

# **2018 Annual Report**

**Property Assessment Appeal Board**

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## Board Profile

The Property Assessment Appeal Board is a quasi-judicial tribunal established under the *Assessment Act*. It is the second level of appeal for all property assessments in the Province following the Property Assessment Review Panels.

The most common issues in assessment appeals are:

- the property's market value;
- equity, or fairness compared to the assessments of other properties;
- property classification;
- exemptions from taxation.

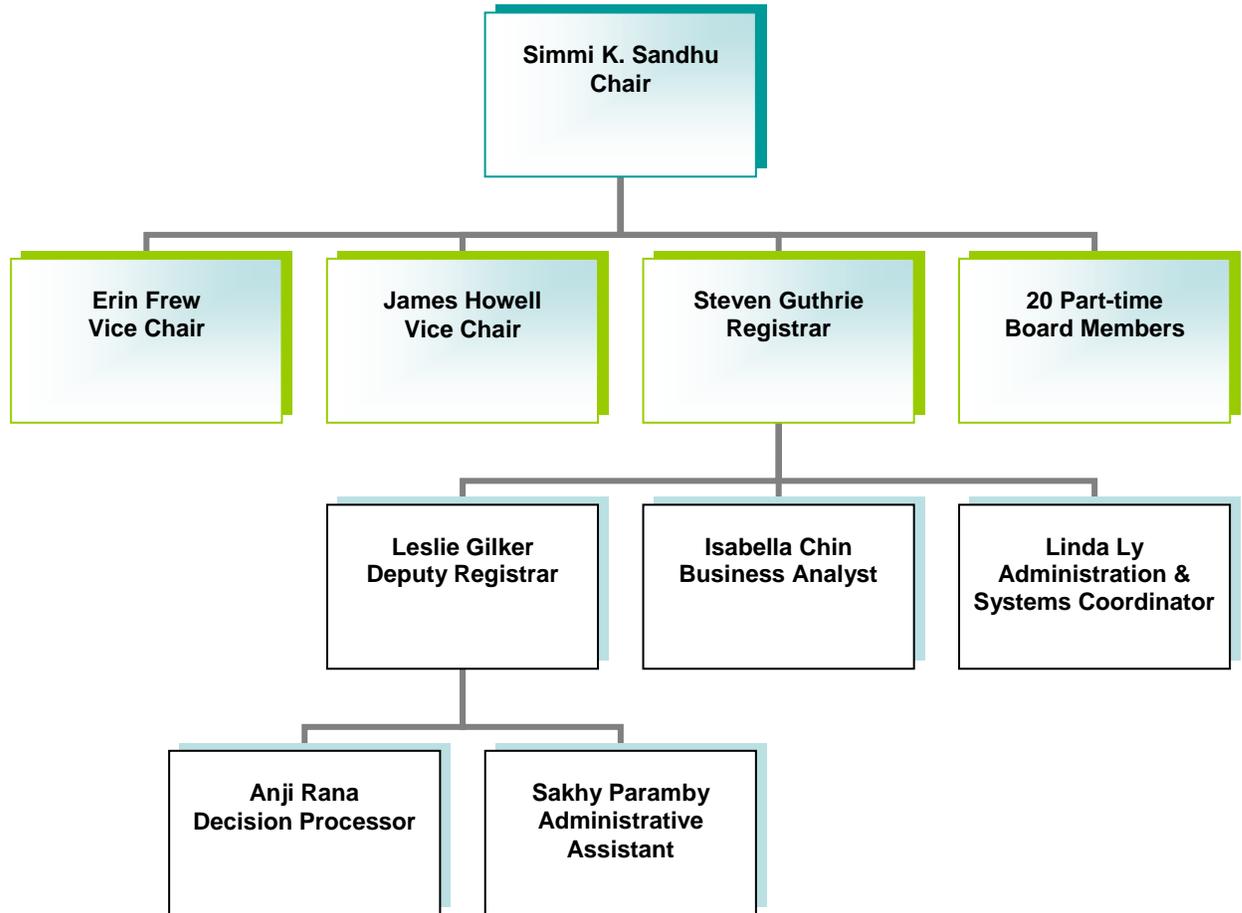
The Board's objectives are:

- To resolve appeals justly and consistently, in accordance with the principles of natural justice and procedural fairness.
- To complete appeals as quickly and efficiently as possible at minimum cost to participants and the Board.

The Board is independent from the Property Assessment Review Panels and BC Assessment, and is accountable to the Attorney General. In 2018, the Board had three full time Board members (including the Chair, two Vice Chairs), 20 part-time Board members and six staff.

See Appendix 2 for a glossary of terms used in this report

## Organization Chart



## Report on Performance

The following is a summary of how the Board's results compare to its performance targets:

	Target	Result
2017 commercial and industrial appeals	Complete or set for hearing 75 to 85% of appeals by Mar. 31, 2018	78%
2018 residential appeals	Complete or hear 90 to 100% of appeals by Dec. 31, 2018	96%
Decisions following a hearing	Issue 90% within 90 days	89%

The Board met its targets for completing the 2017 commercial and industrial appeals as well as the 2018 residential appeals. The Board missed its target by 1% for timeliness of issuing decisions following a hearing. This was a result of increased workload on the Board members undertaking adjudication with the higher appeal volume in 2018.

