

# Request for Hearing

## Saskatchewan Building and Accessibility Standards Appeal Board

### IN THE MATTER OF *THE UNIFORM BUILDING AND ACCESSIBILITY STANDARDS ACT*

Being Chapter U-1.2 of the *Statutes of Saskatchewan, 1983-84* (consult Tables of Saskatchewan Statutes for effective date) as amended by the *Statutes of Saskatchewan, 1986-87-88, c.60; 1989-90, c.62; 1993, c.18; 1996, c.E-9.3; 1998, c.P-42.1; 2002, c.C-11.1; 2005, c.M-36.1; 2010, c.N-5.2; 2012, c.34; 2013, c.R-9.11 and c.27; 2015, c.21; 2018, c.42; and 2019, c.13.*

**To: Saskatchewan Building and Accessibility Standards Appeal Board**

I \_\_\_\_\_ (name)

of \_\_\_\_\_ (municipality), \_\_\_\_\_ (province)

Owner of a building (or proposed building) located at:

Legal Description	
Address	
Municipality	
Postal Code	

Herby (please check the applicable request)

- Give NOTICE OF APPLICATION under section 12 of the Act and apply for an order exempting myself as the owner from compliance with all or part of the accessibility standards of the Act, under provision or section 12 of the Act.
- Give NOTICE OF APPEAL of an order of a building official dated \_\_\_\_\_ and received on \_\_\_\_\_, issued pursuant to section 17 of the Act and attached to this Request for Hearing, under section 18 of the Act.

The reasons in support of my application or appeal are:

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The Request must be accompanied by the documentation that the Appellant intends to rely on in the hearing, and the Appellant shall provide any further substantiating documentation that the Chief Building Official considers necessary for the purposes of the hearing.

The following documents are filed in support of my application or appeal.

- design plans
- as-built plans
- specifications
- copy of order of building official
- copy of letter from local authority (municipality) specific to the construction project
- copy of building permit
- photographs
- other documents (please specify)

Dated at \_\_\_\_\_, Saskatchewan, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature \_\_\_\_\_

Please print or type:

Name	
Mailing Address	
Daytime Telephone #	
Email Address	

### **PLEASE NOTE THE FOLLOWING**

Pages 1 and 2 of this Request for Hearing form must be printed and filed with the Appeal Board as follows.

Attention: Chief Building Official  
Building and Technical Standards Branch  
Saskatchewan Ministry of Government Relation  
1430 – 1855 Victoria Avenue  
REGINA SK S4P 3T2  
306-787-4113 Phone  
306-798-4172 Fax  
[btstandards@gov.sk.ca](mailto:btstandards@gov.sk.ca) Email

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### FOR PURPOSES OF THIS DOCUMENT

The Saskatchewan Building and Accessibility Appeal Board (the Appeal Board) is empowered to establish rules of procedure respecting the hearing of appeals before it by virtue of subsection 6(7) of *The Uniform Building and Accessibility Standards Act*, RSS c.U-1.2 (the UBAS Act). The purpose of these rules is to facilitate the resolution of appeals in a timely and procedurally fair manner. These rules should be read together with the provisions of the UBAS Act, particularly sections 6, 12, and 18. The Appeal Board has the powers of commissioners pursuant to *The Public Inquiries Act, 2013*.

- A reference to the Appeal Board shall be a reference to the entire board.
- A reference to the Appeal Panel shall be a reference to the members of the Appeal Board scheduled to hear an application under section 12 or an appeal under section 18 of the UBAS Act.
- Three members of the Appeal Board constitute quorum for purposes of conducting a hearing.
- A decision made by the Appeal Panel shall be considered a decision of the Appeal Board.
- A reference to the Appellant will include a reference to an Applicant who files an application pursuant to section 12 of the UBAS Act or an Appellant who files an appeal pursuant to section 18 of the UBAS Act.
- A reference to the Chief Building Official (CBO) shall include staff designated by the CBO for purposes of an application or appeal.
- The only party to an appeal under section 12 of the Act is the Appellant in their role of seeking an exemption from accessibility standards. The local authority and their appointed Building Official will be provided notice for information purposes only.
- The only parties to an appeal under section 18 include the Appellant and their party, Respondent and their party (appointed building official and local authority representative).

### INSTRUCTIONS TO APPELLANT

These rules are intended to apply to both applications for exemption from accessibility standards pursuant to section 12 of the UBAS Act, and to appeals pursuant to section 18 of the UBAS Act, from an order of a building official.

