminary matters related to the appeal.

9. CORRECTIVE POLICY/ADDENDUMS

In the event that a decision, once served, contains an error in the nature of a typographical error, mathematical error, or requires changes of a non-substantive

nature, then the Board may issue an addendum to rectify that matter where the Board feels it is appropriate. If the Board is of the opinion that the “error” is of a substantive nature, no addendum will be issued, and the parties may seek redress before the Saskatchewan Municipal Board, Assessment Appeals Committee, as they feel necessary. An addendum may be in the form of a letter, signed by the panel chair or, in the absence of the chairperson, by another member of the panel that heard the appeal. Addendums will be sent by registered mail and the appeal deadline to the SMBAAC will be 30 days from the date of receipt of the addendum.

The Board may require that the request for an addendum be made in writing. Requests must be made prior to the 180-day decision deadline or within the 30-day appeal period to the SMBAAC. Addendums will not be issued after the 180-day decision deadline or after the 30-day appeal period to the SMBAAC has passed. Any requests must be referred to the panel for review to determine whether an addendum should be issued. The decision of the panel is final.

February 6, 2014

To: Members,
Board of Revision

Re: Review of 2014 Decision Wording Precedent Document

RECOMMENDATION

That the Decision Wording Precedent Document attached as Appendix “A” be approved.

CONCLUSION

The Decision Wording Precedent Document is attached for consideration by the Board. The document may be reviewed, amended or added to at any time by the Board to ensure that it meets the needs of the members.

BACKGROUND

The purpose of this report is to facilitate a review of the Board of Revision Decision Wording Precedent Document.

DISCUSSION

The Decision Wording Precedent document was created by Board members to assist in streamlining the process of writing decisions. The references in the document assist in standardizing the form and content of decisions issued by different Board panels. The document is focused on more commonly experienced situations. Other situations will arise where members will be required to determine the wording required. Members are encouraged to use the document in writing decisions as a guide and to actively participate in the review and evolution of the document.

At the last meeting of the Board, held on February 28, 2013, the Board adopted a resolution to approve the Decision Wording Precedent Document, which is attached as Appendix “A”.

RECOMMENDATION IMPLICATIONS

Financial Implications

None with respect to this report.

Environmental Implications

None with respect to this report.

Strategic Implications

None with respect to this report.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

None with respect to this report.

DELEGATED AUTHORITY

The Board has authority for the disposition of this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jim Nicol', with a stylized flourish at the end.

Jim Nicol, Secretary
Board of Revision

Attachment

BOARD OF REVISION



DECISION WORDING PRECEDENT DOCUMENT

Last Updated: January 2014

INTRODUCTIONS

Standard Introduction

This is an appeal of the assessment of a commercial/residential/multi-use property in the City of Regina. In this decision, we refer to Mr./Ms. who as the “Appellants” and/or the “Agents”, to Mr./Ms. assessor as the “Assessors” or the “Respondents”, to the Board of Revision Panel as the “Board,” to *The Cities Act* as the “Act”, and to the Saskatchewan Assessment Manual as “the Manual”.

LIMP.Introduction

This is an appeal of the local improvement assessment of a residential property in the City of Regina. In this decision, we refer to Mr./Ms. assessor as the “Appellants”, and/or the “Agent,” to Mr./Ms. assessor as the “Assessors” or the “Respondent,” to the Board of Revision Panel as the “Board,” to *The Cities Act* as the “Act”, and to *The Local Improvement Act, 1993* as “LIA”.

PRELIMINARY MATTERS

Pre.01

There were no preliminary matters or objections at the commencement of the hearing.

Pre.02

There was no objection to the jurisdiction or composition of the Board.

Pre.03

The Assessor recommended that the total assessment be changed from xx to xx. The Assessor provided particulars of this change to the Board.

Pre.04

The Appellant/Agent applied under subsection 209(1) of the Act to amend the Notice of Appeal to include xxxxxxxx as grounds of appeal. The Respondent?? objected. The Board considered the application, in light of the circumstances, and allowed/dismissed the application and so ordered.

