

New Home Buyer Protection Board Mandate and Roles Document

Introduction

The Mandate and Roles Document for the New Home Buyer Protection Board (NHBPB) has been developed collaboratively between the Minister of Alberta Municipal Affairs (Minister) and the NHBPB to reflect a common understanding of their respective roles and responsibilities.

Nothing in this mandate and roles document is intended to or shall interfere with the NHBPB's proper exercise of any statutory powers of decision. Although the NHBPB is part of the Ministry of Alberta Municipal Affairs for administrative purposes, the NHBPB is an independent body making independent decisions.

The NHBPB will use staff, space and resources in common with the Municipal Government Board (MGB) to avoid unnecessary duplication of expenses.

1. NHBPB Mandate

The NHBPB is an adjudicative body established under the *New Home Buyer Protection Act (Act)* and the New Home Buyer Protection (Ministerial) Regulation (Ministerial Regulation). The NHBPB has jurisdiction, pursuant to section 17 of the *Act*, to hear appeals by persons:

- a. Who have been refused authorizations;
- b. Whose authorizations are subject to terms and conditions;
- c. Whose authorizations have been cancelled or suspended;
- d. Who have been refused exemptions for undue hardship;
- e. Who have been served with compliance orders;
- f. Who have been served with administrative penalties; or
- g. Who are affected by decisions made under regulations;

1.1 Mission

The mission of the NHBPB is to provide a timely, independent, quasi-judicial process for parties to resolve all appeals before it.

Adjudicative Matters

The NHBPB provides Albertans with access to an independent, fair and timely adjudicative process related to the matters assigned to it under section 17 of the *Act*.

The *Act* allows the NHBPB to hear appeals of certain decisions made by the Registrar of the New Home Buyer Protection Office and Compliance Officers employed by that office. Those decisions respect owner-builder authorizations, exemptions from warranty coverage for undue hardship, compliance orders, administrative penalties, and anything else assigned by regulations made under the *Act*.

In carrying out its adjudicative role, the NHBPB must apply the principles of administrative law, the *Act* and its associated regulations in a fair, judicious and independent manner.

1.2 Applicable Legislation and Regulations

The NHBPB has responsibilities under, and is subject to, a number of statutes and regulations including:

- a. *New Home Buyer Protection Act*
- b. *Financial Administration Act*
- c. *Government Accountability Act*
- d. *Freedom of Information and Protection of Privacy Act*
- e. *Public Service Act*
- f. *Alberta Public Agencies Governance Act*
- g. *Administrative Procedures and Jurisdiction Act*
- h. *New Home Buyer (General) Regulation*
- i. *New Home Buyer (Ministerial) Regulation*
- j. *Insurance Act*
- k. *Home Warranty Insurance Regulation*
- l. *Records Management Regulation*
- m. *Safety Codes Act*
- n. *Permit Regulation*

2. Duties and Responsibilities

The Government of Alberta is responsible for the legislative, regulatory and policy framework in which the NHBPB operates.

2.1 The Minister

The Minister is accountable for the NHBPB, including reporting to the Legislature on the affairs of the NHBPB and answering questions about the NHBPB.

The Minister:

- a. establishes the policy framework, the legislation and regulations as well as the accountability standards and expectations under which the NHBPB operates;
- b. appoints NHBPB members based on an assessment of the appointees for the appropriate knowledge, skills, experience and values to assist the NHBPB in achieving its objectives and performing its functions;
- c. monitors the operations and performance of the NHBPB to ensure that it is fulfilling its mandate in compliance with Government policies while respecting the need of the NHBPB for independence in conducting its adjudicative function;
- d. is responsible for the administration of the New Home Buyer Protection Office and its programs;
- e. approves the NHBPB's business plan information within the Ministry's business plan;

- f. may, from time to time, conduct or facilitate reviews of the NHBPB activities to ensure the NHBPB is operating within the budgetary and performance expectations established for it;
- g. conducts regular (at least every seven years) reviews of the NHBPB's mandate and purpose to determine if it is still relevant to the needs of Albertans, if it is aligned with Government priorities and if the operations and functions are being carried out in a manner that can achieve Government objectives; and
- h. deals with the public on matters related to the *Act* and its Regulations, or assigns a delegate to do so.