#### **Application for Exemption from Accessibility Standards**

An application under section 12 of the UBAS Act, for exemption from accessibility standards can be made at any time by:

- Filing a Request for Hearing with the CBO at the address noted above.
- Submitting to the CBO the reasons for the application and demonstrating how the application complies with section 12 of the UBAS Act. See subsection 12(3).

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### Appeal of a Building Official's Order

An appeal under section 18 of the UBAS Act of an order issued by a Building Official must be made within 15 days after the service of the order on the owner by:

- Filing a Request for Hearing with the CBO at the address noted above.
- Submitting to the CBO all substantiating information considered necessary by the Chief Building Official.
- Unless otherwise ordered by the Appeal Board, an appeal pursuant to section 18 does not operate as a stay of the order of a Building Official.

### **HOW A REQUEST FOR HEARING IS HANDLED BY BUILDING STANDARDS**

- The date of the filing of the request shall be the latest date stamped on submitted documents.
- Staff will review the request to ensure it is complete and eligible for a hearing.
- If the request is incomplete:
  - Staff will notify the applicant that more information is required and that the request will not be considered as filed until it is complete.
- If the request is ineligible:
  - Staff will notify the applicant that the request does not qualify under the UBAS Act as the subject of a hearing before the Appeal Board.
- If the request is complete and eligible:
  - Staff will acknowledge receipt of the request
  - Staff will schedule the hearing to be held on a date suitable to the appellant, the local authority and their appointed Building Official, and members of the Appeal Board. All efforts are made to accommodate the hearing within twenty-five (25) days of the date of filing of the request
  - Staff will arrange for the hearing to be held at a barrier-free location in either Saskatoon or Regina giving preference to the location nearest the municipality where the property or building subject to the hearing is located.
  - Staff will, review the subject of the hearing and prepare background documentation. This may include a site visit if determined necessary.
  - The applicant shall file all additional plans and other written material that he/she intends to submit in support of their request as requested by staff.
- Once the CBO has received the Request for Hearing, the deposit, and all the substantiating documentation from the Appellant that the CBO deems necessary, the CBO shall arrange for an Appeal Panel to hear the matter.<sup>1</sup>

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<sup>1</sup>According to UBASA, the hearing shall be conducted and the decision of the Appeal Board rendered within 30 days after the chief building official has received the Request for Hearing, the deposit, and all substantiating documentation deemed necessary by the CBO.

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- No later than seven (7) days before the hearing, notice of the hearing will be provided to the Appellant and the Respondent whose order is under appeal (when applicable).
- In advance of the hearing, the CBO will provide the documentation supplied by the Appellant to the Appeal Board, the local authority and the Respondent (when applicable).
- At the discretion of the Chair, a pre-hearing management conference may be scheduled with the parties to the hearing in order to address any procedural and evidentiary considerations, including document production considerations.

### THE HEARING

- Three members of the Appeal Board constitute a quorum and shall be referred to as the Appeal Panel.
- Hearings are open to the public, though deliberations of the Appeal Panel will be conducted in closed session.
- The CBO will act as clerk to the Appeal Board in the hearing. The clerk will keep minutes of the hearing and will be responsible for noting the numbers of the hearing exhibits and for the custody of hearing exhibits.
- The Appellant and the Respondent (when applicable) are the only parties to the hearing. No one other than the parties will be entitled to call evidence at the hearing and make representations to the Appeal Board. Other parties may be allowed to make representations to the Appeal Panel if determined appropriate by the Chair of the Appeal Panel.
- The parties may engage legal counsel or other agent to represent them in the hearing. In some circumstances, the Appeal Board may engage legal counsel.
- The onus is on the Appellant to establish that there are grounds to grant the application or allow the appeal.
- The Appeal Board is not bound by the strict rules of evidence. The Appeal Board will only hear expert opinion evidence where such evidence is necessary for the purposes of the hearing and where the Appeal Board has satisfied itself that the proposed witness is a duly qualified expert.
- The Appeal Board has the power to summon witnesses and to compel a witness to produce all relevant documents. Any request for the Appeal Board to summons a witness and/or compel document production should be made to the CBO, who will bring it to the attention of the Appeal Board.
- The Appeal Board, in its sole discretion, can adjourn a hearing at the request of a party or on its own initiative provided that the hearing timeline prescribed in the UBAS Act will still be met. If a party

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does not attend the hearing, the Appeal Board may proceed with the hearing in the absence of the party.

- The Appeal Board and any party to the hearing may call witnesses.
- Where any person appearing before the Appeal Board calls a witness, that person shall pay all expenses thereof.
- Witnesses may be sworn in prior to testifying.
- Where any matter arises during the course of any proceedings before the Appeal Board, the Appeal Board may do all things necessary to enable the Appeal Board to effectively and completely adjudicate on and settle any question involved.

