

# THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

## BY-LAW NUMBER 77 OF 2022

### A BY-LAW TO CREATE A SHORT-TERM RENTAL LICENSING APPEALS COMMITTEE

**WHEREAS** section 23.1 of the *Municipal Act, 2001* S.O. 2001 c.25 (the “Act”) permits a Council to delegate its powers and duties under the Act to a person or body;

**AND WHEREAS** section 23.2(1) of the Act indicates that a municipality may delegate certain legislative and quasi-judicial powers under the Act only to:

- a) one or more members of its council or a council committee;
- b) a body having at least two members of whom at least 50 per cent are,
  - i. members of its council,
  - ii. individuals appointed by its council,
  - iii. a combination of individuals described in subclauses (i) and (ii);

**AND WHEREAS** section 23.2 of the Act permits Council to delegate its quasi-judicial powers under the Act, such as its powers to regulate licenses of short term rentals;

**AND WHEREAS** the Municipality of Lambton Shores passed By-Law 43-2022 on the 7<sup>th</sup> day of June, 2022, being the Short-Term Rental Licensing By-Law;

**AND WHEREAS** in certain circumstances as set out in the Short-Term Rental Licensing By-Law, there is the possibility of an appeal to the Appeals Committee;

**AND WHEREAS** the Council of The Corporation of the Municipality of Lambton Shores wishes to create the Appeals Committee and delegate certain powers under the Act to the Appeals Committee;

**THEREFORE** the Council of the Municipality of Lambton Shores enacts as follows:

#### 1.0 Definitions

1.1 In this by-law, the following words have the following meanings:

- (a) "Appeals Committee" means the committee established by this by-law;
- (b) "Council" means the Council of The Corporation of the Municipality of Lambton Shores;
- (c) "Member" means a member of the Appeals Committee;

(d) "Municipality" means The Corporation of the Municipality of Lambton Shores;

(e) "Short-Term Rental Licensing By-law" means the Short-Term Rental Licensing By-law No. 43-2022, as amended or a successor thereof.

## **2.0 The Appeals Committee**

2.1 The Appeals Committee is hereby established.

2.2 The Appeals Committee shall conduct the hearings and perform the duties that are assigned to it by by-law.

2.3 The Appeals Committee shall be composed of one (1) members of Council, and four (4) members of the public, as appointed by Council;

2.4 Members shall serve on the Appeals Committee at the pleasure of Council, and the term of a Member shall end no later than the end of the term of Council;

2.5 The Appeals Committee shall meet as often as it decides necessary for the expedient resolution of its case load.

## **3.0 Procedure**

3.1 The Rules of Practice and Procedure for the Appeals Committee are set out in Schedule "A" and shall govern the Appeals Committee.

3.2 Notwithstanding any other by-law or policy of the Municipality, if required by the Appeals Committee, it may meet privately to inspect the property, to deliberate, or to write a decision or order.

## **4.0 Jurisdiction**

4.1 The Appeals Committee shall hear appeals of decisions of the Municipality, which decisions carry a right of appeal to the Appeals Committee as set out in the Short-Term Rental Licensing By-Law.

## **5.0 Decisions**

5.1 The Appeals Committee shall make decisions as permitted by the Short-Term Rentals Licensing By-Law, that are consistent with the purpose and intent of the Short-Term Rental Licensing By-Law, and that further the public interest.

5.2 The decision of the Appeals Committee is final and there is no further right of appeal to Council.

## **6.0 No Liability**

6.1 No Member, member of Council, or any Municipal employee is personally liable for anything done by it, or him or her, under authority of this by-law.

