

## **Appeal Procedure**

Appeals from decisions made with respect to a variety of matters regulated by the Regional Planning process and MPSFAC will be heard. The formal requirements of the appeal process are set out below.

In order to ensure that the appeal process is open and understandable to the public, the Regional Committee has developed this procedure. Those involved in the appeal process can expect the Committee and its members to follow the procedures. Where any matter arises during the course of an appeal that is not dealt with in this document, the Committee will do whatever is necessary to enable it to be resolved fairly, effectively and completely on the appeal. The Committee may dispense with any part of this procedure where it is appropriate to do so.

The MPSFAC will make every effort to process appeals in a timely fashion and issue decisions expeditiously.

### **Appeals Committee**

#### ***Members***

The MPSFAC Chairman may organize the Committee into Sub-Committees, each comprised of one or more members.

Where an appeal is scheduled to be heard by a Sub-Committee the chair is determined as follows:

- (a) if the chair of the Committee is on the Sub-Committee they are the chair;
- (b) if the chair of the Committee is not on the Sub-Committee but the vice-chair is then the vice-chair will be the chair; and
- (c) if neither the chair nor the vice-chair is on the Sub-Committee, the MPSFAC Committee will designate one of the members to be the chair.

#### ***Withdrawal or Disqualification of a Committee Member on the Grounds of Bias***

Where the chair or a Committee member becomes aware of any facts that would lead an informed person, viewing the matter reasonably and practically, to conclude that a member, whether consciously or unconsciously, would not decide a matter fairly, the member will be prohibited from conducting the appeal unless consent is obtained from all parties to continue. In addition, any party to an appeal may challenge a member on the basis of real or a reasonable apprehension of bias.

### **THE APPEAL PROCESS**

An official of the entity who filed the original application to the MPSFAC must be the person who files the appeal on behalf of the entity.

#### ***How to appeal***

A notice of appeal must be served upon the MPSFAC. The notice of appeal may be "delivered" by mail, courier, or hand delivered to the office of the Chair and all Members

of the Committee. See page 18 for information. The Committee will also accept a notice of appeal by electronic means to the Chair and Secretary with the original paper copy of the notice of appeal served as indicated above.

Certain things must be included in a notice of appeal for it to be accepted. The notice of appeal **must** include:

1. the name and address of the appellant;
2. the name of the person, if any, making the request for an appeal on behalf of the appellant;
3. the address for service of the appellant;
4. the grounds for appeal (a detailed explanation of the appellant's objections to the determination – describe errors in the decision);
5. a description of the relief requested (what do you want the MPSFAC/Committee/Sub-Committee to order at the end of the appeal);
6. the signature of the appellant or the appellant's representative; and data.

### ***Time limit for filing the appeal***

To appeal a determination or allocation the entity must deliver a notice of appeal within 10 business days after receiving the decision. If a notice of appeal is not delivered within the time required, the right to an appeal is lost. However, the Committee is allowed to extend the deadline, either before or after its expiration based upon a 2/3 majority of the Committee.

### ***Rejection of a notice of appeal***

The Committee may reject a notice of appeal if:

- (a) it is determined that the appellant does not have standing to appeal; or
- (b) the Committee does not have jurisdiction over the subject matter or the remedy sought.

Before a notice of appeal is rejected, the MPSFAC will inform the appellant of this in writing, with reasons. The appellant an opportunity to make submissions within 10 business days.

### ***Appeal Meeting***

The MPSFAC and/or established Sub-Committee will set a meeting date to review the appeal documents submitted by the applicant and meet with them to discuss the issue in an open meeting. The MPSFAC will arrive at a decision based upon the documents presented, FCC rules, NCC requirements, and the regional plan and advise the applicant of the decision.

Committee members will not contact a party on any matter relevant to the merits of the appeal, unless that member puts all other parties on notice and gives them an opportunity to participate.