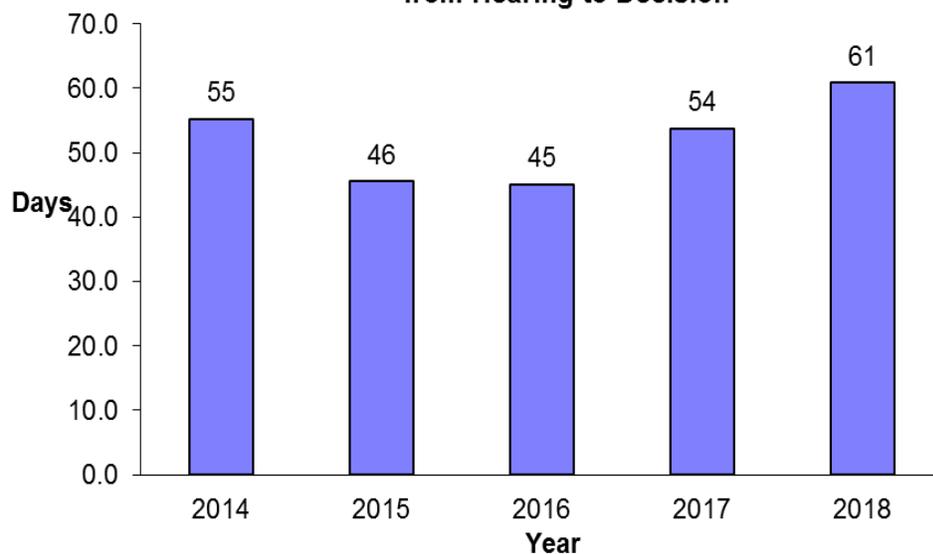
The following table compares the Board's workload to the previous two years:

Activity	2018	2017	2016
New appeals received in year	3,384	3,347	2,197
Carry over from earlier years	2,363	1,795	1,349
Total appeal workload	5,747	5,142	3,546
Appeals completed during the year	3,856	2,779	1,755
# and % of appeals resolved without a hearing	3,554 (92%)	2,616 (94%)	1,645 (94%)

The Board resolved appeals without a hearing by using alternative dispute resolution practices. For those appeals which do not resolve, the Board adjudicates either through an in-person hearing or by way of written submissions. Approximately 36% of the Board's completed appeals resulted in a change to the assessment.

On average it took 61 days for the Board to issue written decisions following a hearing. Our performance objective is 60 days for residential appeals and 90 days for commercial and industrial appeals.