Pre.05

The Board ordered the following amendments to the Notice of Appeal:

insert wording from the order

Pre.06

The Appellant/Agent sought to have the Board consider late written materials. The Respondent objected. The Board considered the request, in light of the circumstances, and agreed/refused to accept and consider the materials and so ordered.

Pre.07

The Appellant/Agent and the Respondent agreed that Appeal #2014-appeal # would be heard first, and that all evidence and argument from that appeal would be carried forward into the following appeals:

Appeal #20144-appeal #

Pre.08

At the hearing, the Appellant/Agent applied to withdraw the following grounds of appeal.

insert submission from Appellant/Agent

The Board allowed the Appellant/Agent to withdraw these/this grounds of appeal. The Assessor did not object. His objection was xxx

Pre.09

The parties agreed that all of the evidence heard in **xxxx** v. City of Regina, Appeal No. **xxx**, Board of Revision (herein “Appeal **xxx**”) be considered as evidence in this appeal.

Pre.10 (NOTE: You must indicate to the typist which of the paragraphs from Pre.11 to Pre.13 to insert, but if using this section, **you must first include pre.10**)

In *Kolitsas Holdings Ltd., et al. v. The City of Regina, et al.*, 2003 SKCA 74, the Court states the following at page 21:

Pre.11

The introduction of expert testimony before a Board of Revision or the Committee must be determined on a case by case basis. Before expert opinion evidence is admitted, the moving party must demonstrate that such evidence is required on some matter beyond the common store of knowledge of the trier of fact, and about which the trier of fact would be unlikely to reach a correct decision without the expert's help.

Pre.12

In assessment cases, the Board of Revision and possibly the Committee must assume the role of a trial judge and act as the "gatekeeper" in determining such an admissibility issue: See *R. v. J.J.*, [2002] 2 S.C.R. 600; 148 C.C.C. (3d) 487 at 499-500.

Pre.13

... [W]e go no further than refer to the criteria for admissibility of expert opinion evidence articulated by the Supreme Court of Canada in *R. v. Mohan, supra*. In *Mohan*, Sopinka J., speaking for the Court, outlined the following criteria that must be satisfied to permit the introduction of such evidence:

- 1) Relevance
- 2) Necessity
- 3) Absence of any exclusionary rule; and
- 4) A properly qualified expert.

It is for the "gatekeeper" to determine on a case by case basis whether such criteria have been satisfied.

Pre.14

A court reporter was present, transcribing the evidence for this appeal.

Pre.15

A court reporter was not present to transcribe the evidence for this appeal.

Pre.16

This appeal took place according to the simplified procedure.

Pre.17

The *Cities Act* provides the Board with discretion to order an amendment to the grounds of the Notice of Appeal. The Appellant (or Agent) requested that the Board amend the Notice of Appeal in this case.

The Board, in having considered the timing of the request, the opportunities given to the Appellant (or Agent) to raise the grounds in the original Notice of Appeal and any requests to perfect the Notice of Appeal, the relevance of the proposed amendment, the prejudice to any parties involved, and the ability of the Board to adjourn the appeal, has determined that the request must be denied (or allowed).

Reasons to support this are as follows:

- 1) what
- 2) what
- 3) what

Pre.18

The Appellant (or Agent) filed a Notice of Appeal on date, 2014. The Secretary of the Board determined that the Notice of Appeal was insufficient as filed, and by letter dated date, 2014, notified the Appellant (or Agent) that he would be required to perfect the Notice of Appeal within # days of the date of that letter. On date, 2014, the Appellant (or Agent) filed further materials in response to the Secretary of the Board. There was no objection to the Notice of Appeal that was placed before the Board for this hearing. **OR** The Assessor objected to the sufficiency of the Notice of Appeal that was placed before the Board for this hearing.

