

Demystifying the Manitoba Municipal Board

Presented by:
Jeff Bereza - Chair

AMM
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Who is the Municipal Board?



- The Board is comprised of 15 members including a Chair, Vice Chair, and part-time members
- Board members are from all corners of the province and represent a wide skill-set: former assessors, former municipal and provincial administrators, former municipal councillors and CAOs; accountants, business owners, lawyers and engineers
- The Board normally sits as a panel of three (Chair/Acting Chair and two members) on public hearings

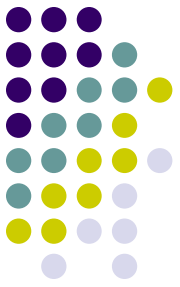
Who is the Municipal Board?



- Established under the authority of *The Municipal Board Act*
- An “Independent Body” appointed by the Province by Order-in-Council
- Independent = not influenced by government, municipalities, other stakeholders, or the public
- A quasi-judicial administrative tribunal

Goals

- To process appeals, applications and referrals as quickly as possible.
- To conduct hearings in accordance with legislative procedure and natural justice for all parties involved.
- To deliver readable, reliable and quality decisions.
- To communicate with the public on the role of the Board and the appeal process.



Board Responsibilities



- The Board is directed by 17 Acts including:
 - *The Municipal Board Act*
 - *The Municipal Assessment Act*
 - *The Municipal Act*
 - *The Planning Act*
 - *The City of Winnipeg Charter*
 - *The Water Rights Act*
 - *The Real Property Act*

Board Hearings



Natural Justice and the Duty to be Fair

➤ Three basic components:

1. A person affected by an administrative decision has the right to know the case against him or her, and must be given an opportunity to reply to it.
2. A person is entitled to a decision from an unbiased decision-maker.
3. The person who hears the case must decide the case.

Hearing Process



- Participants:
 - Owners or Authorized Agents
 - Municipalities, Planning Districts, Planning Commissions
 - Provincial Departments and Agencies
 - Experts (appraisers, engineers, planners)
 - Legal Counsel
 - Members of Public – public participation varies

Hearing Process



- All Board hearings are open to the public
- Not a public discussion, debate, or Town Hall meeting
- A hearing *de novo* – hear evidence fresh for first time
- All public hearings are recorded

Board Order



- Board meets as many times as necessary to reach consensus
- Chair / Acting Chair writes draft order – circulates to panel member(s) for comment and/or amendment
- Vice Chair reviews all orders
- Recording Secretary formats and finalizes for signatures
- Order issued
- Timeline varies – may be dictated by legislation
- Board not always final decision-maker
 - Report and Recommendation to Minister of Municipal Relation who makes final decision

Board Order



- Appeal lies from any Order or Decision of the Board to Court of Appeal with leave of a judge of Court of Appeal: ss.60(1) 60(2)
 - Jurisdiction
 - Point of Law

APPEAL

Assessment Appeals



The Municipal Assessment Act

- Real Property and Business Assessments:
 - Municipality and Rural Municipality (RM) Assessments incl. City of Winnipeg
 - Appeal from Municipality/RM Board of Revision Decisions
 - A party (landowner), including the Assessor, can appeal a Board of Revision decision regarding:
 - amount of an assessed value, or
 - classification of property

Assessment Appeals



➤ Appeal Management Process:

- Began Spring 2018
- 9-yr backlog – **2458** outstanding appeals
- Grim outlook: 9 ½ years to complete
- Expedite, dispose, resolve, simplify appeals

Appeal Management Pre-Hearing > appeal is directed to one of three “streams”:

- Settlement discussions
- Case Management Conference
- Expedited hearing

Case Management Conference (CMC)



If an appeal is sent to case management:

- Interim order sets out parties' respective obligations regarding the exchange and filing of information to facilitate full disclosure
- Not open to the public
- Case Manager (Acting Chair) helps narrow issues, facilitate resolution
- Confidential and without prejudice basis.

New Legislation to Streamline Appeals



- The recently introduced **Bill 24 – The Real Property Valuation Board and Related Amendments Act** will amalgamate the land value functions of the Land Value Appraisal Commission, the Surface Rights Board, and the Municipal Board.
- This action will create a single window for stakeholders seeking resolution of land value disputes.
- Implementation dates T.B.A.
- There are transitional provisions within the legislation.