**Figure 1 - Average Number of Days from Hearing to Decision**

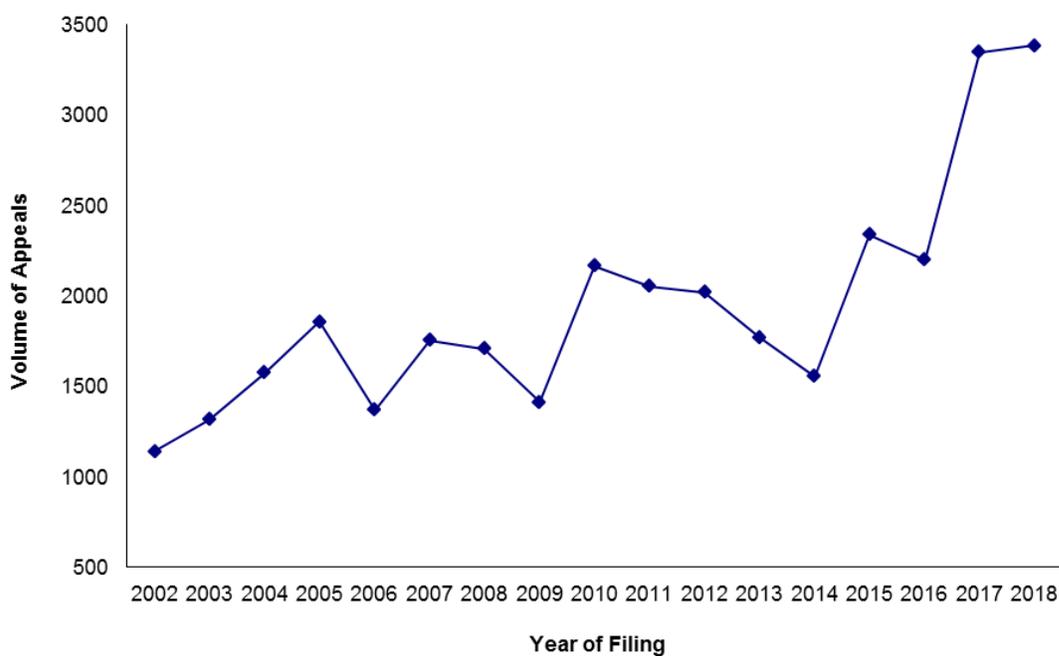


## Analysis of Outstanding Appeals

### Volume of New Appeals

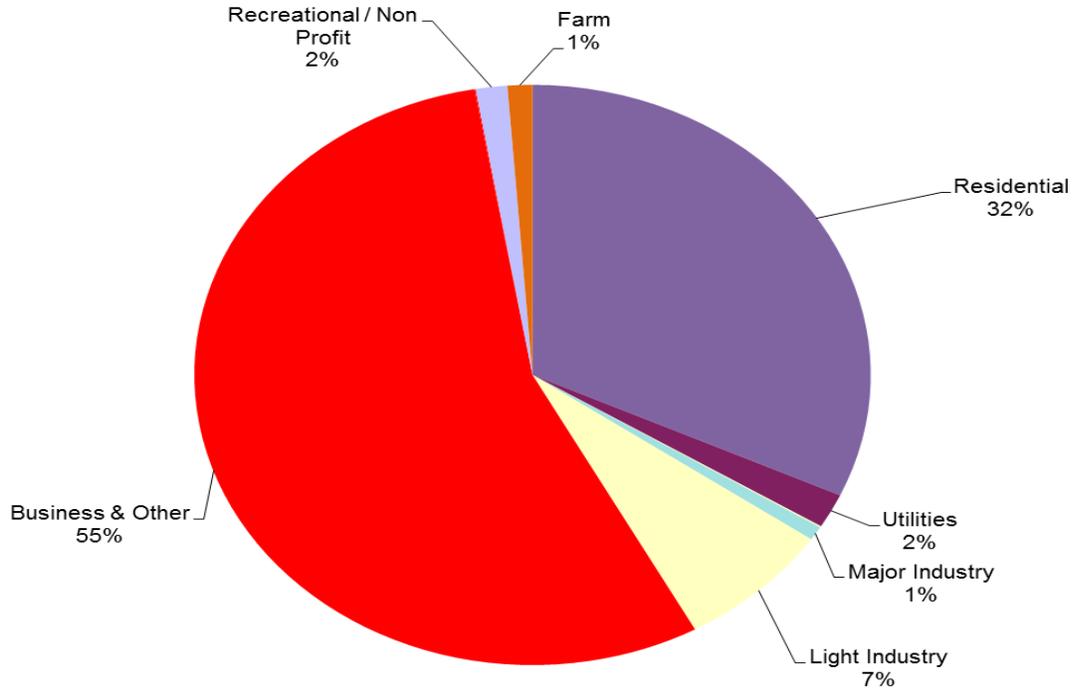
The Board received 3,384 new appeals in April 2018. This is the second year in a row with a record volume of appeals, up 78% over the previous 10 year average.

**Appendix 2 - Change in Volume of Appeals**



Most of the 2018 appeals were for either commercial & industrial properties or for residential properties.

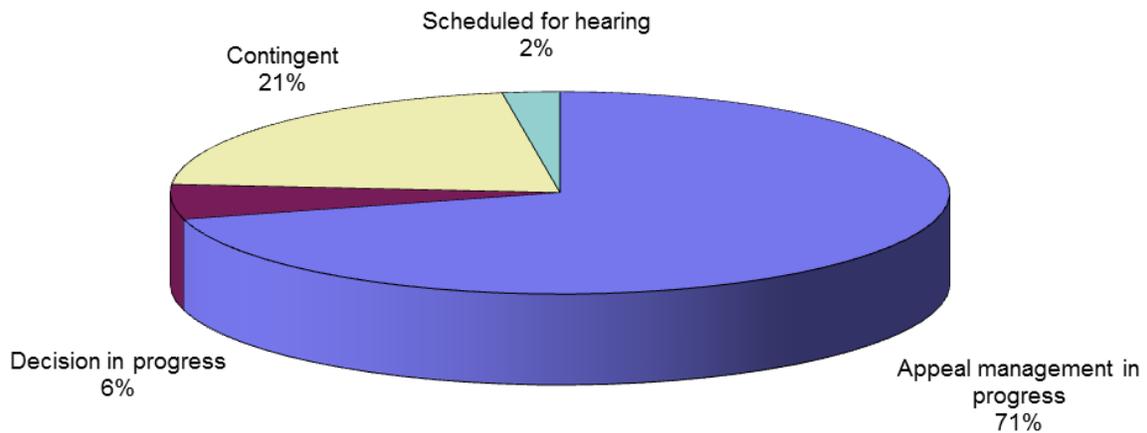
**Figure 3 – Classification of 2018 Appealed Properties**



### Year-end Position

As of December 31, 2018, there were 1,891 appeals still open from 2018 and earlier years. Through increased productivity, the Board was able to reduce its year end volume by 20% despite the two-year record level of appeals.

**Figure 4 - Status of Outstanding Appeals**



The Board is working with the parties to resolve the active appeals which are listed as “appeal management in progress” in the above figure. If these appeals are not resolved through mutual agreement, the Board will adjudicate them either through a written submission or in-person hearing.

Contingent appeals have the same issues as other appeals before the Board or the Courts. The Board cannot move forward with these appeals until the related appeals conclude. The proportion of contingent appeals increases with older appeals. At year-end, 9% of the outstanding 2018 appeals were contingent, whereas 48% of the 2017 and older appeals were in this category. Most of the older appeals are pending resolution of a single issue: whether taxing jurisdiction rests with a First Nation, a municipal or provincial authority. Once this issue is determined by government and the parties, these appeals will almost immediately be resolved.

With a higher population and business distribution, the majority of outstanding appeals (76%) are in Greater Vancouver.