Pre.19

Appeals #2014-appeal # and #20144-appeal # were heard concurrently due to Appeal #20144-appeal # dealing with civic address of larger property; the portion is occupied by a tenant, namely business name. Although the hearings for these two appeals were co-joined, the two appeals were not consolidated. The remain two separate appeals.

In this Appeal #20144-appeal #, the 'subject' is civic address of larger property in its entirety.

In this Appeal #20144-appeal #, the 'subject' is the portion of civic address of larger property known as business name.

ISSUES

Iss.01

The Board identified the issues to be:

- 1) what
- 2) what
- 3) what

Iss.02

The parties confirmed that these are the only issues the Board is required to determine.

FACTS

Facts.01

The subject property is civically described as insert address. It is a commercial/residential/mixed use property, with a total assessment of \$XXX for year. The total assessment was arrived at using the cost, income or direct sales approach to value.

The specific features of the property relevant to this appeal are (insert details as per evidence in the appeal).

Facts.02

The Respondent agreed individual market values may differ from the total assessment, but said Assessors are bound by provincial legislation, which dictates how properties are assessed. Values are derived using mass appraisal techniques, rather than individual appraisals. Residential properties are valued by using a multiple regression analysis. The Respondent testified that rules, procedures and guidelines defined in the Act and in the assessment manual prepared by SAMA had been correctly followed. The Respondent also supplied copies of the property detail report and calculations employed respecting the subject property.

Facts.03

The Agent/Appellant presented the Board with the following information:

what

The Board has considered this information, and in the Board's view, it is not relevant.

RULES / THE CITIES ACT

Rules.01

Assessment in Saskatchewan is governed by legislation enacted by the provincial government. The Assessor in Regina, being in a city, is bound by the Act. The Assessor must follow the provisions of the Act, and the Regulations enacted pursuant to it. Legislation as well as the Manual provides rules, formulas and other technical requirements for the Assessor to follow. The Assessor can only use methods prescribed by legislation.

Rules.02

Assessment is a technique applied on a large-scale called mass appraisal. The Saskatchewan Court of Appeal describes the technique as follows:

The method of valuation remains mass appraisal, the process of valuing a group of properties using standard methods and allowing for statistical testing. Individual appraisals and actual market value of the property being assessed have no place in the process. (*The Cadillac Fairview Corporation Limited et al. v. The City of Saskatoon et al.*, 2000 SKCA 84, June 29, 2000, at paragraph 34.)

Rules.03

There is the over-riding principle of equity. The Act requires that all property be assessed as of the applicable base date. Equity is achieved by following the procedure outlined by the Court of Appeal for Saskatchewan in precedent case law. The Act, in subsection 165(3), provides that the “dominant and controlling factor in the assessment of property is equity”. To achieve equity, the Assessor must apply the directed method of assessment uniformly and fairly throughout the assessment roll. The Assessor does have a degree of discretion, where appropriate, and the Courts have instructed the Board to pay deference to that discretion, when appropriate. The Saskatchewan Court of Appeal explains this issue in *Estevan Coal Corporation v. Rural Municipality of Estevan No. 5 et al.*, 2000 SKCA 82, June 29, 2000, at paragraphs 19 through 23.

Rules.04

The Board of Revision's role is to review the assessment for error. If, on the evidence, the Appellant cannot demonstrate an error in the assessment, the appeal must be dismissed. However, if the Appellant demonstrates an error, then the Board has the power of correction. When the Assessor has assessed a property and achieved equity as prescribed by legislation, the Board is limited by the Act in altering the assessment by virtue of subsection 210(3), which prevents the Board from altering the assessment if equity has been achieved with similar properties in the city. The Board is also restricted from varying an assessment using single property appraisal techniques.

Rules.05

Certain appeals may call into question the Assessor's application of various aspects of legislation, case law, the Manual, or otherwise, and in those cases, the Board will review those specific matters.