**7.0 General**

7.1 This by-law shall be known and may be cited as the “Appeals Committee By-Law”.

7.2 The by-law shall come into full force and effect on the day it is passed.

**READ A FIRST, SECOND AND THIRD TIME, AND FINALLY PASSED** this 18<sup>th</sup> day of October 2022.

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Mayor

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Clerk

## **SCHEDULE “A”**

### **RULES OF PRACTICE AND PROCEDURE FOR THE APPEALS COMMITTEE**

#### **1.0 Definitions**

- 1.1 In these Rules, unless the context otherwise requires, the following terms have the following meanings:
- (a) “Appeals Committee” means the Appeals Committee of the Municipality;
  - (b) “Appeals Committee Co-ordinator” means the staff member or staff members of the Municipality whose duties include providing administrative support to the Appeals Committee, and such staff members may include a Deputy Clerk of the Municipality, other than the Chief Administrative Officer if the Chief Administrative Officer is also a Deputy Clerk;
  - (c) “Appellant” means a person making an appeal under the Short-Term Rental Licensing By-Law to the Appeals Committee;
  - (d) “Chair” means the person appointed as the chair of the Appeals Committee;
  - (e) “Day” means a business day and does not include a Holiday;
  - (f) “Director” means the Chief Administrative Officer of the Municipality, the Director of Corporate Services, or designate;
  - (g) “Document” includes a written document, sound recording, videotape, file, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device;
  - (h) “Electronic Hearing” means a Hearing held by conference telephone call, video call, or some other form of electronic technology allowing persons to hear and/or see and hear one another;
  - (i) “Hearing” means the opportunity to present one's case before the Appeals Committee;
  - (j) “Holiday” means:
    - i. any Saturday or Sunday;
    - ii. New Year's Day;
    - iii. Family Day;
    - iv. Good Friday;

- v. Easter Monday;
- vi. Victoria Day;
- vii. Canada Day;
- viii. Civic Holiday;
- ix. Labour Day;
- x. Thanksgiving Day;
- xi. Remembrance Day;
- xii. Christmas Day;
- xiii. Boxing Day; and
- xiv. Any special holiday proclaimed by the Governor General of Canada or the Lieutenant Governor of Ontario, and where New Year's Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is a Holiday, and where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are Holidays, and where Christmas Day falls on a Friday, the following Monday is a Holiday;

(k) "Motion" means a request for a decision, order or direction of the Appeals Committee made during a Proceeding;

(l) "Municipality" means The Corporation of the Municipality of Lambton Shores;

(m) "Oral Hearing" means a Hearing at which the parties or their counsel, agents or other representatives attend in person;

(n) "Party" means a party specified as a party by law, the person who is the subject of a Hearing, a person who has requested a Hearing pursuant to law and any person who has been given party status by the Appeals Committee, and shall where applicable, include the Municipality;

(o) "Proceeding" means a matter brought before the Appeals Committee;

(p) "Rules" means these rules;

(q) "Short-Term Rental Licensing By-Law" means the Short-Term Rental Licensing By-Law No. 43-2022, as amended or a successor thereof.

- (r) "Written Hearing" means a Hearing held by means of the exchange of Documents whether in written form or by electronic means.

## **2.0 Application**

- 2.1 These Rules apply to all Hearings before the Appeals Committee of The Corporation of the Municipality of Lambton Shores in the exercise of a statutory power of decision, as defined in the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22, as amended.
- 2.2 These Rules are intended to be rules contemplated by section 25.1 of the *Statutory Powers of Procedure Act*.
- 2.3 These Rules do not apply if a statute or by-law provides for a different procedure to govern Proceedings of the Appeals Committee in the exercise of its duties.

## **3.0 Interpretation**

- 3.1 These Rules shall be broadly interpreted to produce the quickest, most just and least expensive determination of the issues before the Appeals Committee.
- 3.2 Where procedures are not provided for in these Rules, the Appeals Committee may do whatever is necessary and permitted by law to effectively determine the matter before it.
- 3.3 The Appeals Committee may exercise any of its powers under these Rules on its own initiative or at the request of a Party.
- 3.4 A defect in form or other technical breach will not make a Proceeding invalid.
- 3.5 If any provision of these Rules is or becomes illegal, invalid or unenforceable, the illegality, invalidity or enforceability of that provision shall not affect the legality, validity or enforceability of the remaining provisions of these Rules.

## **4.0 Calculation of Time**

- 4.1 To calculate time under these Rules or a procedural order:
- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens;
  - (b) where the time for doing an act under these Rules expires on a Holiday, the act may be done on the next day that is not a Holiday;

- (c) where a time of day is mentioned in these Rules or in any order in a Proceeding, the time referred to shall be the time observed locally in the Municipality; and
- (d) where a Document is filed or served after 4:00 p.m. on any day or at any time on a Holiday, the Document shall be deemed to have been filed or served on the next day that is not a Holiday.