**Figure 5 - Regional Distribution of Appeals**

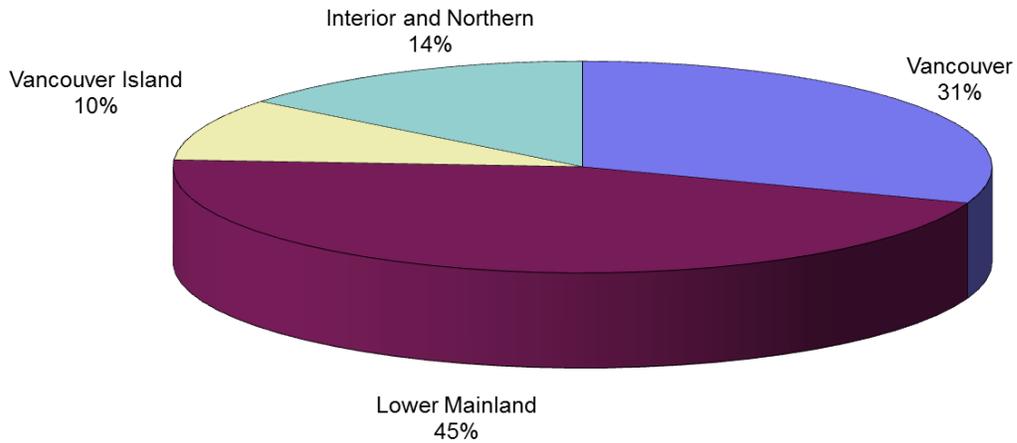
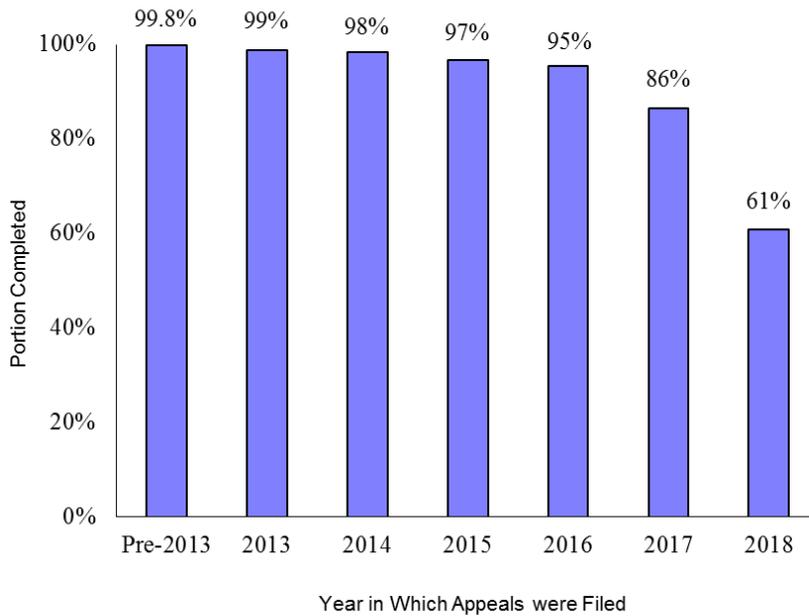


Figure 6 shows that the vast majority of 2017 and older appeals have been completed.

**Figure 6 - Completed appeals by the year of original filing**



More detailed statistics are provided in Appendices 3 to 6.

## Appeals to the Courts

A person affected by a decision may appeal to the B.C. Supreme Court on a question of law or mixed fact and law. The decision of the Supreme Court may be appealed to the B.C. Court of Appeal with leave.

As of March 15, 2019, there are six outstanding stated case appeals. Below is a summary of three of the more significant appeals:

[\*British Columbia Hydro and Power Authority v. British Columbia \(Assessor of Area #01-Capital\)\*](#) is before the Court of Appeal. This appeal concerns the depreciation to be applied to a hydro substation under the *Depreciation of Dams, Power Plants and Substations Regulation*. The depreciation depends on whether parts of the substation comprise one improvement (with a common effective age) or a collection of individual improvements (valued on the chronological age of each improvement).

[\*Telus Communications \(BC\) Inc. v. Assessor of Area #09\*](#) is before the Court of Appeal. The appeal was heard January 17, 2019. This appeal concerns the highest and best use of a property containing specialized equipment used in the provision of regulated telecommunication services.

[\*Simon Fraser University v. British Columbia \(Assessor of Area #10-Burnaby\)\*](#) is before the Court of Appeal. The appeal was heard January 31, 2019. This appeal concerns exemption under the *University Act* for property “held on behalf of” the university.

In 2018, the Board received decisions on five Board appeals. The Board decisions were confirmed in all cases.

The Supreme Court of Canada refused leave to appeal in [\*Victory Motors \(Abbotsford\) Ltd. v. Assessor of Area No. 15 – Fraser Valley\*](#). This appeal concerns the value of income-producing, brownfield properties.

The British Columbia Court of Appeal provided its reasons in [\*Access Self Storage Inc. v. British Columbia \(Assessor of Area #04 – Central Vancouver Island\), 2018 BCCA 406\*](#). The Court of Appeal confirmed that the standard of review of Board decisions on stated case was reasonableness. The Court held that the Board was reasonable in finding that self storage units containing residential property were not class 1 under the *Prescribed Classes of Property Regulation*. The Court reinstated the Board’s order that the property was class 6.