Rules.06

The Board considers the following sections of the Act and the Saskatchewan Assessment Manual to also be relevant to this decision:

enter the relevant section(s)

Rules.07

The Board considers the following legal precedents to be relevant:

type "board of revision decision" or "smbaac decision" then fill in appropriate information

Rules.08 (Local Improvements)

34(1) The Board of Revision has jurisdiction and power to review the proposed special assessments and to amend them as to all or any of the following matters:

- a) the names of the owners of the lands;
- b) the frontage or other units of measurement of the lands used for calculating the special assessments;
- c) the calculation of special assessments, having regard to equity and to their conformance to relevant bylaws and requirements of this Act;
- d) the lands to which section 30 applies;
- e) the lands that are or will be benefited by a local improvement and subject to special assessment; and
- f) conformance of the items included in the cost of a local improvement and conformance of the rate of special assessment to the requirements of this Act.

- (2) The Board of Revision does not have jurisdiction or authority to review or alter the portions of the cost of the local improvement that are to be borne as the owners' share of the cost and the municipality's share of the cost respectively according to the bylaw providing for the undertaking of the local improvement except as may be required in order to make adjustments to special assessments pursuant to this section.
- (3) The Board of Revision does not have the power or authority to review or alter:
 - a) the actual cost of a local improvement; or
 - b) the basis of special assessment chosen by the council pursuant to section 19. 1993, c.L-33.1, s.34.

ANALYSIS AND CONCLUSION

Analysis.01

The Appellant's testimony respecting property sale prices is not a mass appraisal approach to value which is a requirement of legislation.

Analysis.02

Although the legislation sets out a market valuation standard which includes a requirement of mass appraisal, the Board can not find that an assessment is in error solely because the assessed value does not equal the actual market value. Market value is the amount that an individual property would sell for in the marketplace and takes into account the individual features of every property. The value of a property for assessment purposes is determined by applying the market valuation standard set out in legislation and the formulas, principles and tables contained in the Manual. Assessed values are determined by using mass appraisal and is based on averages that are applicable throughout Saskatchewan.

Analysis.03

Assessed value assigns the same value to all buildings of a comparable nature. Comparable does not mean exactly alike. There may be some differences between the subject property and comparables used by the Assessor, which would be accounted for in market value. Assessed value however, does not take into account these variances.

Analysis.04

The Board finds that there is no error in the assessment and the appeal must fail.

Analysis.05

For the 2011 base year, residential properties are now being assessed using multiple regression analysis. Properties of this type are no longer costed, depreciated, and then adjusted by a market adjustment factor. Rather, the Assessor determines a single value for the property (land and buildings together) by determining a value based upon a sales comparison approach. Residential properties with like features are tested using a statistical process. This process then leads directly to the end result, being the assessed value.

Analysis.06

In conclusion, the Board understands and empathizes with the Appellant's point of view and arguments but, in the final analysis, the Board can find no error in the assessment.

DECISIONS

Dec.01 (dismisses all)

The Board dismisses this appeal with respect to all issues.

The appeal filing fee shall be retained.

Dec.02 (allows all)

The Board allows this appeal. The Assessor is ordered to change what (e.g. the capitalization rate from ? to ?).

Therefore, the Assessor is ordered to change the year total assessment and is directed to revise the assessment roll as follows:

Total assessment changed from:	\$«ORIGINAL_ASMT»	to	\$«C1_DECISION_ASMT»
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The appeal filing fee shall be refunded.

Dec.03 (allows some)

The Board allows this appeal with respect to the **xxxx** valuation only. The Assessor is ordered to change what (e.g. the capitalization rate from ? to ?).

Therefore, the Assessor is ordered to change the year total assessment and is directed to revise the assessment roll as follows:

Total assessment changed from:	\$«ORIGINAL_ASMT»	to	\$«C1_DECISION_ASMT»
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The appeal filing fee shall be refunded.

Dec.04 (school/owner)

The Board allows the appeal with respect to school support registered owner. Therefore, the Assessor is directed to revise the assessment roll as follows:

From: Public Board (xxx%); Separate Board (xxx%)

To: Public Board (xxx%); Separate Board (xxx%)

Registered Owner:

From:

To: XXX.

