



Forest Appeals Commission

Fourth Floor, 747 Fort Street, Victoria BC V8W 3E9

Tel: (250) 387-3464

www.bcfac.ca

Fax: (250) 356-9923

Email: info@bcfac.ca

About the Commission and the Appeal Process

The Forest Appeals Commission (the “Commission”) is a specialized, quasi-judicial agency created under earlier legislation, but now authorized by the [Forest and Range Practices Act](#) to hear appeals. The Commission hears appeals under that Act and four others. It is independent, and not part of the Ministries that make the decisions that can be appealed to the Commission. This allows the Commission to hear appeals from those Ministries in an impartial, independent and fair way. The Commission is committed to hearing appeals in that way. Because of its independence, the Commission does not have any of the information or documents considered by these decision-makers unless those involved in an appeal provide them.

The Commission’s powers are set out in a number of pieces of legislation: the [Forest and Range Practices Act](#), the [Administrative Tribunals Act](#), and the statutes which provide an appeal to the Commission (e.g., the *Private Managed Forest Land Act*, the *Wildfire Act*, etc.). In addition to the legislation, the Commission has published [Rules](#) which set out a number of additional procedural requirements. In order to make all of these powers and requirements more easily accessible, the Commission has created a comprehensive [Practice and Procedure Manual](#). It has also created a number of [Information Sheets](#) on discreet subjects. Commission staff are also available to assist the parties.

The Commission’s Members

All members are appointed by Cabinet after a merit-based process. The Commission has a full-time chair, a full-time vice chair, and a number of part-time members (any of whom can be designated as a vice chair by Cabinet). The Commission’s members are appointed based on their specific knowledge and experience with environmental and natural resource matters and administrative justice. They include professional engineers, biologists, foresters and lawyers.

The chair is responsible for the effective management and operation of the Commission, and the organization and allocation of work among the members.

Commission’s role in an appeal

The Commission is responsible for accepting, screening, mediating and adjudicating appeals filed under five statutes.

Mediation/settlement

Parties may settle/resolve an appeal on their own at any time in the appeal process. A party may also ask the Commission to arrange a facilitated settlement meeting (mediation) to try to resolve the appeal issues. If the parties do not resolve the appeal, the Commission will hold a hearing. Facilitated settlement meetings are confidential and without prejudice to the positions that the parties may take in a hearing.

The parties to an appeal

A party to an appeal has various rights, including the right to present opening and closing statements, present evidence and to cross-examine witnesses (in an oral hearing). The parties to an appeal are:

- Appellant:** the individual or organization that is bringing the appeal;
- Respondent:** the person who made the decision being appealed and will be “responding” to the appeal; and
- Third Party:** in some cases, a person or organization that may be affected by the appeal is added as a party (e.g., the permit holder or licensee if someone else appealed their permit or licence, or in some cases, the Forest Practices Board).

In addition, for appeals under the *Forest and Range Practices Act*, the *Range Act*, or the *Wildfire Act*, the Commission may allow a person or organization to participate in an appeal if that person or organization has some information that would be relevant and helpful to the Commission. For appeals under the *Private Managed Forest Land Act*, the Commission may allow a person or organization to participate if they may be materially affected by the outcome of the appeal. No matter the statute under which an appeal is filed, such a person or organization is called an “intervenor”. An intervenor may only participate in the appeal to the extent allowed by the Commission.

Note: To ensure fairness and compliance with the law, parties and interveners **MUST** provide a copy of any letter, document or submission that it sends to the Commission, to all other parties and interveners.

A party or intervenor may represent themselves in an appeal, be represented or assisted by someone who is not a lawyer, or be represented by a lawyer. It is not necessary to be represented by a lawyer. A party that chooses to have a lawyer is responsible for the cost of the lawyer.

Overview of the appeal process

The Commission has created Information Sheets that provide more details about the various stages of an appeal. However, as an overview, the main stages in the appeal process are as follows:

- The appellant files a Notice of Appeal with the Commission.
- The Commission sends a letter acknowledging the Notice of Appeal. A copy is sent to the respondent and any third parties. The Commission organizes a pre-hearing conference to explain the appeal process and discuss how to efficiently process that appeal with all parties.
- The Commission will decide whether to hold an oral or a written hearing after consulting the parties. The Commission will notify the parties and confirm the date(s) that any submissions or documents are due.
- The hearing will take place. All parties will present their evidence and submissions.
- The Commission will issue a decision, in writing.

Note: The appeal may be resolved or settled at any time prior to the Commission's decision.

The hearing

The hearing is either conducted in writing, in person (orally), or a combination of both. In some cases, an oral hearing may be conducted by telephone or by videoconference. The chair of the Commission or the vice chair, service delivery will ultimately decide what type of hearing will be the most appropriate and effective to hear and decide the matters in issue.

The chair of the Commission will also decide which Commission members will hear and decide the appeal. The members that hear an appeal are referred to as "the Panel". When determining who will be on a particular Panel, the chair will consider the background, qualifications and availability of the members.

Oral hearings will be conducted by a Panel of 1 or 3 members, depending on the length and complexity of the hearing. Written appeals are often considered by a Panel of 1. The Panel has all of the powers and duties given to the Commission.

In advance of the hearing, the Commission will confirm the timelines for submitting documents and other information. Some timelines are prescribed in the Rules, but will be confirmed in a letter.

During the hearing, the Commission may accept any evidence that is relevant to an issue in the appeal.

Decision-making

The Commission must decide an appeal on the basis of information presented to it by the parties. However, the Commission will also consider its past decisions on similar cases. (Parties may therefore wish to review the Commission's past decisions as they indicate how the Commission has previously viewed particular types of cases.) The Panel will carefully consider all of the information provided by the parties and write its decision.

Freedom of Information (Public Process)

Parties should be aware that the appeal process is an open process. Hearings are open to the public and the documents, evidence and names of parties and witnesses, are **not** confidential unless they are protected under the [Freedom of Information and Protection of Privacy Act](#) or an order of the Commission. Decisions are posted on the Commission's website and may appear in law-related books or articles. The Commission's decisions are also available on the LexisNexis® Quicklaw® database for subscribers to that service (<http://www.lexisnexis.ca/en-ca/home.page>).