Appeal Management at Work



- May 1, 2018 to December 1, 2021: **4,403** appeals closed or 60% closed since inception
- Presently closing or processing 2020 and 2021 appeals
- Positive Outlook
 - Goal = All older and outstanding appeals to be closed before next assessment cycle (2023)

Planning and Land Use



- In 2019, Treasury Board Secretariat released its report '*Planning Zoning & Permitting in Manitoba*'
- It recommended government take concrete action to improve the efficiency of permitting and planning to enhance economic growth opportunities and continue the government's work on reducing red tape, in order to ensure Manitoba remains competitive and attractive for business and job growth.



Planning Amendments

- The Planning Amendment and City of Winnipeg Charter Amendment Act was proclaimed and in force as of October 29, 2021.
- New mechanisms, such as mandated timelines for planning decisions and an independent appeal system will reduce delays to development, while ensuring that local government lead the decision-making process on private sector capital investment opportunities in their communities.



Who was consulted?

- Since 2019, the Department of Municipal Relations has held over 80 meetings with key stakeholders on legislative changes to modernize and streamline land use planning.
- AMM has been a key participant in the Bill 37 Working Group that continues to provide advice.
 - The AMM, City of Winnipeg, Manitoba Professional Planners, and the development industry.
- Public engagement: Modernizing the Planning Appeals Process (November 2021)
 - Discussion paper and survey

Planning Amendments



Key Highlights

- Service standards (Planning Process Timelines)
 - Statutory timelines for processing complete planning applications are in effect.
 - The timelines will vary depending on type of application.
- Municipal Board timelines (120 days)
- Municipalities also have statutory timelines
- Property owners have certain rights to appeal certain decisions, such as rejections of their applications, to the Municipal Board.
 - Appellants have an opportunity to appeal if a municipality fails to adhere to statutory requirements.
- The appeals are a last resort when council and applicants are unable to agree on a path forward.
- The Act also provides for Planning Regions
 - Capital Planning Region – includes City of Winnipeg
 - Not proclaimed until regulations are adopted.

Service Standards Timelines



- Secondary Plan Amendment
Zoning Amendment - **150 days**
Subdivision (standard)
- Completion of development agreement – **90 days**
- Subdivision (minor) decision – **60 days**
- Acceptance of development permit application - **20 days**
- After receipt of appeal, Municipal Board hearing within – **120 days**
- After hearing, Municipal Board report within – **60 days**

Streamlining Appeals



- On March 21, 2022 the province introduced the currently numbered Bill 33 – the Municipal Assessment Amendment and Municipal Board Amendment Act.
- *AMM was instrumental in pushing for these changes, ensuring appeals are not frivolous or used to delay decisions on development.*

Key Highlights – yet to be proclaimed



- Grounds for appeal
 - Provided by appellants

- Resolving matters through the case management process
 - Extension of statutory timelines to a maximum of 60 days

- Grounds for dismissal
 - Grounds listed in legislation
 - Opportunity to be heard
 - Written reasons

Case Management – Planning Appeals Yet to be Proclaimed



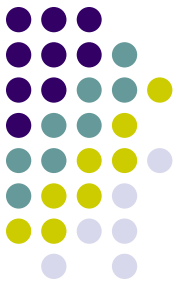
- The Municipal Board will invite parties to an appeal to proceed with case management.
- A first case management conference will occur to narrow the scope.
- If there is no settlement the matter moves to a hearing.
- If a solution is found, there will be a process to move to settlement.

Benefits of Case Management



- Clear and enabling framework for case management and mediation
- Flexibility and tools to pre-screen, expedite, dispose and/or resolve appeals
- A streamlined appeal process on planning matters.

Municipal Board Planning Appeal Rules



- Rules of practice regulate Municipal Board procedure
 - Technical details
 - Forms
 - Costs

- Planning appeal rules are under development
 - Filmore Riley

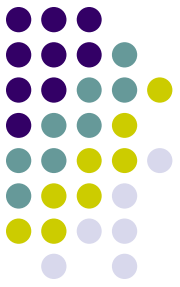
- Opportunity to review and comment

What's Next?



- Continue Teleconferences for assessment appeal pre-hearings and CMCs
- Continue Virtual Hearings for assessment appeal preliminary hearings and hearings
- In-Person Hearings for planning, municipal finance and other municipal related hearings
- Incorporate cost efficient and effective measures into hearing processes (eg. hybrid approach/video conferencing)

What else is next?



- Continued consultation with AMM and other stakeholders on successful implementation of planning changes.
- Second Reading and Standing Committee on The Municipal Assessment Amendment and Municipal Board Act.
- Education for the Municipal Board (including staff) and municipalities on the new Planning Appeals Rules.



THAT IS ALL FOLKS...