The British Columbia Supreme Court provided its reasons in [\*Telus Communications \(BC\) Inc. v. Assessor of Area #09, 2018 BCSC 113\*](#): The Court confirmed the Board’s decision that the highest and best use of the subject was for redevelopment and the cost of relocating specialized equipment, used in the provision of regulated telecommunication service, did not affect value.

The British Columbia Supreme Court provided its reasons in [\*British Columbia Hydro and Power Authority v. British Columbia \(Assessor of Area #01-Capital\)\*, 2018 BCSC 535](#): The Court confirmed the Board's decision that the substation was comprised of a collection of individual improvements each costed on the basis of its chronological age.

The British Columbia Supreme Court provided its reasons in [\*Peace River Coal Inc. v. British Columbia \(Assessor of Area No. 27-Peace River\)\*, 2018 BCSC 1854](#): The Court confirmed the Board's decision that "haul roads within active mine pits" did not extend to haul roads beyond the limits of the active excavation pit.

## **Responses to Challenges in 2018**

The last 4 years has seen significantly higher volume of appeals than the previous history of the Board. In the last 2 years there have been more than 3,000 appeals, an unheard of volume for the Board. The number of Board members and staff has remained unchanged in face of this large increase in workload. The Board's budget has not significantly increased, however, as illustrated in Board finances section, expenditures have increased due to the increased volume and an update in remuneration with Treasury Board Directive 2/17.

The Board used the following strategies to resolve appeals:

1. The Board used alternative dispute resolution to resolve appeals without expensive adjudication. A proportionate strategy was applied. For lower value, less complex appeals we usually limited dispute resolution efforts to a one hour teleconference or Online Dispute Resolution. For more complex commercial and industrial appeals, the Board often extended dispute resolution to include several meetings and other techniques.
2. For residential appeals that did not settle, the Board adjudicated the vast majority via written submissions. This method is less costly than in-person hearings.
3. For many commercial and industrial appeals, the Board conducted group teleconferences and meetings with tax agents and BC Assessment to discuss their portfolios of appeals. This approach is more efficient than dealing with appeals individually.
4. The Board used self management when the parties demonstrated good cooperation. The parties provide progress reports and the Board intervenes when necessary. This strategy frees up the Board's resources to concentrate on cases which require more hands-on involvement.
5. Given the record number of appeals, the Board used part-time Board members to assist in appeal management and mediation.

## Other Activities

### Technology services for the public:

In 2018, the Board re-established<sup>1</sup> Online Dispute Resolution (ODR) services for residential appeals. The web-based platform, developed with the Justice Education Society, allows homeowners to resolve their dispute any time, day or night, seven days a week. Interactive tools assist users in preparing their evidence and evaluating the strength of their case.

The Board launched a new website with more interactivity to guide appeal parties through the stages of their appeal. The site provides sophisticated users with research tools to search past Board decisions and view the status of their appeal.

### Stakeholder Meetings:

The Board held two stakeholder meetings in April 2018. The first was to seek feedback from commercial and industrial appeal parties on the Board's processes and to secure commitment for the early resolution of the 2018 appeals. The second meeting was for BC Assessment staff involved in residential and farm class appeals. The goal was to encourage more collaborative approaches in reaching resolution with homeowners without requiring time-consuming and costly adjudication.

## Board Finances

The Board's budget for April 1, 2018 to March 31, 2019 is \$1.41 million, fully funded from the property tax levy and appeal fees.

The estimated expenditures for 2018/2019, compared with the past five fiscal years, are as follows:

**Figure 7 – Budget versus Actual Expenditures by Fiscal Year (\$000's)**

Fiscal Year	Budget	Actual	Under/(Over)	%
2018/19 <sup>2</sup>	\$1,410	\$1,518	(\$108)	(8%)
2017/18	\$1,388	\$1,394	(\$6)	(0.4%)
2016/17	\$1,388	\$1,115	\$273	20%
2015/16	\$1,388	\$1,105	\$283	20%
2014/15	\$1,388	\$1,202	\$186	13%
2013/14	\$1,388	\$1,236	\$152	11%

<sup>1</sup> The Board was the first tribunal in Canada to establish an ODR service in 2013. It was discontinued in 2017 when the software developer withdrew their licence.

<sup>2</sup> Expenditures in Fiscal 2018/19 are forecasted based on expenditures to January 31, 2019.

