



Subdivision
& Development
APPEAL BOARD

APPEALS AND HEARINGS

concerning development permits,
subdivision applications, and
enforcement orders issued by
The City of Calgary

■ CALGARYSDAB.CA

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What is the Calgary Subdivision and Development Appeal Board?

It is a quasi-judicial board established under Alberta's *Municipal Government Act* to hear appeals of subdivision, development, and enforcement decisions made by The City Planning Department (also known as the "Development Authority," "Subdivision Authority" or the "Calgary Planning Commission"). The Board can uphold, revise or overturn **these** decisions.

Who is on the Board?

The Board is made up of 15 to 25 Calgarians appointed by City Council. Members are commonly builders, developers, planners, lawyers, engineers, architects or community representatives.

Members cannot be City Councillors, City employees or members of the Calgary Planning Commission. This helps to ensure their independence and impartiality in making decisions.

See calgarysdab.ca for a current list of Board Members.

Where and when does the Board meet?

The Board meets every Thursday, and some Tuesdays, in suite 101 of the Deerfoot Junction 3 building at 1212 31 Ave NE, from 9:00 AM until all matters on the agenda have been heard or until 5:00 PM, whichever is earlier. If there is not enough time to hear all scheduled matters, the Board will adjourn those matters to another day.

How many Board Members attend each hearing?

For procedural and jurisdictional matters, the quorum of the Board is a minimum of one (1) Member to a maximum of three (3). For all other matters, quorum is a minimum of three (3) Members to a maximum of five (5).

What can be appealed and when?

The following statements apply to most situations. For certainty, please consult the *Municipal Government Act*.

Development permits

An affected person* and the applicant can appeal the approval or refusal of a development permit within 21 calendar days after the Development Authority makes or publishes its decision. If the Development Authority has not made a decision within 40 calendar days of it acknowledging receipt of an application, it is deemed refused.

Subdivision applications

An applicant can appeal the approval or refusal of a subdivision application within 14 calendar days after the applicant receives the Subdivision Authority's written decision. If the Subdivision Authority has not made a decision within 60 calendar days of it receiving a complete application, the application is deemed refused.

Enforcement orders

An affected person* can appeal an enforcement order within 21 calendar days after the order is made.

More information about appeal deadlines:

If a deadline falls on a holiday, the deadline becomes the next non-holiday. If a deadline falls on a day on which the City Appeal Boards office is not open for its regular business hours, the deadline becomes the next day on which the office is open.

Who is an affected person?*

The *Municipal Government Act* does not define who an affected person is. The Board makes this determination on a case-by-case basis. A person has the onus of showing the Board how he or she is affected.

How is an appeal filed and what does it cost?

The fee for filing an appeal is set out in the Board's bylaw and is subject to change. You may file an appeal: online at calgarysdab.ca (credit card only); in person on floor 4 of **Deerfoot Junction 3** Building at 1212 31 Ave NE (cash, cheque or debit only); or in person on floor 3 of the Municipal Building (cash, cheque or debit only).

An appeal is not considered filed until both the Notice of Appeal form and payment are received by the Board Administration.

What happens after an appeal is filed?

A hearing is scheduled within 30 days of an appeal being filed.

Approximately 2 weeks before the hearing, the appellant, the applicant, the owner of the property, and those living within a certain distance of the property are notified by **mail or email with a Notice of Hearing letter.**

Approximately 1 week before the hearing, the appeal is advertised on our website, and the **Agenda for the day is posted.**

Sometimes, the first hearing will be used to determine how many people will be presenting to the Board, or to decide whether the Board has jurisdiction to hear the appeal. This information is used to schedule a merit hearing, where the Board will hear evidence from all parties and affected persons.

How do I prepare for a hearing?

Determine the relevant planning issues

associated with the appeal (e.g. site context and layout, setbacks, landscaping, parking, traffic, noise, intensity of use, massing, privacy, and shadowing).

Review any relevant planning documents

(e.g. Land Use Bylaw 1P2007, the Municipal Development Plan, Infill Guidelines, Area Redevelopment Plans, and direct control bylaws).

Review the Board Report, which includes all evidence submitted to the Board by the deadline. The Board Report is available to the public online after noon the Friday before the hearing.

