

WHAT TO EXPECT AT A SUBDIVISION APPEAL HEARING

SUBDIVISION APPEAL BULLETIN NO. SUB-1-2021

DISCLAIMER - This bulletin provides general guidance and is not legal or land planning advice. The details in this bulletin may not apply to particular cases, or to future decisions of the Tribunal.

INTRODUCTION

This Bulletin describes what to expect at a typical LPRT¹ subdivision appeal hearing for those preparing to speak at a hearing, or those observing. To prepare for a hearing, review the LPRT's Rules of Procedure for Subdivision and Development Appeals. You can also contact an LPRT case manager for more information.

SIGNING IN TO A VIDEO CONFERENCE HEARING

The hearing notice will include instructions on how to register for the hearing and the case manager will send out additional information prior to hearing. The video hearing conference usually opens 30 minutes before the scheduled start time to allow time for the participants to join and test their video and audio connections. LPRT uses the platform Webex.

Things to remember:

- Sign in at least 15 minutes before the hearing is scheduled to begin.
- Hearings often last 1 – 2 hours before a recess. Please prepare accordingly.
- Mute your microphone when not speaking.
- It is best to have a fast and reliable internet connection (hard-wired if possible).
- Written material you wish to refer to during the hearing should be submitted ahead of time. Speak to the case manager to confirm submission timelines.

ARRIVING AT AN IN-PERSON HEARING

The hearing notice will include the location and instructions on how to register for the hearing. The hearing room is typically closed until just before the hearing begins. The LPRT will invite parties to come into the hearing room when the panel is ready. You will be given enough time to set up before the hearing begins. Everyone attending will be asked to sign in.²

¹ *Land and Property Rights Tribunal Act*, SA 2020, c-L2.3 amalgamated the Municipal Government Board with the Surface Rights Board, Land Compensation Board, and New Home Buyer Protection Board to form the Land and Property Rights Tribunal, effective June 2021.

² This information is used by the panel to know who is present at the hearing. LPRT administration also uses contact information provided to ask people who have attended hearings to respond to a satisfaction survey.

Things to remember:

- Arrive fifteen minutes before the hearing is scheduled to begin.
- Please do not enter the hearing room until invited to do so by the LPRT.
- Hearings often last 1 – 2 hours before a recess. Please prepare accordingly.
- LPRT does not have electronic or other audio-visual equipment available for presentations unless prior arrangements were made with the case manager. Talk to the case manager if you are considering bringing your own equipment or need assistance.

THE HEARING PROCESS – PART I: HEARING PARTICIPANTS

The hearing process is the same whether the hearing is by video conference or in person. Parties in attendance may include

- Appellant – the person who filed the appeal. This may be the Applicant or a Government department
- Applicant/landowner – the person who made the subdivision application
- Subdivision Authority (SA) representative
- Adjacent landowners³
- Government departments (e.g. Alberta Transportation or Alberta Environment and Parks) representatives
- Area landowners or other observers – LPRT hearings are open to the public

Also in attendance on behalf of the Tribunal will be

- The Panel – usually three members, one of whom is the Presiding Officer for the hearing
- The case manager or another member of the Tribunal Administration

The case manager introduces the appeal and records the hearing if required, keeps track of evidence and supports the panel as needed. The case manager supports and facilitates the appeal process, but does not make the decision.

The Presiding Officer is often called the Panel Chair. He or she will give instructions to keep the hearing moving fairly and efficiently and let participants know when to speak. Any panel members may also ask questions throughout the hearing. All LPRT members are appointed by order in council, which are approved by [Alberta's Cabinet](#). LPRT Members' [Biographies](#) are available on the LPRT website.

³ Owners of land that is contiguous to the parcel that is being subdivided or would be contiguous if not for a highway, road, river or stream, or as otherwise identified in the land use bylaw – see s. 616(a) of the *Municipal Government Act*.

Things to remember:

- Let the case manager know beforehand if you need to make any special arrangements.
- If you need to communicate with the LPRT either before or after the hearing, do so through the case manager.
- Address the Presiding Officer as “Mister Chair” or “Madam Chair” as the case may be.
- Panel members may be addressed as “Sir” or “Mr. __,” and “Madam” or Ms. __.
- Hearings are open to the public any documents submitted to LPRT may be viewed by other hearing participants or members of the public.