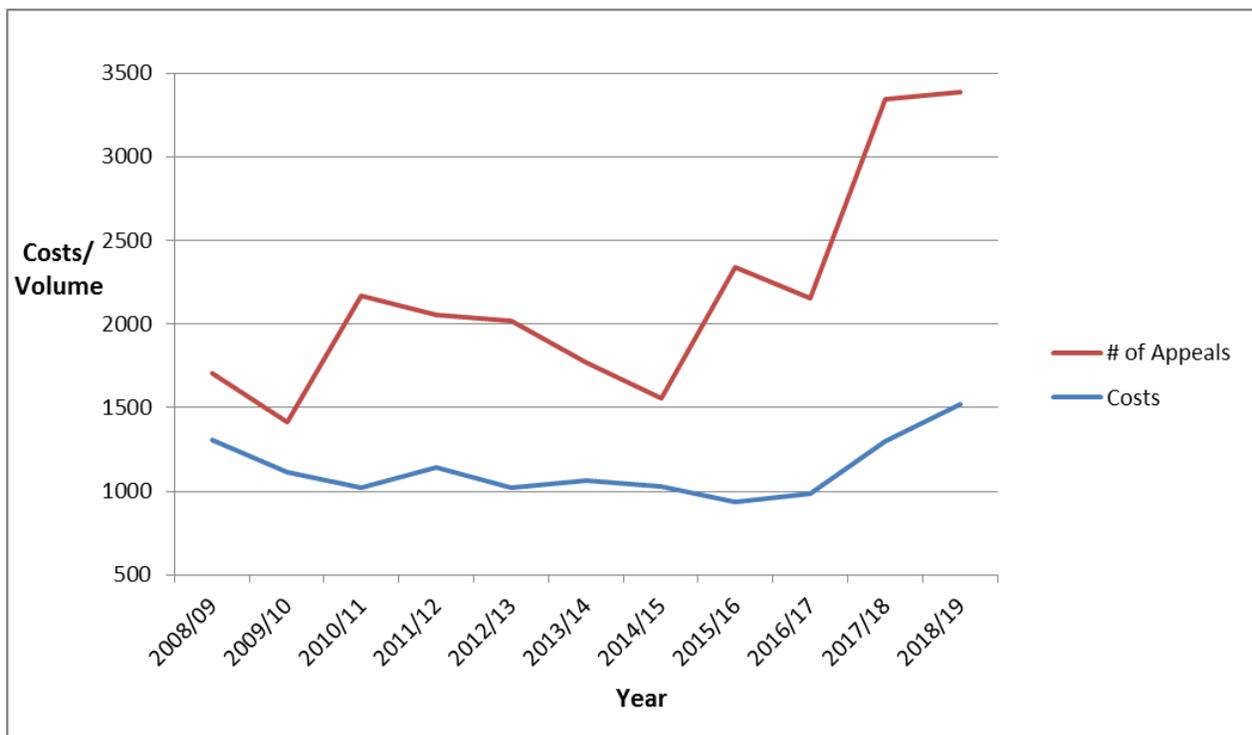
The Board forecasts it will be 8% over budget in fiscal 2018/19, primarily due to three factors:

1. We increased use of part-time Board members to assist in managing the record number of 2018 appeals.
2. Compensation rates increased for Board members based on the Government's new compensation framework.
3. Some unrecovered costs for participating in a Ministry of Attorney General tribunal transformation project which will see our Board co-located with five other tribunals in March 2019.

The Board collected \$132,546 in appeal fees and forecasts billing the Surface Rights Board \$25,000 for management services. These revenues reduce the overall funding requirement from the property tax levy.

Figure 8, tracks the significant increase in appeals over the last 11 years, in comparison to expenditures. Expenditures have not increased as rapidly by maintaining the same levels of salaried Board members and staff. The key strategy has been to achieve efficiencies by the extensive use of alternative dispute resolution, and adoption of new technologies and approaches to managing appeals.

**Figure 8 – Volume of appeals compared to costs**



A more detailed breakdown of expenditures is provided in Appendix 7.

## Looking Forward to 2019

As was illustrated in our review of 2018, the last two years has seen record number of appeals – above the 3,000 level. If this level of appeals becomes the “new normal”, changes will be required to maintain the previous level of performance (both in terms of high resolution rates and timeliness of completions).

We have managed to increase our completion rates by extensive use of part-time Board members to assist in case managing the appeals. These Board members have conducted many of the telephone mediations for residential appeals and farm class appeals. We have also engaged one part-time Board member to manage a large portfolio of agent-filed appeals (which are typically for commercial properties). This approach may not be sustainable (with part-time Board member turnover), nor operationally the most effective in managing portfolios of appeals. The Board will explore alternative resourcing strategies, including the possibly hiring a third full-time Vice Chair.

In May 2019, the Board will start resolving the newly filed 2019 appeals. With funding from the Ministry of Attorney General, the Board will launch an upgraded “Solution Explorer” website service. This site, called “Should I appeal?”, will help owners of residential properties evaluate whether or not they have a good chance for success and if it is worthwhile to appeal. This site will be multilingual with interactive videos in English, Mandarin, Cantonese and Punjabi. The Board will also offer homeowners two options to resolve their case:

1. Telephone mediation;
2. Online Dispute Resolution.

For commercial and industrial appeals, the Board will continue with strategies to seek as many resolutions as possible without hearings.

In March 2019, the Board will relocate its office from Richmond to shared premises in downtown Vancouver with five other tribunals. This new model should open new opportunities to share overhead and support expertise across the participating tribunals.

**Targets for 2019:**

1. To complete or schedule for hearing, by March 31, 2019, 75 to 85% of the active 2018 commercial and industrial appeals.
2. To complete or hear, by December 31, 2019, 90 to 100% of the 2019 residential appeals.
3. To complete or schedule for hearing, by March 31, 2020, 75 to 85% of the active 2019 commercial and industrial appeals.
4. To issue at least 90% of written decisions within 90 days of hearing.

These completion targets will be reviewed once the volume of 2019 appeals is known following the April 30<sup>th</sup> appeal deadline. Despite any performance target, the Board must ensure that appeals are resolved in accordance with the principles of procedural fairness. Whenever there is a conflict between a performance target and these principles, procedural fairness must prevail.

