

REFRESHER: EMRB Dispute Resolution and Appeal Process

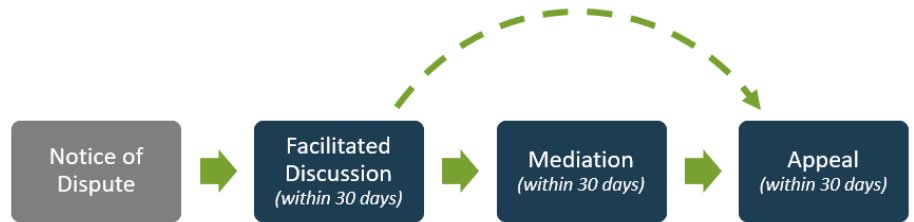
Overall Approach

As a consensus-focused board, it was important for the EMRB to establish a timely and fair process should a dispute occur between a member municipality and the EMRB, that would also embed opportunities to foster a better understanding of each member's perspectives. The process was formally established through a bylaw, which was approved by the Government of Alberta in November 2021.

»» You can view the bylaw [here](#).

Three-Step Process

The EMRB's three-step dispute resolution and appeal process is a common-sense approach that gives disputing parties a chance to sit down and work things out before triggering an appeal or a judicial review.



Grounds for Triggering the Process

The grounds for submitting a dispute are:

- if there has been a breach of procedural fairness or the Board's procedures, or
- if there has been inconsistent treatment between participating municipalities.

There are some decisions that are not subject to the dispute resolution and appeal process, such as decisions related to the growth plan, the regional evaluation framework (REF), and the servicing plan. However, if a decision made by the Board on an application submitted pursuant to the REF process that satisfies the grounds for a dispute, then it can be appealed. If the municipality disagrees with a decision made by the Board that is not subject to the dispute resolution and appeal process, they have the option to seek judicial review.

Notice of Dispute

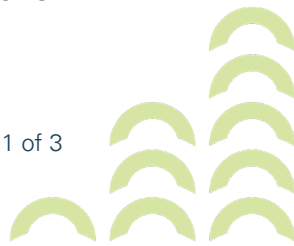
A formal notice of dispute must be filed within 28 days of the decision in question, and must include:

- a description of the decision the municipality is disputing,
- the reasons why the municipality is disputing it,
- any supporting details or evidence the municipality has, and
- a certified copy of a resolution from the municipality's Council authorizing the notice of dispute.

Within three (3) days of receiving the notice of dispute, the Chair and CEO will check to make sure that all the required information is provided, and if so, they will send the municipality written acknowledgement.

It's important to note that when the Chair and CEO review the notice of dispute, they will not be deciding if the municipality's reasons for disputing the decision are valid or not. They are only checking to make sure the municipality provided the required information.

If there is anything missing, the Chair and CEO will let the municipality know in writing and the municipality will have five (5) days to provide missing materials. If the municipality does not provide the missing information within the required timelines, the notice of dispute may be rejected. The Chair and CEO will advise in writing if this happens.



Dispute Resolution Committee (DRC)

The DRC is comprised of an elected representative from a member town, county, city, and the City of Edmonton. The members come together only if an official notice of dispute is submitted, and they participate in facilitated discussions and mediations with the complainant(s) as required. There are alternate municipalities should a dispute arise where a sitting committee member is one of the complainants.

DRC Members

Primary Members: Town of Morinville, Strathcona County, City of Spruce Grove, City of Edmonton

Alternate Members: Town of Devon, Sturgeon County, City of Beaumont, City of St. Albert

»» You can find the list of municipal representatives [here](#).

Facilitated Discussions & Mediation

EMRB administration will schedule one or more facilitated discussions with the complainant(s) and the Dispute Resolution Committee within 30 days of written acknowledgement of a complete notice of dispute.

An independent and experienced facilitator will be selected from among a roster pre-approved by the Board.

Following the conclusion of facilitated discussions, the DRC will provide a recommendation to the EMRB regarding a notice of dispute at the next regularly scheduled Board meeting. The committee's recommendation must include:

- an assessment as to whether or not the grounds for submitting a dispute have been met,
- the committee's recommendation regarding any actions to be taken or decisions made by the EMRB in response to the notice of dispute, and
- reasons for the committee's assessment and recommendation.

The Board may accept, reject, or modify the DRC's recommendation(s).

If a notice of dispute is not resolved to the complainant's satisfaction following the Board's decision on the DRC's recommendation, the complainant may either:

- request that the notice of dispute be submitted to mediation, or
- elect to proceed directly to an appeal hearing.

Appeal Committee

Despite best efforts, we know there may be, at some point, situations where an appeal hearing is warranted. A hearing must occur within 30 days of a complainant's request in accordance with the bylaw.

Decisions of the Appeal Committee to confirm or set aside a decision of the EMRB are final and binding. The committee may also make non-binding recommendations to the EMRB. The committee has to issue a written decision with reasons within fifteen (15) days of the conclusion of the hearing.

The Board was very deliberate in wanting to establish an appeal process that would be independent. The membership of the Appeal Committee is comprised of 12 external members that have a wide range of specialized knowledge and experience, and from which five (5) members are selected to hear appeals as part of a panel. The panel members will be selected based on availability and ensuring no conflict of interest exists.

Appeal Roster Members

Sandeep Agrawal

Camille Bérubé

Jerry Bouma

Beverley Brennan

Don Fleming

Heather Kennedy

Freda Molenkamp-Oudman

Debi Piecowye

Manon Plante

Darlene Savoie

Sanah Sidhu

Peter Vana

»» You can find short profiles of Appeal Committee members [here](#).



Voting Structure

For both the Dispute Resolution Committee and the Appeal Committee, a simple majority (50% plus one) of members of the committee is required to make a decision.

Deadlines and Extensions

Unless specified otherwise, the timing references are calendar days. Should the deadline fall on a weekend or a holiday, the deadline automatically falls to the next following day that is not a holiday. There are various provisions embedded into the bylaw whereby the CEO can extend different deadlines by up to 5 or 14 days, depending on what is required by the bylaw.

Costs

The EMRB will pay the costs of the facilitator/mediator and any other external or third-party costs (e.g., transcription) incurred by the Board with respect to the facilitated discussions and/or mediation.

The complainant(s) is responsible for its own costs with respect to the dispute process (e.g., legal counsel).

In the event that the Appeal Committee dismisses a notice of dispute, the complainant will be required to pay costs of the hearing as determined by the Appeal Committee, to a maximum of \$2,500.

