



SDAB

Subdivision and Development Appeal Board

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THE CITY OF
CALGARY

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What is the Subdivision and Development Appeal Board (SDAB)?

The SDAB is a quasi-judicial board established under the *Municipal Government Act* of the Province of Alberta. It is a tribunal, consisting of up to two aldermen and a minimum of 10 citizen members appointed annually by City Council. Citizen members cannot be employees of The City of Calgary or members of the Calgary Planning Commission.

The Board hears appeals with respect to decisions of The City of Calgary's Subdivision and Development Authority and renders decisions based on relevant planning matters.

Where and when does the Board meet?

The SDAB holds its regular public meetings every Thursday commencing at 9 a.m. in the First Floor Hearing Room, 1212 31 Avenue N.E. The Board meets until all items on the agenda for that day have been dealt with, or until 4:30 p.m. Agenda items not dealt with are adjourned to the next scheduled meeting.

In accordance with City of Calgary Bylaw 25P95, as amended, the SDAB shall sit in two panels to hear appeals.

Small panels shall be composed of a minimum of three to a maximum of seven members and hear appeals pertaining to less complex development permits, see Bylaw 25P95, section 5(3) for extensive list.

Large panels shall be composed of a minimum of five to a maximum of seven members and shall hear all other matters not listed for small panels.

What can be appealed?

- A decision of the Subdivision Authority concerning a subdivision application.
- A decision of the Development Authority concerning a development permit application.
- An enforcement order issued by the Development Authority.

How to file an appeal

In accordance with the City of Calgary Bylaw 25P95, as amended, a non-refundable \$25.00 filing fee is required for each of the following appeals to the SDAB:

- Approval of a development permit.
- Refusal of a development permit.
- Conditions of approval.
- Enforcement Order.
- Subdivision application.

The \$25 filing fee must accompany each Notice of Appeal form and must be filed on or before the final date for appeal as prescribed in the *Municipal Government Act*. Non-payment or late submissions will result in no hearing being scheduled before the Board.

To file an appeal, complete the Notice of Appeal form available at the SDAB office or online via the SDAB website at calgary.ca/sdab/onlineappeal

Deadline for filing an appeal

In accordance with the *Municipal Government Act*, an appeal to the SDAB must be received on or before the final date for appeal. Any appeal received after the deadline will not be considered by the SDAB. The appeal deadlines are as follows:

Development appeals

If the development permit was **approved**, the applicant has 14 calendar days from the date they were notified of the approval.

If you are considered an affected person*, you have 14 calendar days from the date the **approval** was advertised in the local papers.

If the development permit was **refused**, the applicant or owner of the property has 14 calendar days in which to file the appeal, based on the date they were notified of the refusal.

Subdivision appeals

Only the applicant can file an appeal with respect to a **refusal** of a subdivision application or on the **conditions of approval** of the application. The appeal must be filed within 14 calendar days after receipt of the written decision. An affected person **cannot** file an appeal.

* "Affected person" is not defined in the *Municipal Government Act*. The Board determines affected persons on a case-by-case basis. For example, an affected person could be someone who feels the enjoyment, use or value of their property may be affected by the proposed development. The onus is on the person to show they are affected by the development.

All appeals are advertised in the newspaper and any party who feels they will be affected by the proposed development has the right to appear before the Board and explain why they are affected. The Board will then make a determination as to whether that person is an "affected person" with respect to the proposed development.

Enforcement orders

The owner of the land, the person in possession of the land or building, the person responsible for the contravention or any person considered affected by the Order can file an appeal within 14 calendar days from the date the person was notified of the Order.

What happens after an appeal is filed?

In accordance with the *Municipal Government Act* (MGA), once you file an appeal, it will be scheduled for a hearing within 30 days. The appellant, applicant, owner of the property and anyone considered an affected person* will receive written notification of the hearing date approximately five days prior to the hearing, per section 686(3) of the MGA.

The hearing date of the appeal is advertised in the *Calgary Herald* one week prior to the hearing.

Appellants are not to contact members of the Board regarding their appeal, as this will disqualify members from participating in the hearing. Board members do not discuss appeals with the Subdivision and Development Authority prior to hearings.

How to prepare for the hearing

Listed below are some suggestions that may assist in preparation for the SDAB hearing:

- Determine the relevant planning issues associated with the appeal. Examples include design, parking, traffic, compliance with planning legislation and the impact on adjacent properties.
- Prepare a clear, concise and logical written presentation. Submit by deadline for inclusion in the report to the Board, along with any other evidence you will be presenting.
- Ask neighbours affected by the proposed development to speak on your behalf, write letters outlining their position in support or objection.
- Attend an SDAB hearing before the date of your own hearing in order to obtain an understanding of the process.
- Review the contents of the SDAB Report.