## Appendix 1

### Board Members as of December 31, 2018

<b>Name</b>	<b>Position</b>	<b>Term Expiry Date</b>
Simmi Sandhu	Chair	March 31, 2020
Erin Frew	Vice Chair	July 21, 2019
James Howell	Vice Chair	February 22, 2020
Allan Beatty	Member	January 29, 2020
John Bridal	Member	December 31, 2019
Winton Derby	Member	December 31, 2019
Larry Dybvig	Member	December 31, 2019
Dianne Flood	Member	December 31, 2019
Rob Fraser	Member	August 19, 2019
Jeffrey Hand	Member	December 31, 2018
Mandy Hansen	Member	December 31, 2019
Christopher Hope	Member	December 31, 2019
Howard Kushner	Member	December 31, 2019
David Lee	Member	December 31, 2019
Michael Litchfield	Member	December 31, 2019
Blair Lockhart	Member	March 14, 2018
Bruce Maitland	Member	December 31, 2019
Robert Metcalf	Member	December 31, 2019
Liisa O'Hara	Member	February 18, 2018
Dale Pope	Member	December 31, 2019
Jeremy Sibley	Member	December 31, 2018
Audrey Suttorp	Member	December 31, 2019
Kenneth Thornicroft	Member	December 31, 2019
Bruce Turner	Member	December 31, 2019
Candace Watson	Member	February 18, 2021

## **Appendix 2**

### **Glossary of Terms**

#### **Appeal Management Conference (AMC)**

The main purpose of an AMC is to clarify the issues and facilitate resolution. Most AMCs are conducted by telephone. If resolution is not likely, the appeal may be scheduled for a settlement conference or a hearing. Some complex appeals may have several AMCs before they are resolved.

#### **Contingent**

Contingent appeals are held pending action on other appeals before the Courts or the Board. This occurs when the appeal issues are the same and it is appropriate to hold the appeal until the Court or Board makes a decision on the other appeal.

#### **Decision in Progress**

This term is used in the statistical appendices. It includes appeals that have had a hearing and the Board is still writing the decision. It also includes appeals when the Board is preparing an order on a dismissal, withdrawal or recommendation to change the assessment.

#### **Dismissal Order**

The Board may issue an order dismissing an appeal in two circumstances:

1. The Board does not have jurisdiction to deal with an appeal; or
2. The party that filed that appeal does not comply with a Board order.

When appeals are received, the Registrar will write to the parties with his opinion on whether the Board has jurisdiction based on the *Assessment Act*. A party can ask the Board to reconsider this opinion.

#### **Recommendation**

When the parties mutually agree to change the assessment, they submit a joint "Recommendation" to the Board. If the Board is satisfied that the recommended changes are accurate, it will issue an order authorizing BC Assessment amend the assessment.

## **Roll Number**

A roll number is a distinctive number assigned to each entry on the assessment roll. Generally, every property has a roll number and receives an individual assessment.

## **Settlement Conference**

The purpose of a Settlement Conference is to reach mutual agreement on the appeal issues. A Board member facilitates this Conference and discussions are without prejudice if the appeal proceeds to a hearing. Discussions in Settlement Conferences are confidential and any documents submitted do not become part of the public record.

## **Withdrawal**

The party who filed the appeal may apply to the Board to discontinue their appeal at any time before a hearing. If approved, the Board will issue an order closing the appeal.

## Appendix 3

### 2018 Appeal Completions Compared to 2017

Period	Appeals at Beginning of Period	Appeals at December 31	Appeals Completed Within Period	% Completed in Period
<b>2018</b>				
New Appeals	3,384	1,309	2,075	61%
Prior Year Appeals	2,363	582	1,781	75%
<b>Year 2018 Total</b>	<b>5,747</b>	<b>1,891</b>	<b>3,856</b>	<b>67%</b>
<b>2017</b>				
New Appeals	3,347	1,439	1,908	57%
Prior Year Appeals	1,795	924	871	49%
<b>Year 2017 Total</b>	<b>5,142</b>	<b>2,363</b>	<b>2,779</b>	<b>54%</b>

## Appendix 4

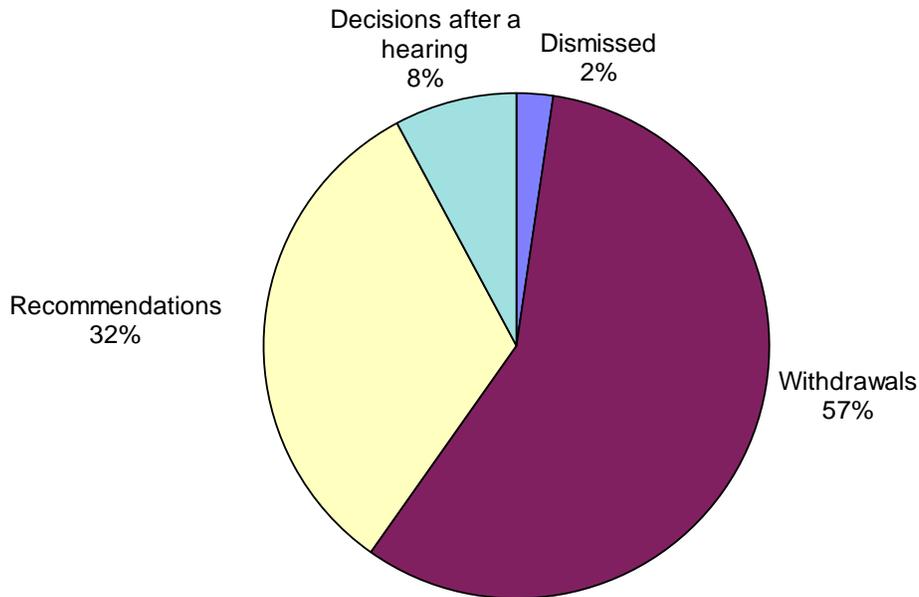
### Appeal Completions by Year of Appeal

