

New Home Buyer Protection Board Mandate and Roles Document

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

The NHBPB uses staff, space and resources in common with the Municipal Government Board, Surface Rights Board and Land Compensation Board.

The NHBPB is an independent, quasi-judicial tribunal established under the New Home Buyer Protection Act. It is recognized that the independence and impartiality of the NHBPB are integral to its adjudicative functions, and that its decisions must be made, and be seen to be made, impartially and independently. Accordingly, nothing in this document is intended to or does interfere with the NHBPB's independent and impartial exercise of its adjudicative and ancillary powers, duties or functions. The Minister recognizes the authority and obligation of the Chair of the NHBPB ("Chair") to administer and direct the NHBPB in the discharge of those powers, duties and functions. The Chair is, however, accountable to the Minister for the effective management and operation of the NHBPB and for ensuring that the Minister is informed respecting those matters.

1. NHBPB Mandate

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

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

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 *NHBPA*.

The *NHBPA* allows the NHBPB to hear appeals of certain decisions made by the Registrar of the New Home Buyer Protection Office and Compliance Offices 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 the regulations made under the *NHBPA*.

In carrying out its adjudicative role, the NHBPB must apply the principles of administrative law, the *NHBPA* and its associated regulations in a fair, judicious and independent manner. The NHBPB is an independent adjudicative body with an arms-length relationship to the Minister in the execution of its decision making responsibilities.

Applicable Legislation

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

- New Home Buyer Protection Act
- Financial Administration Act
- Government Accountability Act
- Freedom of Information and Protection of Privacy Act
- Public Service Act
- Alberta Public Agencies Governance Act
- New Home Buyer (General) Regulation
- New Home Buyer (Ministerial) Regulation
- Insurance Act
- Home Warranty Insurance Regulation
- Records Management Regulation
- Safety Codes Act
- Permit Regulation
- Lobbyists Act
- Conflicts of Interest Act
- Reform of Agencies, Boards and Commissions Compensation Act
- Public Sector Compensation Transparency Act
- Public Interest Disclosure Act
- Public Service Employee Relations Act

2. Roles and Responsibilities

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

The Minister

The Minister is accountable to the Legislature for the NHBPB. The Minister reports to the Legislature on the affairs of the NHBPB and answers questions about the NHBPB.

The role of the Minister is to:

- recommend to Cabinet the appointment of NHBPB members and the Chair based on the Minister's assessment that candidates have the appropriate knowledge, skills, experience and values to assist the NHBPB in achieving its objectives and performing its functions;
- monitor the operations and performance of the NHBPB to ensure its compliance with applicable law and policy while respecting the need of the NHBPB for independence in conducting its adjudicative function;
- inform and consult with the Chair concerning any proposed legislation or policies affecting the work of the NHBPB;
- consult with other members of Cabinet as necessary about issues affecting the legislative and policy frameworks within which the NHBPB operates, and arrange for any meetings required between those Cabinet members and the Chair;
- communicate with the public on matters related to the NHBPB and its Regulations;
- recommend to the Government the annual budget for the NHBPB;
- conduct annual evaluations and reviews of the performance of the Chair; and;
- conduct periodic reviews, at least every seven years, of the NHBPB's mandate and purpose to determine if the work of the NHBPB is still relevant to the needs of Albertans and if it is aligned with Government priorities.

In view of the NHBPB's independence and impartiality, evaluation of the Chair's performance will be undertaken in the context of measuring NHBPB management efficiency and will not seek to measure or evaluate the merits of NHBPB decisions.

The Deputy Minister

The role of the Deputy Minister is to:

- support and act under the general direction of the Minister;
- attend regular meetings with the Chair to review NHBPB management and emerging issues (including respecting the legislative and policy frameworks within which the MGB operates).

The Department

In order to meet the responsibilities delegated to the NHBPB, the Department is responsible for supporting the NHBPB in the following areas:

- financial support services;
- through the Public Service Commission, human resource management services;
- through Service Alberta, IT support services;
- through Service Alberta, support the Board in compliance with the Freedom of Information and Protection of Privacy Act
- records and information management;
- providing hearing facilities and administrative offices to support the independent quasi-judicial nature of the NHBPB; and
- other support services necessary to carry out the roles and responsibilities of the NHBPB.

The Department will also consult with staff from other departments as necessary about issues affecting the legislative and policy frameworks within which the NHBPB operates, and arrange, in co-operation with the Chair, for any meetings required between NHBPB staff and staff from other departments.

The Chair

The Chair is responsible for the operation and management of the NHBPB, including administering and directing its statutory powers, duties and functions. Among other things, the Chair is responsible for management and direction of all NHBPB activities respecting the processing, case management, proceedings and hearings. The Chair is accountable to the Minister for the effective management and operation of the NHBPB according to Government financial and human resources policies applicable to the NHBPB. The Chair also guides the NHBPB's strategic direction, and approves and monitors any NHBPB business plan.

