

# Municipal Affairs and Housing

## Information Bulletin

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### **Bill 19 Appeal Procedures Statutes Amendments Act and Requirements for Municipalities**

#### **What is this legislation and how does it apply to municipalities?**

This act amended several pieces of legislation governing the appeal procedures to the Alberta Court of Appeal for the decisions of various boards and tribunals. Its intent is to clear up inconsistencies in the existing legislation and to assist the Court of Appeal in its scheduling of leave applications and clearing the backlog of pending cases.

The boards and tribunals affected by this legislation include: the Energy Resources Conservation Board, the Natural Resources Conservation Board, the Energy and Utilities Board, and the Public Utilities Board. The amendments also apply to appeals to the Court of Appeal from decisions made by the Municipal Government Board (MGB) and subdivision and development appeal boards (SDAB).

Previously, delays in obtaining documents or the notification of affected parties caused delays in the process for obtaining leave to appeal, and in proceeding to appeal. The intent of the legislation is to ensure the parties involved in a decision are made aware of an application for leave. The legislation is also to ensure that the materials needed to determine leave to appeal and an appeal are available in a timely manner.

**The intent of this bulletin is to explain the extent of the changes in the *Municipal Government Act (MGA)* and the impact on the operation of a municipality's subdivision and development appeal board (SDAB).**

#### **Legislation Changes**

Section 688 of the *MGA* was amended to address appeals from the SDAB. The changes and additions are summarized as follows:

Application for leave:

Section 688 (2) states in part that an application for leave to appeal a decision of the Municipal Government Board or the Subdivision and Development Appeal Board *must be filed and served* within 30 days of the date of the decision to be appealed.

In addition the applicant for leave must give notice to the SDAB or the MGB and any other person directed by the court.



## **New Provisions**

Also added to section 688 are the following new sections:

### **Provision of Materials**

688 (2.1) states in part that if a written request for materials is made to the Municipal Government Board or the Subdivision and Development Appeal Board for the purposes of an application for leave to appeal, the board must provide the materials within 14 days of the date the written request is made.

### **Provision of Transcript**

688 (2.2) states in part that a request for materials under 688(2.1) cannot include a request for a transcript. However, the Court may direct that the MGB or the SDAB provide a transcript if the court is satisfied that the transcript is necessary for the purpose of determining the application for leave to appeal.

### **Where Leave is Granted by the Courts**

688(4.3) states in part that if leave to appeal is granted, the Municipal Government Board or the Subdivision and Development Appeal Board must, within 30 days, forward to the Registrar of the Court of Appeal the transcript and record of the hearing, and its findings and reasons for the decision.

## **Action Required by Municipalities**

Section 629 of the *MGA* requires a SDAB to make and keep a record of its proceedings. This record may be in the form of a summary of the evidence presented at a hearing. The changes fall short of requiring the SDAB to prepare a transcript in every proceeding. Only those decisions that are appealed require a transcript.

Municipalities may have to review their procedures regarding record retention for appeal hearings. If you record hearings to compile your official record, you will have to retain the recordings until after the appeal period lapses in the event that an application for leave is granted and an appeal hearing is scheduled. The recordings will be necessary to prepare a transcript. If you do not record hearings, you may wish to consider doing so to have an accurate transcript of the hearings.

If you have any questions about this bulletin, please contact the Municipal Advisory Services Unit. For toll free access call 310-0000, then 780-427-2225.