### **EXCERPTS FROM *The Uniform Building and Accessibility Standards Act* REGARDING THE APPEAL BOARD, APPLICATIONS and APPEALS**

#### **Interpretation**

2(1)(b) “**appeal board**” means the Saskatchewan Building and Accessibility Standards Appeal Board continued pursuant to subsection 6(1);

#### **Appeal Board Established**

6(1) The Saskatchewan Building and Accessibility Standards Appeal Board is continued consisting of not more than eight persons who are residents of Saskatchewan appointed by the Lieutenant Governor in Council.

(1.1) A member of the appeal board:

- (a) holds office at pleasure and until a successor is appointed; and
- (b) is eligible for reappointment.

(2) The appeal board shall:

- (a) hear and determine appeals made pursuant to section 12 or 18;
- (b) advise the minister on matters concerning the administration of this Act and the regulations; and
- (c) perform any other duties that the minister may direct.

(3) The Lieutenant Governor in Council shall designate a chairperson, vice-chairperson and secretary to the appeal board.

(4) The chairperson, or in his or her absence the vice-chairperson, shall preside at the meetings of the appeal board, or if both the chairperson and vice-chairperson are absent, the chairperson shall designate a member of the appeal board to preside at the meetings of the appeal board.

(5) The chairperson, vice-chairperson or member presiding at a meeting of the appeal board has a casting vote in the event of a tie vote with respect to any issue or question to be determined by the appeal board.

(6) Three members of the appeal board constitutes a quorum.

(7) The appeal board may establish rules of procedure respecting the hearing of appeals before it and has the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

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- (8) The Lieutenant Governor in Council may make regulations:
- (a) prescribing the amount of a deposit required for an appeal to the appeal board;
  - (b) governing recourse to a deposit required for an appeal;
  - (c) governing the refund of a deposit or any part of a deposit required for an appeal.

### Exemption from accessibility standards

**12(1)** An owner of a building or proposed building may apply to the appeal board for an order exempting the owner from compliance with all or part of the accessibility standards by:

- (a) filing a written notice of the application with the chief building official;
- (b) submitting to the chief building official all substantiating information considered necessary by the chief building official; and
- (c) placing a deposit in the prescribed amount with the chief building official.

(2) Within 30 days after all of the things described in clauses (1)(a) to (c) have been done, the appeal board shall conduct a hearing, consider the matter and render its decision in writing.

(3) The appeal board may grant an order exempting the owner of a building or proposed building from compliance with all or any part of the accessibility standards to the extent and on the conditions that the appeal board considers necessary where the appeal board is satisfied that:

- (a) compliance with the accessibility standards would cause the owner undue hardship;
- (b) compliance with the accessibility standards would prevent optimum utilization of land by the owner;
- (c) compliance with the accessibility standards is, in the opinion of the appeal board, impractical or inappropriate; or
- (d) a proposal submitted by the owner will provide accessibility that is equal to or better than that which is required or intended by the accessibility standards.

(3.1) An order pursuant to subsection (3) must be in writing and must be served on the owner by registered mail addressed to the owner at his or her last known address.

(4) Within 30 days after service of the order, an owner aggrieved by the order may appeal the order to a judge of the court on a question of law alone.

(5) The decision of a judge pursuant to subsection (4) is final.

### Appeal to appeal board

**18(1)** An owner of a building may appeal an order made pursuant to section 17 within 15 days after service of the order on the owner by:

- (a) filing a written notice of the appeal with the chief building official;
- (b) submitting to the chief building official all substantiating information considered necessary by the chief building official; and
- (c) placing a deposit in the prescribed amount with the chief building official.

(2) Within 30 days after all of the things described in clauses (1)(a) to (c) have been done, the appeal board shall conduct a hearing, consider the matter and render its decision in writing.

