

MANDATORY ELECTRONIC RECORDING OF HEARINGS

SUBDIVISION APPEAL BULLETIN NO. SUB-6-2018

DISCLAIMER - This bulletin provides general guidance only and is not offered as legal or land planning advice. Each appeal is unique. The details in this bulletin may not apply to every case, or to future decisions of the Board. Please contact the MGB office if you have any questions.

INTRODUCTION

The Municipal Government Board (MGB) must ensure transcripts of subdivision appeal hearings can be made available if requested by the Court of Appeal.¹ Accordingly, MGB subdivision appeal hearings are always electronically recorded to allow for transcription at a later date.²

PROCEDURES FOR TRANSCRIPTS

The following procedures concern the recording of hearings:³

1) Parties to an appeal may request the MGB to allow a court reporter to attend the hearing. Where the MGB grants such a request, it will do so on the condition that the MGB and all parties receive copies of the transcript at the cost of the initiating party, or as otherwise ordered by the MGB. An electronic copy (in portable document format; “.pdf”) and a paper copy should be provided to the MGB. Additionally, the MGB may set further terms on the recording of hearings pursuant to its procedural rules⁴.

2) Where the parties do not arrange for a court reporter’s attendance, the MGB will make an electronic sound recording of subdivision appeals. The purpose of these recordings is to make transcripts available to the Court of Appeal, should it request them. Unlike other materials, MGB transcripts are not available to parties upon request for the purpose of requesting leave to appeal.⁵

¹ See section 688(2.2) of the *Municipal Government Act, RSA 2000, c M-26* (Act).

² Mr. Ron Stevens Q.C., MLA for Calgary-Glenmore and the hon. Minister of Justice and Attorney General explained that under the amendments that led to section 688(2.2):

“[...] an administrative tribunal [...] will keep a record of the proceedings before it. That record would include, perhaps, a transcript but more likely something that could be turned into a transcript. There may be a digital record, for example, of the proceedings, which could upon request be turned into a transcript.” Alberta, Legislative Assembly, Hansard, (18 April 2007) , 26th Legislature, 3rd Session (2007), p.658.

³ Effective as of November 15, 2007.

⁴ MGB Subdivision Appeal Procedure Rules

⁵ See section 688(2.2) of the Act, which specifies that transcripts must be available to the Court of Appeal. Transcripts are not available to parties for the purposes of requesting leave to appeal under section 688(2.1) of the Act.

3) Electronic recordings made by the MGB are records of a public body pursuant to the *Freedom of Information and Protection of Privacy Act*⁶ (FOIP). Recordings are subject to requests under Part I of FOIP. Any such requests should be directed to:

Alberta Municipal Affairs FOIP Coordinator
780-422-8902 (Telephone), 780-643-1090 (Fax)
14th Floor, Commerce Place
10155 – 102 Street
Edmonton, Alberta T5J 4L4

IDENTIFICATION OF PARTICIPANTS FOR THE RECORD

Hearing participants are asked to introduce themselves, in their own voices, at the beginning of each hearing. This allows for a future transcriptionist to identify each participant on the recording as he or she speaks.

LEGISLATION

Section 688 of the Act reads in part:

Law, jurisdiction appeals

688(1) An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to

- (a) a decision of the subdivision and development appeal board, and
- (b) a decision made by the Municipal Government Board
 - i. under section 619 respecting whether a proposed statutory plan or land use bylaw amendment is consistent with a licence, permit, approval or other authorization granted under that section,
 - ii. under section 648.1 respecting the imposition of an off-site levy or the amount of the levy,
 - iii. under section 678(2)(a) respecting a decision of a subdivision authority, or
 - iv. under section 690 respecting an intermunicipal dispute.

...

(2.1) If an applicant makes a written request for materials to the Municipal Government Board or the subdivision and development appeal board, as the case may be, for the purposes of the application for permission to appeal under subsection (2), the Municipal Government Board or the subdivision and development appeal board, as the case may be, must provide the materials requested within 14 days from the date on which the written request is served.

(2.2) An applicant shall not request under subsection (2.1) the transcript of the hearing, but the Court of Appeal may, on application or on its own motion, if satisfied that the transcript is necessary for the purpose of determining the application for permission to appeal, direct that the Municipal Government Board or the subdivision and development appeal board, as the case may be, provide the transcript within the time provided by the Court.

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⁶ *Freedom of Information and Protection of Privacy Act, RSA 2000, c F-25.*