

# Roles and Responsibilities of SDAB Clerks and Members



## Responsibilities of SDAB Members

SDAB Members are acting in a “quasi-judicial” capacity, in a role similar to a judge. This imposes obligations on a Member which are different than those imposed on a municipal councillor.

### TRAINING

Members are required to successfully complete a training program in accordance with the Subdivision and Development Appeal Board Regulation before participating in any hearing as a member of a panel of the SDAB, and must complete a refresher training program every 3 years.

### PRE-HEARING

Prior to the hearing of an appeal, Members should avoid speaking with the appellant or any other affected person. Members should not discuss an upcoming appeal with anyone (including other SDAB Members) prior to the hearing. It is important that Members avoid conducting their own independent research or forming conclusions prior to the hearing.

Members should also avoid making statements (including on social media) about the subject matter of an upcoming appeal. Statements of this nature may be relied upon by parties before the SDAB has evidence that a Member is biased and should not participate in the appeal.

### DURING THE HEARING

Members have an important role to play in ensuring that hearings are procedurally fair. This requires Members to:

- Consider and determine whether they should participate in a hearing (i.e., does the Member have an actual or perceived bias or pecuniary interest regarding the appeal?)
- Attend the entire hearing.
- Listen carefully to the evidence and arguments presented, and hear from all of the participants in a fair, open and objective matter.
- Ask questions of clarification of presenters when required, which should be directed through the Chairperson of the SDAB.
- Take notes in anticipation of the SDAB’s deliberations and decision making;

A Member’s participation in the hearing will impact whether he or she is able to effectively participate in the decision making process.

### POST- HEARING

The SDAB has a statutory obligation to provide written reasons for its decision within 15 days of a hearing.

Each Member must contribute to the SDAB’s deliberations and written reasons for decision. If the SDAB’s deliberations occur in private, Members have an obligation to maintain what was discussed in confidence.

## Responsibilities of the Clerk

The Clerk of the SDAB serves an important administrative role before, during and after the hearing of appeals.

### TRAINING AND QUALIFICATIONS

Only designated officers of the municipality can be appointed as Clerk of the SDAB. A designated officer must successfully complete a training program in accordance with the Subdivision and Development Appeal Board Regulation in order to be appointed as Clerk. Clerks must complete a refresher training program every 3 years.

### PRE-HEARING

Upon receipt of a notice of appeal, the Clerk contacts SDAB Members to arrange for a panel of the SDAB to hold a hearing within 30 days.

The Clerk is also required to ensure that the appropriate people are informed of the appeal. Notice requirements are determined by reference to the *MGA* and the land use bylaw. The Clerk may also take steps to communicate the SDAB's expectations regarding written and oral submissions.

During review of the notice of appeal, the Clerk may identify preliminary issues (such as a request for a postponement/adjournment) that will need to be addressed by the SDAB. The Clerk should advise the participants in the appeal process that they should be prepared to make submissions to the SDAB regarding any preliminary issue or issues.

The *MGA* requires all relevant documents and materials regarding a SDAB appeal to be made available for public inspection before the commencement of the hearing. The Clerk will

## Delegation by the Clerk

Section 212 of the *MGA* authorizes a designated officer to delegate any of his or her powers, duties or functions under the *MGA* or a municipal bylaw to an employee of the municipality.

ensure that this requirement is met.

The Clerk is responsible for preparing an agenda for the hearing and an agenda package for each appeal. Agenda packages generally include the notice of appeal, subdivision or development authority's report, and any written submissions received by the appellant or any person affected by the appeal.

### DURING THE HEARING

The Clerk's responsibilities during an appeal hearing include:

- Making a sign-in sheet available;
- Confirming that the quorum requirements of the SDAB bylaw are met;
- Reading the appeal when requested by the Chairperson of the Board;
- Recording presenter's names;
- Marking exhibits;
- Taking minutes or notes of the appeal hearing, and;
- Recording motions.

### POST- HEARING

The Clerk's responsibilities following an appeal hearing include:

- Preparing a record of proceedings (a summary of the evidence presented at the hearing);
- Assisting the SDAB in the preparation of the written decision, and;
- Circulating notice of the SDAB's decision to the appropriate parties.