(3) On an appeal of an order made pursuant to subsection 17(1) or (2), the appeal board shall make an order:

- (a) confirming the order appealed against where the appeal board is satisfied that compliance with the order would result in compliance with the building standards or the accessibility standards; or
- (b) revoking or varying all or any part of the order appealed against where the appeal board is satisfied that:

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- (i) compliance with the order would not result in compliance with the building standards or the accessibility standards; or
  - (ii) a proposal submitted by the owner will result in conditions that are equal to or better than those that are required or intended by the building standards or the accessibility standards.
- (4) On an appeal of an order made pursuant to subsection 17(3), the appeal board shall make an order:
- (a) confirming the order appealed against where the appeal board is satisfied that the building official's order was reasonable in the circumstances;
  - (b) revoking the order appealed against where the appeal board is satisfied that the order was not necessary to bring about compliance with the building standards or the accessibility standards; or
  - (c) varying the order appealed against where, in the opinion of the appeal board, sufficient cause is established.
- (5) On an appeal of an order made pursuant to subsection 17(4), the appeal board shall make an order:
- (a) confirming the order appealed against where the appeal board is satisfied that an unsafe condition exists and that the steps prescribed in the order are necessary to eliminate the unsafe condition;
  - (b) revoking the order appealed against where the appeal board is satisfied that:
    - (i) an unsafe condition does not exist; or
    - (ii) the steps prescribed in the order are not necessary to eliminate the unsafe condition; or
  - (c) varying the order appealed against where, in the opinion of the appeal board, sufficient cause is established.
- (6) An order pursuant to subsection (3), (4) or (5):
- (a) may be made subject to any conditions that the appeal board considers necessary;
  - (b) must be in writing; and
  - (c) must be served on the owner by registered mail addressed to the owner at his or her last known address.

### Appeal to judge

- 19(1)** Within 30 days after service of an order of the appeal board pursuant to section 18, an owner aggrieved by the order may appeal the order to a judge of the court on a question of law alone.
- (2) The decision of a judge pursuant to subsection (1) is final.

### Effect of appeal

- 20(1)** Unless otherwise ordered by the appeal board, an appeal pursuant to section 18 does not operate as a stay of the order of a building official.
- (2) Unless otherwise ordered by a judge of the court, an appeal pursuant to section 19 does not operate as a stay of the decision of the appeal board.

### Execution of order

- 21(1)** If a person does not comply with an order made pursuant to section 17 or 18 within the time specified in the order, a building official or a person appointed by the appropriate local authority may enter the land or the building and do, or cause to be done, any acts that the building official or the local authority considers necessary to carry out the order.
- (1.1) The minister or the chief building official may take any action authorized by subsection (1) or subsection 17(5) on behalf of a local authority where:
- (a) it is requested by a local authority or considered necessary by the minister; and
  - (b) the minister considers that inaction by the local authority will result in a danger to public safety.



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(2) The minister may certify to the municipal official of the appropriate local authority within which a building is situated the amount of any expenses incurred in carrying out an order pursuant to subsection (1.1) and the municipality shall immediately pay to the minister the amount of those expenses.

(3) Any money paid or expended by a local authority pursuant to this section is a debt due and owing by the owner and may be added to the tax payable on the property and collected in the same manner as taxes on the property.

### Offence and penalty

**22(1)** Every person who:

(a) contravenes this Act, the regulations or a bylaw passed pursuant to this Act;

(b) fails to comply with an order made pursuant to section 17 or 18;

(c) obstructs or hinders a building official in the performance of his duties under this Act or the regulations; is guilty of an offence and liable on summary conviction:

(d) in the case of an individual, to a fine of not more than \$5,000 and, in the case of a continuing offence, to a further fine of not more than \$5,000 for each day during which the offence continues;

(e) in the case of a corporation, to a fine of not more than \$10,000 and, in the case of a continuing offence, to a further fine of not more than \$10,000 for each day during which the offence continues.

(2) A conviction for an offence mentioned in clause (1)(b) does not relieve the person convicted from compliance with the order, and the convicting judge shall, in addition to any fine imposed, order that person to do, within a specified period, any act or work necessary to remedy the non-compliance with the order.

(3) A person to whom an order is given pursuant to subsection (2) who fails to comply with the decision, order or directive within the specified time is guilty of an offence and liable on summary conviction:

(a) in the case of an individual, to a fine of not more than \$5,000;

(b) in the case of a corporation, to a fine of not more than \$10,000; for each day during which the non-compliance continues.

(4) A fine resulting from an offence pursuant to this Act that took place within the boundaries of the geographical area in which the local authority has jurisdiction accrues to that local authority.

The full text of *The Uniform Building and Accessibility Standards Act* can be found at the following web link: <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/U1-2.pdf>

### **FOR ADDITIONAL INFORMATION**

Building and Technical Standards Branch  
Saskatchewan Ministry of Government Relations  
1430 – 1855 Victoria Avenue  
REGINA SK S4P 3T2  
306-787-4113 Phone  
306-798-4172 Fax  
[btstandards@gov.sk.ca](mailto:btstandards@gov.sk.ca) Email  
[www.saskatchewan.ca/btstandards](http://www.saskatchewan.ca/btstandards) Web