2.2 The Deputy Minister

The Deputy Minister:

- a. supports and acts under the general direction of the Minister;
- b. is the designated head of the NHBPB for purposes of the *Freedom of Information and Protection of Privacy Act*.

2.3 The Department of Municipal Affairs (Department)

In order to meet the responsibilities of the NHBPB, the Government of Alberta and the Department are responsible for supporting the NHBPB in the following areas:

- a. financial support services;
- b. human resource management services;
- c. IT support services in respect of designated electronic services for board administration:
 - i. email
 - ii. government-wide hardware and software programs
 - iii. data storage
- d. IT support services in respect of designated electronic services for board members:
 - i. email – external email ID
 - ii. data storage via SharePoint
- e. communications support;
- f. a hearing facility and administration office in Edmonton to support the independent quasi-judicial nature of the NHBPB to be shared with the MGB; and
- g. other support services necessary to carry out the roles and responsibilities of the NHBPB.

2.4 The Registrar of the New Home Buyer Protection Office

The New Home Buyer Protection Office is part of the Public Safety Division of Municipal Affairs. Its staff include the Registrar and compliance officers, who are Government of Alberta employees. The New Home Buyer Protection Office is generally responsible for the administration of the *New Home Buyer Protection Act*, including:

- a. answering general questions about the legislation;
- b. the tasks assigned to the Registrar and compliance officers under the legislation.
- c. administering an online registry, which hosts new home registrations and may host Board decisions and orders.

New Home Buyer Protection Office staff members also attend Board hearings and respond to appeals.

2.5 Chair

The Chair is a Government of Alberta employee who is named by Ministerial Order as a member of the NHBPB and as the chair of the NHBPB pursuant to section 18(8) of the *Act* and the regulations.

In addition to the overall governance of the NHBPB, the Chair is specifically responsible for:

- a. acting in a fashion to support the independent quasi-judicial nature of the NHBPB;
- b. evaluating NHBPB members' performance and providing a recommendation to the Minister concerning appointments of new members and the re-appointment of existing members;
- c. developing and delivering an orientation program for new NHBPB members, providing ongoing training for existing members, and providing performance feedback;
- d. dealing with the public on behalf of the NHBPB if required;
- e. developing mechanisms to communicate with and collect feedback from stakeholder groups;
- f. informing the NHBPB about various provincial policy or legislative initiatives and changes which may affect the NHBPB;
- g. is the "deputy head" of the Board for the purposes of the *Records Management Regulation*, Alta Reg 224/2001;
- h. administering and maintaining the NHBPB's Code of Conduct and Ethics, including acting as the NHBPB Complaint Officer, and ensuring that conflict of interest matters are addressed; and
- i. adhering to the Code of Conduct and Ethics for the Public Service of Alberta.

2.6 Director

The Director is a Government of Alberta employee who is appointed as a member of the NHBPB in order to provide support to the Chair and to be available to sit as the Chair's delegate when the Chair is unable to act by absence or other reason.

2.7 NHBPB Members

The role of NHBPB members is to carry out their legislated responsibilities, which include hearing appeals in a fair, judicious and timely fashion.

Each NHBPB's member shall adhere to:

- a. all aspects of the NHBPB's Code of Conduct and Ethics;
- b. the requirements of the *Act*;
- c. the requirements of the regulations;
- d. any applicable parts of the *Administrative Procedures and Jurisdiction Act*; and

NHBPB members must also accept and offer honest criticism of work undertaken as an NHBPB member, and respond appropriately to such input.

2.8 NHBPB Staff

The NHBPB's staff ("Board staff") are employees of the Government of Alberta appointed pursuant to the *Public Service Act* to support the NHBPB, and may also support the MGB in the execution of their duties. As government employees, Board staff are subject to the Code of Conduct and Ethics for the Public Service of Alberta. Board staff are responsible for handling appeal-related questions from the public.

3. Recruitment and Appointment of Board Members

NHBPB members are appointed to the NHBPB by Ministerial Order pursuant to section 18 of the *Act* to hear and decide appeals under the *Act*.

Apart from the Chair and the Director, NHBPB members are appointed on a part-time basis.