You may also wish to consider what arguments and evidence the Board found persuasive in previous decisions, available on Calgary's Open Data portal: data.calgary.ca, and The Canadian Legal Information Institute (CanLII) website: canlii.org/en/ab/absdab/

Prepare a clear, concise, and logical presentation outlining your reasons for appealing, and submit your presentation (e.g. PowerPoint) and any other evidence (e.g. photos or studies) to Board Administration by the deadline.

If you have digital presentation materials, please bring them on a USB flash drive so you can use the laptop in the hearing room to present.

If you did not submit your presentation to the Board Administration by the deadline, please bring a hard copy of your presentation to submit to the Board. If you do not bring a hard copy, be prepared to leave the USB flash drive with the digital copy of your presentation with the Board.

All materials presented or referenced in the hearing must be submitted to the Board. Note that the Board is not an evidence seeking body and only relies on the evidence it receives.

Ask neighbours who share your views to submit a letter or speak at the hearing, expressing their support. If multiple people are presenting, it is helpful to coordinate these presentations to avoid repetition. Note that the Board considers each application on its merits and will not make a decision based solely on the number of people who support or oppose it.

Watch a hearing to become more familiar with what happens at a hearing. All hearings are open to the public. You may attend a hearing in person or watch a hearing live using the live feed on the Board's website.

What happens at a hearing?

Typically, the Planning Department presents first, if it chooses to present, followed by those in favour of the appeal and finally by those opposed to the appeal.

After each presentation, Board Members have the opportunity to ask questions of the presenter.

Once all parties have made their presentations, they will each be given the opportunity to offer a rebuttal **of any issues raised by the other parties that could not have anticipated. Rebuttal is not an opportunity to present new evidence or re-argue a case.**

The panel of Board Members in attendance will deliberate in private. The Board may announce its decision verbally following a hearing or reserve its decision and issue it in writing in the days following the hearing.

In either case, a decision is not official until it is issued in writing, usually within 15 days following a hearing.

Authorizing a Representative

Parties may arrange for another individual(s) a lawyer, or an agent to speak on their behalf at the hearing(s). You must submit in writing to the SDAB Administration that you are authorizing someone to represent you. It is encouraged that you send the authorization prior to the beginning of the hearing so all parties, the Board, and the Staff, can be made aware.

What if I need an adjournment?

If you are unable to attend a hearing, or require more time to prepare your submissions, you may request an adjournment. It is recommended that a request for an appeal is made in person at the time of the scheduled hearing, in addition to submitting a written request for adjournment to the SDAB Administration prior to the hearing, as soon as possible.

The reasons for the request must be included in the request. Please also have potential Tuesday or Thursday dates to assist in scheduling a new hearing.

In deciding whether to grant a request for an adjournment, the Board will consider the merits of the request and the positions of the other parties. Adjournments are not guaranteed, and you should come prepared to present your evidence as scheduled, or have an **authorized representative attend** on your behalf.

Can I withdraw my appeal?

Only an appellant can withdraw an appeal. An appellant wishing to withdraw their appeal should make this request in writing to Board Administration as soon as possible so that the Board can use its resources most effectively. The appeal filing fee will be refunded if an appeal is withdrawn before the first hearing of the matter.

If an appeal is withdrawn after the hearing has started, it is the Board's decision whether the appeal filing fee is refunded.

How does the Board make its decision?

The Board is not bound by precedent, i.e. it need not decide one way simply because it decided that way in an earlier case.

Each application is judged on its own merits, based on the written and verbal submissions that were made.

The Board is an impartial body and is independent from the Planning Department.

Can the Board's decision be appealed?

A decision of the Board can only be appealed if the Board erred in law or lacked jurisdiction to hear the appeal.

These appeals must be made to the Alberta Court of Appeal within 30 days of the Board issuing its written decision.

It is recommended that you consult with legal counsel if you are considering an appeal.

**For further information please contact
Board Administration:**

Our location

Subdivision and Development Appeal Board
Fourth Floor, Deerfoot Junction 3 Building
1212 31 Ave NE
Calgary, AB T2E 7S8

Our business hours

8:00 AM - 4:30 PM
Monday to Friday

Our mailing address

Internal Mail Code #8110
PO Box 2100, Station M
Calgary, AB T2P 2M5

Our contact information

Phone: 403.268.5312
Email: info@calgarysdab.ca
Website: calgarysdab.ca

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: January 2019**