Note: A document viewer is available for presentations.

Information available prior to the hearing

The SDAB Administration assembles a report consisting of the appeal form, submissions from the Subdivision or Development Authority and the appellant/applicant/owner. The report is distributed to the Board members for review prior to the hearing and is available to the parties involved on the Friday prior to the hearing.

All written materials submitted prior to the hearing, including the appeal form, become part of the report prepared for the Board and available to the public. Personal information is collected under the authority of the *Freedom of Information and Protection of Privacy Act*, Section 32 (c) and the *Municipal Government Act*, Sections 678 and 685. If you have any questions regarding the collection of information, please contact the City Appeal Boards at 403-268-5312.

Procedures followed at the public hearing

Persons who file an appeal are encouraged to make a verbal presentation to the Board. Persons who are considered to be an affected person also have the right to make a presentation. If so desired, parties may have someone, or an agent, speak on their behalf.

If a number of appeals are filed on the same development, it is recommended that a spokesperson be selected to organize presentations so that evidence is not repeated.

The Chairman announces each appeal and calls a representative of the Subdivision or Development Authority to present the application or order (i.e., where the site is located, the proposed development and the reasons for Subdivision or Development Authority's decision).

The Chairman will then ask for:

- All speakers in favour of the appeal (persons who filed an appeal or support the position of the appellant).
- All speakers opposed to the appeal (persons who oppose the position of the appellant).

You will then have the opportunity to present rebuttal evidence, i.e, respond to any new evidence raised during the hearing. Rebuttal is not an opportunity to re-argue your case.

The Board does not, on its own initiative, seek information or evidence. The Board relies on the written evidence presented, as well as verbal submissions at the hearing, as the basis for their decision. Therefore, it is critical that persons appearing before the Board ensure that sufficient evidence is presented to support their respective positions.

When presenting an appeal, keep in mind the Board does not consider precedent when making its decision. Each application is judged on its own merits. The reason is, the Board has no way of knowing if sites presented as a precedent were built with or without the benefit of a development permit, or whether they have another status under the City of Calgary Land Use Bylaw.

Exhibits used during a presentation become part of the Board's record of the hearing and must be retained for a minimum of 60 days. If return of this material is required, the Board must be advised at the conclusion of the hearing and arrangements will be made for its return at the end of the retention period.

Request for adjournment

You should submit a written request for an adjournment, including the reasons for the request, to the SDAB office as soon as possible. If you are unable to submit the request in writing, a verbal request should be made at the time of the hearing.

Adjournment requests are not granted automatically. The Board considers each request on its own merits, including submissions concerning requests from other affected parties to the appeal.

If you are unable to attend the hearing to speak to the adjournment request, you should have someone attend on your behalf who will be prepared to discuss the request and/or present evidence to the Board in the event the adjournment request is denied.

Withdrawal of an appeal

A withdrawal should be submitted in writing to the SDAB office as soon as possible. Your co-operation will prevent any unnecessary delays for the Board and will help The City use its resources more effectively.

Decision of the SDAB

In accordance with the legislation that governs the SDAB, the Board can only consider relevant planning matters when making its decision.

At the conclusion of the hearing the Board may render its decision immediately with a summary of the reasons and issue a written decision within 15 days of the hearing; the Board's decision is not final until it is signed and issued. Or the Board may decide to reserve its decision and present its decision and reasons in writing within 15 days of the SDAB hearing.

Appeal of the Board's decision

The Board's decision is final, unless it can be shown that the Board erred on a matter of law or jurisdiction. You may appeal the Board's decision to the Alberta Court of Appeal within 30 days of the date the decision was issued. If you are considering an appeal, it is recommended that you consult with legal counsel.

For further information:

The SDAB Administration is available to answer any questions you may have concerning the appeal process.

Our location:

City Appeal Boards
Subdivision and Development Appeal Board
Fourth Floor, 1212 31 Ave. N.E.
(DJ3 Building)
Calgary, AB T2E 7S8

Hours of operation

8 a.m. – 4:30 p.m. Monday to Friday

Our mailing address:

City Appeal Boards
Subdivision and Development Appeal Board, #8110
P.O. Box 2100, Station M
Calgary, AB T2P 2M5

Phone: 403-268-5312

Fax: 403-268-5982

Email: sdab@calgary.ca

Website: calgary.ca/sdab

The information contained herein is intended for information purposes only and should not be construed as legal advice. For certainty, you should consult the Municipal Government Act and other related statutes and regulations.

Revised in November 2011.

