



REPORT

Report Date: November 29, 2022
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Meeting Date: December 6, 2022
[Submit comments to Council](#)

TO: Vancouver City Council
FROM: Chief Building Official
SUBJECT: Miscellaneous Amendments to the Building Board of Appeal By-law

RECOMMENDATION

- A. THAT Council approve, in principle, amendments to the Building Board of Appeal By-law generally in accordance with Appendix "A" in order to address quorum and appointment issues.
- B. THAT the Director of Legal Services be instructed to bring forward for enactment a By-law generally in accordance with Appendix "A".

REPORT SUMMARY

The Building Board of Appeal provides an important oversight mechanism to complement the Vancouver Building By-law. At the moment, there are no appointees to the Board. This report recommends amendment to the Building Board of Appeal By-law to enable the revival of the Board so that current and future appeals may be heard without unreasonable delay.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Section 306B of the *Vancouver Charter* authorizes Council to establish a Building Board of Appeal. That sections reads:

"Building Board of Appeal

306B. *Council may, by by-law, establish a Building Board of Appeal and may empower such Building Board of Appeal to determine such matters, relating to by-laws prescribing*

requirements for buildings, as to Council seem appropriate. Any decision of the Building Board of Appeal shall be final and no appeal shall lie therefrom.”

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

The Vancouver Building By-law includes provision for appeal where an applicant is dissatisfied with a decision by the Chief Building Official. The technical nature of the Building By-law, and potentially significant resources required for construction, can lead to decisions with potentially large impacts. Therefore, the Building Board of Appeal provides an important oversight mechanism to complement the Vancouver Building By-law, although the Building Board of Appeals rarely hears appeals.

It should be noted that the Building Board of Appeal provides a wholly separate function from the Board of Variance, which addresses matters arising from the Zoning and Development By-law.

This report sets out the need to have Council amend the Building Board of Appeal By-law (the “By-law”), in order to appoint members and revive the Building Board of Appeal.

Council is not required to establish a Building Board of Appeal, but staff generally consider the Building Board of Appeal to be worthwhile because it allows a panel of technical experts from industry to review decisions of the Chief Building Official, and may improve City decision-making. This mirrors the function provide by provincial Building Code Appeal Board, which applies in jurisdictions where the BC Building Code is in force.

Appointments to the Building Board of Appeal (Building Division) are registered professionals who are active in construction or in related fields, which provide an opportunity for building designers to be heard by peers with a broad exposure to construction practice and industry standards, and with the a level of technical expertise and experience similar to their own.

This will bring greater objectivity and diversity of viewpoint to the decision making process, as well as an understanding of the subsequent impacts on the registered professionals who bear both legal and professional responsibilities for a building’s design.

However, the Building Board of Appeal has not met since 2011, and Council has not appointed anyone to the Building Board of Appeal since then. At the moment, there is no Building Board of Appeal.

Strategic Analysis

The By-law currently sets out that the Building Board of Appeal shall comprise 5 members appointed for a 3-year term, that quorum shall be 4 members and that Council may only 3 appoint members in a single year. This report recommends that the By-law be amended to permit a quorum of 3, and to allow for all 5 appointments for a 4-year term in any year.

A draft of the proposed amendments is presented in **Appendix A** of this report.

A property owner has recently applied to the Building Board of Appeal to have an appeal heard, so this report is being brought forward now in order to revive the Building Board of Appeal and allow for the appeal to be heard shortly. If the proposed By-law amendments are enacted, Council will still need to appoint 5 new members to the Building Board of Appeal.

Financial

There are no financial implications.

Risks

As noted, there is no requirement in the *Vancouver Charter* for the City to have a Building Board of Appeal. However, the By-law requires Council to appoint one. Council could repeal the By-law to avoid this issue, but City staff support continuing with a Building Board of Appeal. Doing nothing is not a viable option. Council should either amend or repeal the By-law. Staff recommend amending the By-law to revive the Building Board of Appeal lawfully.

CONCLUSION

Without amendments to the By-law the Building Board of Appeal will not be able to be revived in a timely manner. Staff therefore recommend that Council adopt the proposed amendments set forth in this report.

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Appendix A: Amending By-law

DRAFT

Note: A By-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

BY-LAW NO. XXXXX
A By-law to amend Building Board of Appeal By-law No. 6135
Regarding Miscellaneous Amendments to the Appointment of the Board

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of Building By-law No. 6135.
2. Council strikes sections 3.4 to 3.8 of the By-law, which read as follows:
 - “3.4 Each member appointed to the Board shall hold office for a term of 3 years or until a successor is appointed, but a person may be reappointed for a further term or terms.
 - 3.5 The members of the Board shall elect a Chairperson and Vice-Chairperson who shall serve for a period of one year in this position, unless the appointment is earlier revoked by Council.
 - 3.6 In the event of death, resignation or removal from office of any member of the Board, a successor shall be appointed in the same manner and from the same association for the unexpired portion of the term.
 - 3.7 In order not to affect continuity of the Board's decision making, no more than 3 new members shall be appointed in any one year other than as in Section 3.6.
 - 3.8 Four members of the Board shall constitute a quorum.”
3. Council inserts new subsections 3.4 to 3.7 as follows:
 - “3.4 Each member appointed to the Board shall hold office for a term of 4 years or until a successor is appointed, but a person may be reappointed for a further term or terms.
 - 3.5 The members of the Board shall elect a Chairperson and Vice-Chairperson who shall serve for a period of one year in this position, unless the appointment is earlier revoked by Council.
 - 3.6 In the event of death, resignation or removal from office of any member of the Board, a successor shall be appointed in the same manner and from the same association for the unexpired portion of the term.
 - 3.7 Three members of the Board shall constitute a quorum.”

4. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
5. This By-law is to come into force and take effect immediately on adoption.

ENACTED by Council this _____ day of _____, 2022

Signed _____
Mayor

Signed _____
City Clerk