4.2 The Appeals Committee may extend or abridge any time prescribed in these Rules or established by a procedural order during a Proceeding, on such terms as are just. Where a Party cannot meet a time limit prescribed by the Rules, the Party shall promptly notify the Appeals Committee Co-ordinator and apply for an extension of time by Motion.

## **5.0 Appeals Committee Chair**

5.1 At its first meeting, the Members of the Appeals Committee shall decide who is to be the Chair. The Chair will preside over Hearings of the Appeals Committee and give direction to staff respecting any of the Appeals Committee's administrative duties.

5.2 At any meeting subsequent to the first meeting, the members of the Appeals Committee may elect to replace any current Chair with a different member of the Appeals Committee.

## **6.0 Quorum/Majority Decision**

6.1 A majority of the members of the Appeals Committee shall constitute a quorum of the Appeals Committee for purposes of conducting a Hearing.

6.2 The decision of the majority of the Hearing panel shall constitute the Appeals Committee's decision.

6.3 In the event of a tie, the appeal shall be deemed to be rejected by the Appeals Committee and the decision that is under appeal shall be deemed to have been upheld by the Appeals Committee.

## **7.0 Conflict of Interest and Municipal Policies**

7.1 The Appeals Committee is subject to the *Municipal Conflict of Interest Act*. Reference shall be made to that Act as to what constitutes a direct or indirect pecuniary interest. The pecuniary interest, direct or indirect, of a parent or the spouse, same-sex partner or any child of the Appeals Committee Member shall, if known to the Member, be deemed to be also a pecuniary interest of the Member.

- 7.2 The Appeals Committee and its Members are subject to policies and codes of conduct of the Municipality.

## **8.0 Filing Requirements**

- 8.1 Filing means the effective delivery of a Document to the Appeals Committee and its receipt by the Appeals Committee Co-ordinator. Filing of any Document may be effected by:
- (a) personal delivery,
  - (b) courier service,
  - (c) ordinary or registered mail,
  - (d) electronic transmission,
  - (e) fax, or
  - (f) otherwise as the Appeals Committee may order.
- 8.2 All written Documents filed shall be legible. All Documents filed with the Appeals Committee by a Party shall be served on all other parties by the Party forthwith after filing.
- 8.3 Where a Document is filed, the Appeals Committee Co-ordinator shall date stamp the Document. Subject to Rule 4.1, the date of the receipt stamp on the Document shall be deemed to be the date of filing, unless the Appeals Committee orders otherwise. A Party may request confirmation from the Appeals Committee Co-ordinator that a Document filed was properly received.
- 8.4 Where the Appeals Committee and the Appeals Committee Co-ordinator have no record of the receipt of a Document alleged to have been filed, the Documents shall be deemed not to have been filed, unless the Appeals Committee orders otherwise.
- 8.5 Where a filing is made by fax, the Document shall include a cover page containing the following items:
- (a) the name, address and telecommunication numbers of the sender;
  - (b) the date and time the Document is transmitted;
  - (c) the telephone number from which the Document is transmitted;
  - (d) the total number of pages transmitted including the cover page; and



- (e) the name and telecommunication numbers of a person to contact if a problem arises with the transmission of the fax.

8.6 The Appeals Committee may direct that where a Document is filed by electronic transmission or by fax, the original and all copies required shall be delivered by a specified time.

## **9.0 Service Requirements**

9.1 Service means the effective delivery of a Document to a person or to the representative of that person. Service may be made by:

- (a) personal delivery,
- (b) courier service,
- (c) ordinary or registered mail,
- (d) electronic transmission,
- (e) fax, or
- (f) otherwise as the Appeals Committee may order.

Without limiting the ability of the Appeals Committee to order service in some other manner, the Appeals Committee may direct service be made by public advertisement.

9.2 Where an Oral Hearing or Electronic Hearing is in progress, service may also be made by:

- (a) providing the Document to the parties present at the Hearing;
- (b) serving the Document on any other Party who is not present and requests a copy of the Document; or
- (c) any other means directed by the Appeals Committee.

9.3 Where a service is made by fax, the Document shall include a cover page containing the following items:

- (a) the name, address and telecommunication numbers of the sender;
- (b) the name of the person to be served;

- (c) the date and time the Document is transmitted;
- (d) the telephone number from which the Document is transmitted;
- (e) the total number of pages transmitted including the cover page; and
- (f) the name and telecommunication numbers of a person to contact if a problem arises with the transmission of the fax.