Year filed	Appeals at Beginning of Year	Method of Completion				Total Completed	Appeals Outstanding at Dec 31/18
		Dismissed	Withdrawals	Recommendations	Decisions after a hearing <sup>1</sup>		
2018 <sup>2</sup>	3,384	69	1,218	696	92	2,075	1,309
2017	1,439	20	612	351	159	1,142	297
2016	422	1	186	113	15	315	107
2015	233	0	106	55	22	183	50
2014	74	0	30	10	5	45	29
2013	55	0	24	9	2	35	20
Pre-2013	140	0	39	15	7	61	79
<b>TOTAL</b>	<b>5,747</b>	<b>90</b>	<b>2,215</b>	<b>1,249</b>	<b>302</b>	<b>3,856</b>	<b>1,891</b>

**Notes:**

1. Decisions can be made through an in-person hearing or by way of written submissions from the parties.
2. With an appeal deadline of April 30th each year, the time period for completing 2018 appeals is from May 1 to December 31.

### Method of Completion of Appeals in 2018



## Appendix 5

### Summary of Outstanding Appeals

APPEAL STATUS	OUTSTANDING APPEALS						
	TOTAL	2018 APPEALS <sup>1</sup>			PRIOR YEARS <sup>2</sup>		
	Dec 31/18	Dec 31/18	April 30/18	Inc./((Decr.))	Dec 31/18	Dec 31/18	Inc./((Decr.))
APPEAL MANAGEMENT IN PROGRESS	1,338	1,056	3,384	(69%)	282	1,285	(78%)
SCHEDULED FOR HEARING	45	37	0	N/A	8	168	(95%)
PENDING BOARD OR COURT DECISION	403	124	0	N/A	279	771	(64%)
DECISION IN PROGRESS	105	92	0	N/A	13	139	(91%)
<b>TOTAL OUTSTANDING APPEALS</b>	<b>1,891</b>	<b>1,309</b>	<b>3,384</b>	<b>(61%)</b>	<b>582</b>	<b>2,363</b>	<b>(75%)</b>

Notes:

1. April 30, 2018 was the filing deadline for the 2018 appeals.
2. Includes all outstanding appeals to the Board from the 2017 and earlier rolls.

## Appendix 6

### Board Activities in 2018 Compared to Prior Years

Board Activity	Results in year:				
	2018	2017	2016	2015	2014
<b>Overall Appeal Caseload</b>					
New Appeals Registered	3,384	3,347	2,197	2,338	1,556
Prior Year Appeals (beginning of year)	2,363	1,795	1,349	997	911
Total Appeals	5,747	5,142	3,546	3,335	2,467
<b>Appeal Management Conferences (AMCs)</b>					
# of AMCs Conducted	466	694	350	456	445
# of Appeals Involved	3,203	4,323	1,832	3,053	1,017
<b>Settlement Conferences Held</b>	23	26	17	22	13
<b>Hearing Statistics</b>					
# of In-Person Hearings	4	6	11	8	11
# of Hearing Days	15	14	22	8	24
# heard by Written Submissions	120	124	103	80	71
<b>Appeal Completion Method</b>					
By withdrawals/dismissal orders	2,305	1,556	883	1,004	735
By recommendations	1,249	1,060	762	885	616
By decisions after a hearing	302	163	110	105	119
<b>Appeals</b>					
Number Completed	3,856	2,779	1,755	1,994	1,470

## Appendix 7

### Breakdown of Expenditures (\$000's)

Fiscal Year	Salaries & Benefits	Members Fees & Exp.	Travel Expenses	Occupancy Expenses	Systems & Telecommun.	Office & Misc. Exp.	Total Expenses	Less SRB & CRT <sup>2</sup>	Net Expenses
2018/19 <sup>1</sup>	1,044	220	1	95	122	37	1,519	25	1,494
2017/18	933	223	2	96	104	35	1,393	18	1,375
2016/17	672	223	4	51	113	51	1,114	46	1,068
2015/16	687	163	2	102	122	29	1,105	77	1,028
2014/15	831	118	9	102	110	32	1,202	93	1,109
2013/14	843	163	12	102	82	34	1,236	160	1,076
2012/13	812	149	12	102	94	40	1,209	68	1,141
2011/12	774	238	7	108	114	50	1,291	44	1,247
2010/11	769	151	16	113	132	44	1,225	82	1,143

**Notes:**

1. Expenditures for fiscal year 2018/19 are forecasted based on actual expenditures to January 31, 2019.
2. Includes the costs recovered for services to the Surface Rights Board (SRB) and the Civil Resolution Tribunal (CRT in 2013/14 only). These recoveries are deducted to arrive at the net expenses for the Property Assessment Appeal Board.