

MANDATORY ELECTRONIC RECORDING OF HEARINGS

SUBDIVISION APPEAL BULLETIN NO. 6 – 2012

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INTRODUCTION

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

PROCEDURES TO ENSURE TRANSCRIPTS ARE AVAILABLE

The following procedures concern the recording of hearings:³

1) Parties to an appeal may request the MGB to permit the attendance of a court reporter at 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 rules.

2) Where the parties do not arrange for court reporter’s attendance, the MGB will make an electronic sound recording for subdivision appeal and intermunicipal dispute hearings. The purpose of these recordings is to make transcripts available to the Court of Appeal, should it request transcripts.⁴ 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 Pursuant to section 688 of the Act.

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.

However, recordings made by the MGB are records of a public body pursuant to the Freedom of Information and Protection of Privacy Act⁶ (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), 789-643-1090 (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 outset 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) Despite section 506, 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) the Municipal Government Board on a decision on an appeal under section 619, an intermunicipal dispute under Division II or a subdivision appeal under this Division.

(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 leave 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 leave 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 RSA 2000, c F-25.