Writing Decisions for the SDAB

Mandatory Requirements

The *Municipal Government Act* requires a Subdivision and Development Appeal Board (an "SDAB") to provide its decision in writing and with reasons. The decisions must be given within **15 days** of the conclusion of the hearing.

Recommended Approach

A written decision must state more than the SDAB's conclusion. Decisions must explain the SDAB's reasons for coming to its conclusions. A decision should include the following:

Facts and Assumptions: A reader should know the context of the SDAB's decision and the facts that were relevant to the SDAB's decision. It may be helpful to organize the facts in the same way that the presentations were made during the hearing to avoid missing key facts and to clearly identify preferred facts. An example of this would be to organize the decision into sections that include (1) Facts according to the Appellant; and (2) Facts according to the Applicant.

The SDAB should outline its preferred facts, with reference to the evidence that the SDAB considered. The SDAB may also identify facts that it did not consider. Identifying facts that were not considered by the SDAB can be time consuming and is not strictly necessary, but it can make appellants feel that they have been heard.

Reasons: The reasons should include the nature of the issue(s) raised during the appeal, the SDAB's findings of fact, and a discussion of the applicable planning documents.

Outcome: When considering an appeal, the SDAB may refuse, approve, or approve with conditions. Where the decision of the SDAB is to approve with conditions, the written decision must clearly state the conditions intended to be attached to the approval. These conditions should clearly state the steps the applicant must take to satisfy the condition(s); who can determine if the condition has been satisfied; and time for compliance.

Appeal to the Court of Appeal

Section 688 of the *MGA*

Leave to appeal can only be obtained on a question of law or jurisdiction. Inadequate reasons are one of the most common grounds of appeal.

Additional information

The written decision of the SDAB may include additional information that is not required by

law. Some SDABs include the following information as part of their decision package:

- The process for an appeal to the Court of Appeal and the time limit to file the appeal.
- A contact person if there are any questions on the decision.

Roles of the parties

MEMBERS OF THE SDAB

All members of the SDAB are responsible for considering the evidence and making a decision on an appeal. Where the members hearing an appeal disagree, the SDAB will typically vote and provide a written decision that reflects the decision of the majority of the members.

SECRETARY OF THE SDAB

The Secretary of the SDAB will provide valuable support in preparing the written decision, including the organization and preparation of a draft written decision. The Secretary will also send notice of the decision.

CHAIRPERSON OF THE SDAB

The Chairperson usually signs the decision of the SDAB and is responsible for ensuring the written decision reflects the decision of the SDAB.

Writing the Written Decision

1. A good first step immediately after the hearing is for all members of the board to sketch out the facts, the issues, the relevant land use planning documents, the relevant case law and the policies and reports that were discussed at the hearing. The outline should provide the SDAB's conclusions on each key issue and the reasons for those conclusions.

2. After the outline has been prepared, it is a good idea in the early stages of decision writing, to focus on the process of getting all the issues on paper.

   When attempting to identify the issues, the SDAB should attempt to define the issues. Stating the issues of the appeal can be as simple as answering the question of "What must the SDAB decide in this appeal?"

3. All members of the SDAB should review the first draft of the decision for the purpose of adding anything that has been missed. Review should be made of notes, written exhibits, questions and motions for the purpose of ensuring that nothing of significance has been omitted in the written decision.

4. The draft should be revised and finalized, focusing on organization, style and grammar.

Consider:

Stop and ask: "Who is our audience?

Remember that a well-written board decision usually reduces the likelihood that a court challenge will be made and, if made, that it will not be successful.