QUESTIONS



Board Order



- Board meets as many times as necessary to reach consensus
- Chair / Acting Chair writes draft order – circulates to panel member(s) for comment and/or amendment
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➤ Jurisdiction

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Assessment Appeals



- Appeal Management Process:
 - Expedite, dispose, resolve, simplify appeals
 - Municipal Board Assessment Appeal Rules (*The Municipal Board Act*)
 - Appeal Management Pre-Hearing > appeal is directed to one of three “streams” – Interim Order issued:
 - Settlement discussions
 - Case Management Conference
 - Expedited hearing
 - Live spring 2018
 - 9-yr backlog – 2458 outstanding appeals
 - Grim outlook: 9 ½ years to complete



New Legislation to Streamline Appeals



- The recently introduced **Real Property Valuation Board Act** will amalgamate the land value functions of The Land Value Appraisal Commission, The Surface Rights Board, and The Municipal Board. This action will create a single window for stakeholders seeking resolution of land value disputes.
- Implementation dates are being determined. Prior to implementation:
 - All applications that have not proceeded to the Hearing Stage of the process will be moved to the new Real Property Valuation Board for completion.
 - Municipal Board appeals that have progressed to the Hearing Stage will be completed by the Municipal Board to ensure consistency of process.
- This will reduce the probability of assessments and appraisals going through multiple channels.



Case Management Conference (CMC)

- Interim Order sets out parties' respective obligations at CMC re: exchange and filing of materials – facilitates full disclosure
- Not open to the public
- Case Manager (Acting Chair) helps narrow issues, facilitate resolution
- Confidential and without prejudice basis

Assessment Appeals



➤ Appeal Management At Work:

- **1331** = no. of appeals handled at appeal management pre-hearings
- **1445** = no. of appeals handled at case management conferences
- **603** = no. of appeals **CLOSED**



Assessment Appeals



➤ Appeal Management Outcome:

- May 1, 2018 to December 1, 2021: _____ appeals closed (_____ commercial) or _____% closed since inception
- Presently closing or processing 2020 and 2021 appeals
- Positive Outlook: Goal = All older and outstanding appeals to be closed before next assessment cycle (2023)



Municipal Finance



The Municipal Act

- Proposed Borrowing By-laws by a Municipality must be approved by the Board
 - to refinance, redeem or restructure existing debt
 - to pay for Local Improvements or Special Services
 - to lease or purchase capital property
 - issuing debentures

- Proposed Local Improvement and Special Service By-laws by a Municipality must be approved by the Board

- Public hearing is held if objections filed with the Board
 - at least 25 or 10% of potential taxpayers



Municipal Finance



The Municipal Act

- The Board's Decision:
 - Order to approve By-law with or without conditions; refuse to approve; or amend as prescribed in the legislation
 - Board's Order within one to two weeks of receiving By-law from Municipal Finance Officer
 - In 2021 the Board processed **113** applications



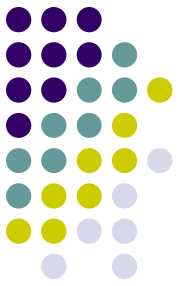
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Planning Amendments

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Who was consulted?



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- AMM has been a key participant in The Bill 37 Working Group, that continues to provide advice.
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- The Act also provides for Planning Regions
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Streamlining Appeals



- On March 21, 2022 the province introduced amendments to The Municipal Board Act and Assessment Act
- AMM was instrumental in pushing for these changes, ensure appeals are not frivolous or used to delay decisions on development.

Key Highlights



- Grounds for appeal
 - Provided by appellants
- Resolving matters without holding a hearing
 - Extension of statutory timelines
- Grounds for dismissal
 - Grounds listed in legislation
 - Opportunity to be heard
 - Written reasons

Case management – Planning Appeals



- The Municipal Board will invite parties to an appeal to proceed with case management.
- A first case management conference will occur to narrow the scope, identify common ground and monitor the appeal for potential reasons for dismissal.
- If one or both parties do not agree, the matter moves to a hearing.
- If a solution is found, no hearing is required.

What are the benefits ?



- Clear and enabling framework for case management and mediation
- Flexibility and tools to pre-screen, expedite, dispose and/or resolve appeals without holding a hearing where appropriate.
- A streamlined appeal process on planning matters

Municipal Board Planning Appeal Rules



- Rules of practice regulate Municipal Board procedure
 - Technical details
 - Forms
 - Costs

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- Opportunity to review and comment
 - Stakeholder sessions April 11 and April 13

What's Next?



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