THE HEARING PROCESS – PART II: GETTING STARTED

Introductions and the Oath

At the outset of the hearing, the case manager or Presiding Officer will ask everyone to introduce themselves and indicate whom they represent (if anyone). The panel may also request all those who intend to give evidence during the hearing to swear or affirm that they will tell the truth.

Preliminary Issues

A preliminary issue is any matter that needs to be dealt with before the LPRT hears the merits of an appeal. Examples include:

- Postponement and rescheduling requests
- Whether an appeal was filed on time
- Whether the LPRT has jurisdiction to hear an appeal
- Objections to a panel member
- Whether a person at the hearing has standing to make a presentation

Let the case manager know well before the hearing if you intend to raise a preliminary issue at the hearing. Normally the panel will ask if there are any preliminary issues before the hearing begins; however, if they do not, be sure to advise them of the preliminary issue(s) before the presentations begin.

Marking the Exhibits

The Appellant, the SA, Applicant and affected government departments are usually sent an information package, including the SA’s file, before the hearing. This information package is usually marked as exhibit #1. Other exhibits are usually marked as they are received.

Things to remember:

- If you know ahead of time that a preliminary issue is likely to arise, let the case manager know as soon as possible so that arrangements can be made to avoid unnecessary surprises or delays.
- Certain preliminary issues, such as asking for the postponement of a hearing should be made to the LPRT in writing before the hearing.
- To avoid unnecessary delays, make sure any written material you wish to have considered is provided to the LPRT before the hearing in time for it to be shared with other parties.
- Number the pages of any submissions you wish to enter as exhibits.

THE HEARING PROCESS – PART III: PRESENTATIONS & QUESTIONS

Presenting the Merits of a Subdivision Appeal

Parties generally make their presentations in the order below. However, a panel may vary the usual order for any given case – for example, where a different order appears more fair or efficient.

1. Subdivision Authority (SA):
 - The SA provides the background information of the application;
 - The SA discusses its decision and the evidence and legislation in support of that decision and how it affects the public interest;
 - The Appellant(s) and other parties have the opportunity to ask the SA questions, through the Presiding Officer;
 - The panel has the opportunity to ask questions.
2. Government Department(s):
 - Government Department Representative presents information and evidence as to how the application affects the provincial interest and the department's position;
 - The Appellant(s), the SA, and other parties have the opportunity to ask questions, through the Presiding Officer;
 - The panel has the opportunity to ask questions.
3. Adjacent Landowner(s):
 - Adjacent landowners explain their position;
 - The Appellant(s), the SA, and other parties have the opportunity to ask questions, through the Presiding Officer;
 - The panel has the opportunity to ask questions.
4. Applicant (when the Appellant is not the Applicant):

- The Applicant presents information and evidence as to why the application should be approved;
 - The Appellant(s), the SA, and other parties have the opportunity to ask questions, through the Presiding Officer;
 - The panel has the opportunity to ask questions.
5. Appellant(s):
- The Appellant(s) presents information and evidence as to why the LPRT should change the SA's decision;
 - The SA and other parties have the opportunity to ask the Appellant(s) questions, through the Presiding Officer;
 - The panel has the opportunity to ask questions.
6. The SA, Government Department(s), Applicant and Appellant will then give their final summations in this order with the Appellant having the last word.

Things to remember:

- Bring a note pad to write down ideas as they come to mind during the hearing – for example, other parties' points to speak to, or questions to ask.
- Bring a written outline of your intended presentation so you do not forget important points.
- If you need an unscheduled break, you can raise your hand and wait for the Presiding Officer to ask what is needed.
- If you have any technical difficulties during a video hearing contact the case manager for assistance.

THE HEARING PROCESS – PART IV: CLOSING THE HEARING

After the parties have completed their final summations, the panel will adjourn the hearing and allow the parties to leave.

Generally, the LPRT will not consider material filed after it has adjourned a hearing. However, in some cases, the panel may decide it needs more information after adjournment. If this happens, the case manager will contact the parties and give instructions to provide further information. If the panel determines it does not need any further information, it will close the hearing and notify the parties writing. The LPRT will then issue its decision, in writing, within 15 days of closing the hearing.