- a. Members are not employees of the Government of Alberta simply by virtue of appointment, but the Minister may appoint employees as Board Members as he or she deems appropriate.
- b. All members are to sign the NHBPB Code of Conduct and Ethics or any changes thereto before undertaking any NHBPB duties or responsibilities.

The Minister may appoint MGB members as NHBPB members without further screening based on skills, knowledge, experience and competencies identified during the MGB recruitment process, consistent with the *Alberta Public Agencies Governance Act*.

In other cases, recommendations for NHBPB appointments will be made following a recruitment process similar to that used by the MGB. This process will include assessments of knowledge, skills, competencies and related experience and involve screening, one or two part interviews, questions and testing as outlined by the Chair.

The screening and interview panel will provide a shortlist of applicants to the Chair. He or she will review the list and applications and may decide to hold additional testing and interviews of applicants from the shortlist and others that are deemed appropriate.

A list of post-interview and tested candidates will be presented to the Minister within three months of the initial advertisement for final approval and appointments.

4. Interaction Between NHBPB, Department and Minister

- a. With respect to the adjudicative functions of the NHBPB, the NHBPB, the Minister and the Department will continue to act in manner that recognizes the independent quasi-judicial nature of the NHBPB as well as the MGB.
- b. The Minister, the Deputy Minister or the Department will not be involved in or provide, either generally or specifically, any directives or expected outcomes associated with any adjudicative matter before the NHBPB.
- c. NHBPB communication with the Minister or Department on adjudicative matters shall be limited to status reports, except in the case of the New Home Buyer Protection Office, its Registrar, Compliance Officers, employees, and agents, any of whom may be involved in an appeal before the NHBPB.
- d. Legal advice to the NHBPB on adjudicative matters, will be provided by in-house NHBPB counsel or by an independent legal advisor.
- e. The Chair will act as the primary contact for the NHBPB and will communicate through the Deputy Minister to the Minister.
- f. The Chair meets at least annually with the Deputy Minister and the Minister to provide a report and to receive feedback on the performance and annual evaluation of the NHBPB.
- g. The Chair also summarizes the activities of the NHBPB which have significant provincial impact and provides updates to the Deputy Minister and the Minister for their information.
- h. With the permission of the Chair, Department staff may consult Board staff about any policy development or review. Similarly, Board staff may participate in Ministry or cross-ministry groups formed to consider any policy matter, as may be requested by the Department.
- i. The Minister provides feedback to the NHBPB regarding the status of the current and any outstanding caseload and, will consult with the NHBPB before setting any deadlines for NHBPB appeals under section 18(5) of the *Act*.
- j. The Minister also consults with the NHBPB in the determination of its business needs and expected caseloads in order to prepare a realistic business plan and operating budget to meet the adjudicative demands placed on the NHBPB, alongside the MGB and on Composite Assessment Review Boards.

5. Administration

5.1 Review of the Mandate and Roles Document

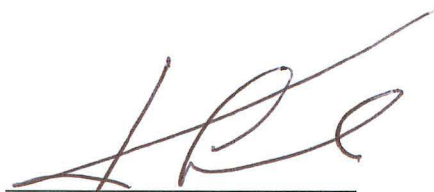
This Mandate and Roles document shall be reviewed and renewed, amended or replaced within three years after the date on which it is signed by the Minister.

5.2 Transparency

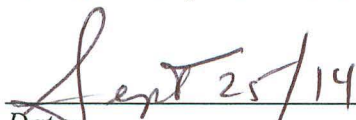
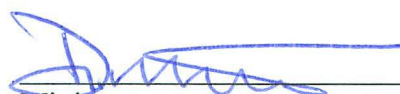
Copies of the Mandate and Roles document will be filed with the Minister of Municipal Affairs, the NHBPB and the Agency Governance Secretariat. In support of the principle of transparency, this document will also be easily available to the public on the NHBPB's website at http://www.municipalaffairs.alberta.ca/new_home_buyer_protection_board.cfm.

5.3 Periodic Agency Review


The mandate and operations of every public agency must, at least every seven years, be reviewed by the responsible Minister. The first review for the NHBPB must be completed by 2021.


Chair

New Home Buyer Protection Board


Date
Minister

Alberta Municipal Affairs


Date