

WHAT IS A SUBDIVISION APPEAL?

SUBDIVISION APPEAL BULLETIN NO. 1 – 2012

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INTRODUCTION

Landowners in Alberta must obtain approval from their local subdivision authority (SA) to subdivide land in most cases.¹ SA decisions may be appealed to one of two appeal boards: the provincial Municipal Government Board (MGB) or the local Subdivision and Development Appeal Board. Which board hears the appeal depends on the location and features of the land to be subdivided ([See this bulletin for details on where appeals are filed](#)).

BACKGROUND

SAs must consider a number of factors before making their decisions, including various legal rules and comments from the landowner and various other affected stakeholders.² The legal rules for the subdivision of land are found in Alberta legislation, regulations, ministerial orders, and municipal bylaws and plans. [Click here for more information on the laws that govern subdivisions](#).

An SA may approve a subdivision application, approve it with conditions, or refuse it altogether. On occasion, an SA does not make a decision on a subdivision application at all (or takes longer to make a decision than is legally allowed). If no decision is issued, the SA is deemed to have refused the subdivision application.³ In rare cases, an SA may approve a subdivision application that the SA was legally required to refuse. If an SA makes a decision that was beyond its authority to do so, that decision is treated as a 'deemed refusal'.⁴ Any SA decision may be appealed.

¹ 'Subdivision' is the process of dividing a titled parcel of land into one or more titled parcels of land, under section 616(ee) of the [Municipal Government Act](#), RSA 2000 c M-26 (the Act). See section 652 of the Act for exceptions where SA approval is not required.

² See section 654 of the Act. See the [Subdivision and Development Regulation](#), Alta Reg 43/2002, for information on who is entitled to notice of an application for subdivision.

³ See section 681 of the Act.

⁴ For information on invalid decisions being deemed refusals, see the example of *Alberta Transportation v Leduc County (Subdivision Authority) re: Stadler*, MGB 001/11.

MGB APPEAL

A landowner who has applied for a subdivision may appeal an SA's decision. Often, appeals are filed when an SA refuses the subdivision, or when the SA imposes conditions of approval. [Certain other organizations may also lodge appeals \(click for details\)](#).

On appeal, the MGB obtains the SA's record and forwards it to parties along with any additional information or documentation the parties wish to submit. The MGB also gives the opportunity to parties to make submissions to the MGB in person. **The object is to ensure all parties have a fair opportunity to be heard and comment on one another's positions.** The Board panel may also ask questions or request further material they feel is needed to show the proposed subdivision meets all the legislated requirements and is suitable for its intended use.

When the MGB makes a decision, it must consider all of the circumstances of the application, not only the issue(s) being appealed. The MGB's decision on a subdivision appeal is issued in writing following the hearing and replaces the SA's decision. MGB approvals are valid for one year.

For more information about the MGB's appeal process, consult the Subdivision Procedure Rules and various bulletins on the MGB's [Subdivision Appeals](#) Page.



NEXT BULLETIN - [Where to File a Subdivision Appeal and What Happens if the Application is Filed at the Wrong Board?](#)