DEC.05

The Board orders what .

The Board further orders the Assessor to amend the assessment roll as follows:

Total assessment changed from: \$«ORIGINAL ASMT» to \$«C1_DECISION ASMT»

The appeal filing fee shall be refunded.

DEC.06

The Board allows this appeal in part.

The Assessor shall amend the year assessment roll as follows:

Total assessment changed from: \$«ORIGINAL ASMT» to \$«C1_DECISION ASMT»

The appeal filing fee shall be refunded.

DEC.AGREE

The appeal is allowed. In accordance with the Agreement to Adjust Assessment, the Board hereby orders the assessment be changed as follows:

Total assessment changed from: \$«ORIGINAL ASMT» to \$«C1_DECISION ASMT»

The appeal filing fee shall be refunded.

DEC.SUPP1

The Board allows this appeal. The Assessor is ordered to:

- 1) what
- 2) what
- 3) what

Therefore, the Assessor is ordered to change the year supplementary assessment accordingly and is directed to revise the supplementary portion of the assessment roll as follows:

Total assessment changed from:	\$«ORIGINA	to	\$«C1_DECISION
	L_ASMT»		_ASMT»

The appeal filing fee shall be refunded.

ASSESSOR'S RECOMMENDATION

Standard Introduction

Same autotext as on Page 1 of this document.

Pre.Recom

Prior to the hearing of evidence, the Respondent informed the Board that the Assessor had a recommendation with respect to the land/building on the subject property.

Issues.Recom

The issues before the Board are what

Facts.Recom.01

The Assessor recommended that the total assessment be changed from xxx to xxx. The Assessor provided particulars of this change to the Board.

Facts.Recom.02

The Appellant/Agent accepted the Assessor's recommendation at the hearing. Therefore, the Board was not required to consider any other issues.

Facts.Recom.03

The Appellant did not appear at the hearing. Therefore, no evidence was presented to the Board on the Appellant's behalf.

Rules.Recom

In light of the Assessor's recommendation, it is unnecessary for the Board to refer to the legislation, regulations, or manuals governing the assessment process.

Analysis.Recom

The Board finds no other issues need to be addressed with respect to this appeal.

Dec.Recom

The appeal is allowed. In accordance with the Assessor's recommendation and as agreed to by the AppellantAgent, the Assessor is ordered to change the year total assessment and is directed to revise the assessment roll as follows:

Total assessment changed from: \$«ORIGINAL_ASMT» to \$«C1_DECISION_ASMT»

The appeal filing fee shall be refunded.

PROTECTIVE APPEAL

Standard Introduction

Same autotext as on Page 1 of this document.

Pre.01

Same autotext as on Page 2 of this document.

Pro.01

At the commencement of the hearing, the parties agreed to waive their opportunities to present evidence or argument to the Board, with respect to the year total assessment. The Board confirmed with the Agent and the Assessor that both were aware of their rights to present evidence and argument at the hearing. Both parties indicated that they did not wish to present anything further to the Board, as this Appeal is “protective” in nature. That is, there are past decision(s) which both parties agree to have the Board apply in this case. As both parties waived their opportunity to provide anything further to the Board, other than their written submissions filed ten days in advance of the hearing, the Appeal proceeded on that basis.

Pro.02

This property is situated at **insert address**. The building on the property is a **insert description**.

The Agent contends that the **insert what agent says is wrong** is in error, and relies on past decision(s) of this Board, in this regard.

The Assessor submits that the assessment is properly conducted; however, he acknowledges that the past decisions of the Board have not upheld his methodology and application of legislation and the Manual. The year decision(s) of this Board are under appeal before the Saskatchewan Municipal Board Assessment Appeals Committee (SMBAAC). As such, the Assessor indicated that the Board may make a decision consistent with its past decisions, and allow the SMBAAC’s decision from the year appeals to govern at the end of the day.

