

Preparing for the Hearing

When preparing for the hearing it is important to remember that you are responsible for gathering and presenting information to the Subdivision and Development Appeal Board (SDAB) that supports your reason(s) for appealing the decision regarding the development or subdivision. Your goal is to demonstrate to the SDAB that the decision made by the County's development or subdivision authority was not the correct decision.

Some information that you may wish to consider presenting to the SDAB is:

- Correspondence from neighbours supporting your position on the development or subdivision;
- Photographs of the development or subdivision and how they affect you and/or your property;
- The opinion (written) of a qualified property appraiser or realtor stating how the development or subdivision might affect the value of your property in the current market; and
- Any other information that you feel will support your position.

Tip: Make copies of the material (including photographs) that you will be presenting at the hearing, for yourself, the board members, the applicant (if applicable) and the County's staff. Contact the County's Planning Department to confirm the number of copies you will need to provide.

Note: Lacombe County Council Chambers (which is the room where the SDAB hearings are held) is equipped with audio visual equipment that can be used to display most presentation formats, such as power point, connections to lap tops, overheads, pictures, DVD's etc. If you require the use of this equipment for your presentation please make arrangements with the SDAB Secretary a few days prior to the hearing to ensure this equipment is ready for use.

At the Hearing

The following is a typical sequence of events at Subdivision and Development Appeal Board hearing:

- Planning & Development Department staff outline the application and the County's decision:
 - Questions of clarification to County staff by Board members
 - Questions of clarification to County staff by the Appellant
 - Questions of clarification to County staff by other interested parties
- SDAB Secretary reads the appeal into the record
- Appellant(s) to address the Board regarding the appeal
 - Questions of clarification to Appellants by Board members
 - Questions of clarification to Appellants by other interested parties
- Other persons in support of the appeal to address the Board
 - Questions of clarification to other persons in support of the appeal by Board members
 - Questions of clarification to other persons in support of the appeal by other interested parties
- SDAB Secretary to read any other submissions that have been received by the County in support of the appeal.
- Other persons opposed to the appeal to address the Board
 - Questions of clarification to other persons opposed to the appeal by Board members
 - Questions of clarification to other persons opposed to the appeal by other interested parties

- SDAB Secretary to read any other submissions that have been received by the County opposed to the appeal.
- Closing comments
 - The County's Planning & Development department staff
 - Others in support of the appeal
 - Others in opposition to the appeal, and
 - The Appellant(s)
- Chairperson to determine whether all parties have been heard.
- Chairperson to ask the persons who have made representations if they feel that they have had a fair hearing.
- Chairperson may declare the hearing closed. If the hearing is declared closed no further submissions or evidence may be received by the Board.
- If the Board deems it requires additional information or evidence, a date will be established for the Board to receive this information or evidence and the parties will be notified.
- Once the hearing has been closed, the Board will make its decision and provide it in writing, with reasons, within 15 days of closing the hearing.
- Please note, when deliberating its decision all parties, excepting the SDAB Board members and SDAB administrative staff, shall leave the room and the Board will meet in-camera (in private).

In deciding on an appeal, the SDAB:

- must act in accordance with any applicable Alberta Land Stewardship Act regional plan;
- must comply with land use policies, statutory plans and the land use bylaw in effect;
- must have regard to but is not bound by the subdivision and development regulations;
- may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
- must consider if the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
- must determine if the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

Appeal to the Court of Queen's Bench of Alberta

If you believe that the SDAB made an error in its decision, you may file an appeal with the Court of Queen's Bench of Alberta (the Court). You have 30 days from the date you receive the written decision of the SDAB to file your application.

Note: You cannot appeal the decision of the SDAB simply because you do not agree with the decision. An appeal can only be made if you believe that the SDAB made an error on a question of law or jurisdiction.

A question of law is generally defined as a question to be decided, ultimately by a judge, concerning the application or interpretation of the law. Jurisdiction is the general power or authority to decide an issue. In order to have the Court hear an appeal of the SDAB, the appellant must first file an application for "Leave to Appeal" with the Court.

In your application you will need to clearly demonstrate that an error on a question of law or jurisdiction has been made by the SDAB. Your application should include the written decision of the SDAB and any supporting evidence that relates to the error on a question of law or jurisdiction. You can make a written request for materials from the SDAB for the purposes of the application. The SDAB has 14 days in which to provide you with this information.

On hearing the application and representations of any other parties to the matter, the Court will determine if the appeal is valid. The Court may uphold the SDAB decision, at which point there is no further avenue of appeal available. If leave to appeal is granted, then the appeal process will proceed. If the Court finds that there was an error in law or jurisdiction, it may refer the matter back to the SDAB with instructions to re-hear the appeal.