9.4 Subject to Rule 4.1, service will be effective:

- (a) if the Document is delivered by hand, courier, electronic transmission or fax, on the same Day that delivery is made;
- (b) if the Document is delivered by regular or registered mail, on the 5<sup>th</sup> day after the date of mailing;
- (c) if service is made by public advertisement, on the last day of publication where there is more than one day of publication or the day of publication where there is only one day of publication; or
- (d) if service is made by any other means, within the time frames directed by the Appeals Committee.

9.5 The Appeals Committee may direct a Party who has served a Document to file an affidavit of service that indicates how, when and to whom service was made.

## **10.0 Commencement of Proceedings**

10.1 Where an Appellant requests a Hearing before the Appeals Committee, the request for Hearing shall be in writing, shall be filed with the Appeals Committee Co-ordinator and shall include:

- (a) an identification of the Appellant and any other Party;
- (b) the addresses, telephone numbers and, where available, facsimile number for each person identified in clause (a);
- (c) the name, address and telephone number of any agent, representative or lawyer representing the Appellant or any other Party identified in clause (a); and
- (d) whether special services or accommodation are required, including translation services or services for the visually or Hearing impaired.

10.2 Upon receiving the Documents requesting the commencement of a Proceeding under Rule 10.1, the Appeals Committee Co-ordinator may decide not to process the Documents relating to the commencement of a Proceeding, if:

- (a) the Documents are incomplete;
- (b) the Documents are received after the time required for commencing the Proceeding has elapsed; or
- (c) there is some other technical defect in the commencement of the Proceeding.

Where the Appeals Committee Co-ordinator decides not to process the Documents relating to the commencement of a Proceeding, the Appeals Committee Co-ordinator shall provide the Party filing the request for Hearing notice of such decision, specifying the deficiencies which need to be corrected. Such notice shall advise that the Proceeding may be commenced upon the Party correcting the deficiencies listed in the notice.

### **11.1 Dismissal Without a Hearing**

11.1 The Appeals Committee may dismiss a Proceeding without a Hearing if:

- (a) the Proceeding is frivolous, vexatious or is commenced in bad faith;
- (b) the Proceeding relates to matters that are outside the jurisdiction of the Appeals Committee; or
- (c) some aspect of the statutory requirements for bringing the Proceeding has not been met.

Before dismissing a Proceeding under this Rule, the Appeals Committee shall give notice of its intention to dismiss the Proceeding to all parties setting out the reasons for the dismissal and informing the parties of their right to make submissions to the Appeals Committee within 10 days.

### **12.0 Hearing Format**

12.1 The Appeals Committee may hold:

- (a) An Oral Hearing;
- (b) a Written Hearing;
- (c) an Electronic Hearing; or
- (d) a Hearing which combines one or more of the above formats.

- 12.2 Unless the Appeals Committee otherwise directs, all Hearings are open to the public.

### **13.0 Notice of Hearing**

- 13.1 Subject to Rule 10.2, upon receipt of a request for Hearing pursuant to Rule 10.1, the Appeals Committee Co-ordinator shall set the Hearing date and determine the location and format of the Hearing. The Appeals Committee may have a standard standing hearing date or dates each month, on a basis to be determined by the Appeals Committee. If a Party to the Hearing advises the Appeals Committee Co-ordinator of unavailability for that date, the Appeals Committee Co-ordinator in consultation with the Chair, may reschedule for a later Hearing date. In the event of repeated unavailability of any Party, the Appeals Committee Co-ordinator may proceed to set a Hearing date, despite the inconvenience to any Party. A Hearing shall not be rescheduled by the Appeals Committee Co-ordinator if a request is made within five (5) days of the scheduled Hearing date. If a request to reschedule is made less than five (5) days within the date of the scheduled Hearing, the Hearing can only be rescheduled with an adjournment order of the Appeals Committee or Chair.
- 13.2 Upon setting the Hearing date and determining the location and format of the Hearing, the Appeals Committee Co-ordinator shall, on behalf of the Appeals Committee, provide a written Notice of Hearing to the parties and others as required by law and as the Appeals Committee Co-ordinator considers necessary. Such Notice of Hearing shall contain:
- (a) a reference to the statutory authority or by-law authority under which the Hearing is being held;
  - (b) a statement of the time and the purpose of the Hearing;
  - (c) a statement that if the Party does not participate in the Hearing in accordance with the Notice, the Appeals Committee may proceed without the Party's participation and the Party will not be entitled to any further notice in the Proceeding;
  - (d) The Rules of Practice and Procedure for the Appeals Committee; and
  - (e) any other information the Appeals Committee Co-ordinator considers necessary for the proper conduct of the Hearing.
- 13.3 In addition to the requirements for a Notice of Hearing set out in section 13.2, a Notice of Hearing for an Oral Hearing shall contain:
- (a) the place of the Hearing; and