Pro.03

In this Appeal, as both parties have submitted that the Board should apply a decision consistent with the decision of the Board concerning this property in the previous year(s), the Board sees no reason to do otherwise.

The Board reviewed the within issues in *name of appellant v. City of Regina*, Appeal #2014-appeal #. Based upon the reasoning given in that Appeal and the oral and written submissions provided on behalf of the Agent and Assessor, the Board is prepared to allow this Appeal. The what is in error and should be corrected from what to what. This decision should be read in conjunction with the above noted decision, in order to comprehend the reasoning behind the decision.

Iss.01

Same autotext as on Page 4 of this document.

MISCELLANEOUS

Husk Citation

Husk v. City of Regina (1996), 141 Sask. R. 74 (C.A.) (hereinafter “Husk”)

Laing Citation

Regina (City) v. Laing Property Corp. (1994), 128 Sask. R. 16 (C.A) (hereinafter “Laing”)

Rules.09

Same autotext as on Page 8 of this document.

Board of Revision Decision

name of appellant, City of Regina, Appeal No. #, Board of Revision, (herein “Appeal #20144-appeal #”).

Court of Appeal Decision

who v. *who*, *citation*, *date of decision*, *page or paragraph #*, states as follows:

SMBAAC Decision

who v. *who*, *date of decision*, *# of decision* (S.M.B.A.A.C.) (hereinafter “#”)

Locational Adjustment

Saskatchewan Assessment Manual - Volume 1 - Document Number 2.2.6, page 1, states:

“The location adjustment may be applied to account for any gain or loss in value, that is not accounted for in the neighbourhood base land rate, due to the proximity of the parcel to factors such as:

- A value influence centre;
- Schools, shopping, public transport and other attractions; or
- High traffic roadways, railways, industrial parks, high density residential housing, and other nuisances.”

1.1.1

Saskatchewan Manual Volume 1, Document Number 1.1.1 as follows:

“Mass appraisal, the process of valuing a group of properties as of a given date, using standard methods and allowing for statistical testing, is the method of valuation established in this manual.”

2.1.3 Comparable

Comparable Neighbourhood Sales

Comparable neighbourhood sales may be used as an alternative to vacant land sales in the application of the sales comparison method for determining the base land rate.

Comparable neighbourhood sales should be used where vacant land sales in the subject neighbourhood are limited and there are sufficient vacant land sales in a comparable neighbourhood to establish reliable results.

34 Cadillac Fairview

Paragraph 34 of *The Cadillac Fairview Corporation Limited et al v. The City of Saskatoon et al*, 2000 SKCA 84, June 29, 2000 ("*Cadillac Fairview*"), states as follows:

"It has already been mentioned that the manual has the force of law. In considering the issues, the content of Document 1.1.1 must always be kept in mind. The object of the process is to arrive at a fair value which is comparative value, close to market value, arrived at in accordance with the requirements of the Act and the manual. The method of valuation remains mass appraisal, the process of valuing a group of properties using standard methods and allowing for statistical testing. Individual appraisals and actual market value of the property being assessed have no place in the process. The concept of fair value, as opposed to market value, and the objects of the assessment process have been discussed extensively in *Laing* and *Estevan Coal* and these, too, must be kept in mind throughout."

73 Cadillac Fairview

Paragraph 73 of *The Cadillac Fairview Corporation Limited et al v. The City of Saskatoon et al*, 2000 SKCA 84, June 29, 2000 ("*Cadillac Fairview*"), states as follows:

"The city's contention that it established the reliability of the MAF by a comparison with the MAF established in Regina through two sales of enclosed malls, and by a comparison with the sale price of Midtown plaza itself after the cutoff date does not advance its case. A MAF arrived at by a method not provided for by the manual cannot be justified on this basis. Equity lies in the even, consistent and proper application of the manual, according to its terms. In this case, the taxpayer (and the owners of the other enclosed malls) has been treated differently from all other taxpayers in terms of calculation of the MAF."

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