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

- ensure that all material developments and significant emergent issues are disclosed to the Minister or the Deputy Minister on a timely basis;
- attend regular meetings with the Deputy Minister to review NHBPB management

and emerging issues (including respecting the legislative and policy frameworks within which the NHBPB operates);

- seek a meeting with the Minister, at least annually, to inform the Minister respecting the NHBPB's operation, and such other matters as the Chair or Minister may desire, and to make such recommendations as the Chair considers necessary;
- monitor the NHBPB's annual budget and, if applicable, identify to the Deputy Minister any operating or capital funding pressure;
- provide to the Minister any NHBPB strategic and business plans and performance objectives and information respecting their implementation;
- ensure that any issues respecting the support or services provided to the NHBPB by the Ministry or Government are disclosed to the Deputy Minister/Assistant Deputy Minister on a timely basis;
- manage and operate the NHBPB, including implementing all Government financial and human resources policies applicable to the NHBPB;
- provide leadership and direction for the NHBPB and for effectively pursuing the work of the NHBPB;
- ensure the establishment of policies and procedures for conducting proceedings, and for the administration of the NHBPB, in accordance with the NHBPA and other applicable statutes and laws;
- establish and maintain meaningful and appropriate stakeholder relations
- In consultation with the Ministry, manage how the NHBPB interacts with the public and establish policies that clearly identify roles and responsibilities in the area of communication with the public; communicate with the public on behalf of the NHBPB as required.
- engage in strategic and business planning that includes consideration of the principal risks associated with the NHBPB's business.
- act in a fashion to support the independent quasi-judicial nature of the NHBPB;
- evaluate NHBPB members' performance and provide a recommendation to the Minister concerning appointments of new members and the re-appointment of existing members ;
- develop and deliver an orientation program for new NHBPB members, provide

- continuous training for existing members, and provide performance feedback;
- inform the NHBPB about various provincial policy or legislative initiatives and changes which may affect the NHBPB;
 - administer and maintain the NHBPB's Code of Conduct and Ethics, including the Code's complaints process and ensure conflict of interest matters are addressed;
 - adhere to both the NHBPB Code of Conduct and the Code of Conduct and Ethics for the Public Service of Alberta.
 - ensure continuity in board operations by appointing, in writing, a Board Member to act as Chair during absences.

NHBPB Staff

NHBPB staff are employees of the Government of Alberta appointed pursuant to the *Public Service Act* to support the NHBPB in the execution of its duties. As government employees, NHBPB staff are subject to the Code of Conduct and Ethics for the Public Service of Alberta as well as the NHBPB Code of Conduct.

NHBPB Members

All NHBPB Members are appointed at pleasure of the Crown by Ministerial Order and report and are accountable to the Chair. NHBPB Members will, in carrying out their adjudicative functions, make decisions independently in accordance with all applicable legislation. NHBPB members make independent decisions about matters before them and conduct proceedings to resolve disputes.

Each NHBPB member shall adhere to:

- the NHBPB's Code of Conduct and Ethics;
- the requirements of the NHBPA and its regulations;

3. Recruitment and Appointment of Board Members

Appointments are made in accordance with the *Alberta Public Agencies Governance Act (APAGA)* following a transparent recruitment process based on competencies (skills, experience, attributes) approved of by the Chair.

This is a government led process; however, through this MRD the Minister is in agreement that the recruitment process for members of NHBPB is led by the Chair in consultation with and supported by the Department and the Public Service Commission.

- Those members who work on a per-diem basis are not employees of the Government of Alberta.
- All members must agree to be bound by the NHBPB Code of Conduct and Ethics before undertaking NHBPB duties.
- Recommendations for appointments of members to the NHBPB are made in accordance with the requirements of APAGA, which include a transparent, recruitment process based on a Competency Matrix, including knowledge, skills and related experience.
- The selection process will consist of 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. The Chair 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. The Minister will discuss recommendations with Cabinet before final approval and appointments.
- A public posting of all vacancies will be the responsibility of the NHBPB. At a minimum, this will include a description of the competencies necessary for the position and the process used to fill the position.

4. Interaction Between NHBPB, Department and Minister

- With respect to the adjudicative functions of the NHBPB, the NHBPB, the Minister and the Department will continue to act in manner to recognize the independent quasi-judicial nature of the NHBPB.
- 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.
- NHBPB communication with the Minister or Department on adjudicative matters shall be limited to status reports.
- Legal advice to the NHBPB, will be provided by in-house NHBPB counsel or by an independent legal advisor.
- The Chair will act as the primary contact for the NHBPB and as the NHBPB representative on Municipal Affairs Executive Team.

- The Chair meets at least annually with the Deputy Minister and/or the Minister to provide a report and to receive feedback on the performance and annual evaluation of the NHBPB.
- 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.
- With the permission of the Chair, Department staff may consult NHBPB staff about any policy development or review. Similarly, NHBPB staff may participate in Ministry or cross-Ministry groups formed to consider any policy matter, as may be requested by the Department.
- 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 and on Composite Assessment Review Boards.

5. Administration

Review of the Mandate and Roles Document

The Mandate and Roles Document must be reviewed by the Minister and renewed, amended or replaced within three years of the date that it is signed.

The Mandate and Roles document may be amended at any time; any amendment must be signed by the Minister and the Chair.

Transparency

Copies of the Mandate and Roles document will be filed with the Minister of Municipal Affairs, the NHBPB and the Public Agency Secretariat. In support of the principle of transparency, this document will also be available to the public on the board's website.

Affirmed

Chair
New Home Buyer Protection Board

Date: December 10, 2019

Affirmed

Minister
Municipal Affairs

Date: February 20, 2020