- (b) a statement that the Hearing will be open to the public unless the Appeals Committee directs otherwise.

13.4 In addition to the requirements for a Notice of Hearing set out in section 13.2, a Notice of Hearing for an Electronic Hearing shall contain:

- (a) details about the manner in which the Hearing will be held; and
- (b) a statement that a Party may, by satisfying the Appeals Committee that holding the Hearing as an Electronic Hearing is likely to cause the Party significant prejudice, require the Appeals Committee to hold the Hearing as an Oral Hearing.

13.5 In addition to the requirements for a Notice of Hearing set out in section 13.2, a Notice of Hearing for a Written Hearing shall contain:

- (a) a statement that the parties will be required to exchange Documents with other parties;
- (b) a statement that the parties will have an opportunity to ask questions in writing on the Documents, which the other parties will be required to answer, and will have an opportunity to make submissions; and
- (c) a statement that the Party may object to the holding of the Hearing as a Written Hearing, in which case the Hearing will be held as an Oral Hearing or as an Electronic Hearing.

#### **14.0 Withdrawal of Appeal**

14.1 If the Appeals Committee Co-ordinator receives a withdrawal of appeal prior to the Hearing date, notice of cancellation of the Hearing shall be sent to all persons who received notice of the Hearing.

#### **15.0 Failure to Attend**

15.1 Where a person is properly notified of a Hearing and does not attend at the time and place appointed, the Appeals Committee may proceed in that person's absence and without further notice to that person.

#### **16.0 Procedural Orders**

16.1 In any Proceeding, the Appeals Committee may issue procedural orders which shall govern the conduct of the Proceeding.

- 16.2 The Appeals Committee may, at any time during a Proceeding, amend any procedural order which it has issued.
- 16.3 The Appeals Committee may, where it is satisfied that the special circumstances of the Proceeding so require, vary or waive compliance with all or any part of any Rule at any time by making a procedural order.
- 16.4 Where a provision of these Rules is inconsistent with a procedural order, the procedural order shall prevail.
- 16.5 Subject to any procedural order issued by the Appeals Committee, the parties to a Proceeding may, on consent, waive any of the provisions of these Rules.
- 16.6 A Party seeking a waiver of any of the provisions of these Rules shall do so on a timely basis.

#### **17.0 Disclosure**

- 17.1 The Appeals Committee may, at any stage of the Proceeding before all Hearings are complete, make orders for:
- (a) the exchange of Documents;
  - (b) the oral or written examination of a Party; or
  - (c) any other form of disclosure.
- 17.2 The Appeals Committee's power to make orders for disclosure is subject to any statute or regulation that applies to the Proceeding and nothing in this Rule requires the disclosure of any Document which is privileged by law.

#### **18.0 Where Character is an Issue**

- 18.1 Where the good character, propriety of conduct or competence of a Party is an issue in a Proceeding, the Party is entitled to be furnished prior to the Hearing with reasonable information of any allegations with respect thereto.

#### **19.0 Failure to Comply**

- 19.1 Where a Party to a Proceeding has not complied in full with any Rule or procedural order, the Appeals Committee may:
- (a) grant all necessary amendments or other relief, subject to such conditions as the Appeals Committee considers just;

- (b) adjourn the Proceeding until it is satisfied that such Rule or procedural order has been complied with; or
- (c) take such other steps as it considers just and reasonable.

## **20.0 Motions**

- 20.1 Where a Party intends to bring a Motion before the Appeals Committee in a Proceeding, a minimum of 3 Days written notice shall be given to the Appeals Committee Co-ordinator (no later than 3 Days prior to the commencement of the Hearing of the Motion), setting out the grounds for the Motion, the evidence to be relied upon, a brief statement of the law relied upon, and the relief sought.
- 20.2 The Party bringing the Motion shall file a copy of the notice of Motion setting out the relief sought, the grounds for the Motion, and the evidence to be relied upon, and serve a copy of the material filed on the other parties.
- 20.3 The Appeals Committee shall direct the procedure to be followed for Hearing the Motion and set applicable time limits.
- 20.4 A Motion may be made during a Hearing, with or without notice, and shall be disposed of in such manner as the Appeals Committee considers appropriate.

## **21.0 Preparation of Agenda and Appeal Package**

- 21.1 The Appeals Committee Co-ordinator shall prepare an agenda with a schedule of all appeals to be heard on that Day.
- 21.2 For each appeal, the Appeals Committee Co-ordinator shall prepare an appeal package consisting of:
  - (a) The notice of Hearing;
  - (b) The decision of the Director that is under appeal;
  - (c) The letter of appeal;
  - (d) Any related information or Documents, such as reports or correspondence, if any, that are to be used at the Hearing; and
  - (e) An extract of any relevant portion of the by-law in question.
- 21.3 The Appeals Committee Co-ordinator shall deliver each appeal package to:
  - (a) The Members of the Appeals Committee;
  - (b) The Director;

- (c) The person who has filed the appeal;
- (d) All other parties to the appeal; and
- (e) Any person directed by the Appeals Committee or Chair.

## **22.0 Process for Oral and Electronic Hearings**

22.1 The Chair shall serve as the “Hearing Chair” during the Hearing. When the Chair is unable to attend a Hearing or where the Appeals Committee decides to appoint a member other than the Chair to oversee the Hearing, those Members present to conduct the Hearing shall select amongst themselves the Member who will serve as the Hearing Chair.

22.2 Unless the Appeals Committee orders otherwise, an Oral and/or Electronic Hearing shall be conducted in the following steps:

- (a) The Hearing Chair will call the Hearing to order and may advise the Appellant of the Hearing procedure;
- (b) The Hearing Chair shall ask for disclosure of any conflict of pecuniary interest;
- (c) The Chair shall call for any requests for deferral or withdrawal of an Appeal;
  - (i) a request for deferral to a later Hearing must be for a reasonable cause;
  - (ii) The Appeals Committee may set a new Hearing date for consideration of the deferred Appeal;
  - (iii) The Committee may indicate requirements or conditions for deferral.
- (d) The Hearing Chair shall call each Appeal in an order determined by the Agenda or in an order determined by the Committee;
- (e) The Hearing process is informal, but the *Statutory Powers and Procedure Act* applies;
- (f) The Hearing Chair will swear or affirm the witnesses;
- (g) The Municipality’s Case Presenter may make an opening address and, subject to clause (h), shall then adduce evidence;



- (h) An Appellant may make an opening address immediately after the opening address of Municipality's Case Presenter and before the Municipality's Case Presenter adduces any evidence;
- (i) When the evidence being called on behalf of the Municipality's Case Presenter is concluded, the Appellant may make an opening address, unless he or she has already done so pursuant to clause (h), and may then adduce his or her evidence;
- (j) When the presentation of the evidence of the Appellant is concluded, the Municipality's Case Presenter may adduce any proper reply evidence;
- (k) After all of the evidence has been adduced by all parties to the Proceeding, the Municipality's Case Presenter may make a closing address, followed by the closing address of the Appellant, if he or she decides to do so;
- (l) The process for each witness to give testimony is: evidence in chief, cross examination, and reply examination, if any;
- (m) Each Member of the Appeals Committee may ask questions of the witness at any time;
- (n) The Appeals Committee may recall a witness for the purpose of clarifying a point that has arisen since the witness has concluded his or her main presentation;
- (o) There shall be no undue harassment or embarrassment of a witness as he or she is giving evidence. The Appeals Committee may disallow a question put to the witness that is vexatious or irrelevant to any matter that may be properly inquired into at the Proceeding.
- (p) Where a witness appears unwilling or unable to give answers to the questions being asked, the Appeals Committee may permit the Party calling the witness to examine the witness by means of leading questions.
- (q) A witness has the right to be advised by counsel or an agent as to his or her rights. Such counsel shall take no other part in the Hearing without the permission of the Appeals Committee.
- (r) These Rules, except Rule 6 relating to quorum, are subject to change by the Appeals Committee, if the Appeals Committee finds that there is a more fair way of Proceeding.
- (s) The Appeals Committee may adjourn a Hearing at any time on such conditions as it considers just.

- 22.3 A Party to a Proceeding may be represented by counsel, agent or other representative.
- 22.4 A Party to a Proceeding may:
- (a) at any Hearing, present evidence and submissions; and
  - (b) at an Oral or Electronic Hearing, call and examine witnesses and conduct cross-examinations of witnesses reasonably required for a full and fair disclosure of all matters relevant to the issues in the Proceeding.
- 22.5 Hearings shall be open to the public except where the Appeals Committee is of the opinion that,
- (a) matters involving public security may be disclosed; or
  - (b) intimate financial or personal matters or other matters may be disclosed at the Hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that Hearings be open to the public, in which case the Appeals Committee may hold the Hearing in the absence of the public.
- 22.6 The Appeals Committee may seek legal advice with respect to procedural matters. Any such advice shall be provided publicly and the other parties have the right to make submissions with respect to the issue.

## **23.0 Evidence**

- 23.1 The Appeals Committee may admit as evidence at a Hearing, whether or not given or proven under oath or affirmation or admissible in a court,
- (a) any oral testimony; and
  - (b) any Document or other thing,
- relevant to the subject matter of the Proceeding and may act on such evidence, but the Appeals Committee may exclude anything unduly repetitious.
- 23.2 Nothing is admissible in evidence at a Hearing, that would be inadmissible in a court by reason of any privilege under the law of evidence or that is inadmissible by the statute or by-law under which the Proceeding arises or any other statute.
- 23.3 Nothing in Rule 23.1 overrides the provisions of any act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any Proceeding.

- 23.4 Where the Appeals Committee is satisfied as to its authenticity, a copy of a Document or other thing may be admitted as evidence at a Hearing.
- 23.5 Where a Document has been filed in evidence at a Hearing, the Appeals Committee may, or the person producing it or entitled to it may with the leave of the Appeals Committee, cause the Document to be photocopied and the Appeals Committee may authorize the photocopy to be filed in evidence in the place of the Document filed and release the Document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the Document filed certified by a member of the Appeals Committee.
- 23.6 The Appeals Committee may, in making its decision in any Proceeding,
- (a) take notice of facts that may be judicially noticed; and
  - (b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge.
- 23.7 Where a Proceeding is conducted in writing, the evidence of a witness shall be given by affidavit or, subject to the approval of the Appeals Committee, as agreed upon by the parties. All parties are entitled to receive copies of every Document that the Appeals Committee receives in a Written Hearing.

#### **24.0 Decision/Order**

- 24.1 The Appeals Committee will determine the issues before it by order and make an order subject to such conditions, if any, as it considers just and within its jurisdiction.
- 24.2 The Appeals Committee Members that heard an appeal will attempt to make a written decision no later than fifteen (15) business Days after the Hearing is completed.
- 24.3 Once a decision is rendered by the Appeals Committee regarding an appeal, the Appeals Committee Co-ordinator shall ensure that the presiding members of the Hearing sign a copy of such a decision.
- 24.4 The Appeals Committee Co-ordinator will send a copy of the Decision to:
- (a) the Members of the Appeals Committee;
  - (b) the Parties to the Hearing;
  - (c) the Director; and

(d) any other person that the Appeals Committee directs.

24.5 The Appeals Committee may at any time correct a typographical error, error of calculation, misstatement, ambiguity, technical error or other similar error made in its decision, direction or order.

## **25.0 Record of Proceeding**

25.1 The Appeals Committee Co-ordinator will compile and maintain a record of any Proceeding in which a Hearing has been held, which shall include:

- (a) the appeal package prepared pursuant to Rule 21.2;
- (b) any interlocutory orders made by the Appeals Committee;
- (c) all documentary evidence filed with the Appeals Committee (subject to such limitations as may exist at law);
- (d) the transcript, if any, of the oral evidence given at the Hearing; and
- (e) the decision made pursuant to Rule 24.