

SURFACE RIGHTS BOARD

Disclosure Guideline

The Disclosure Requirements

- 1. The parties must, at least 14 days prior to the hearing, deliver to each other, copies of the Reports.**
- 2. A minimum of four copies of the Reports are to be filed with the Board at the beginning of the hearing, or as directed by the Board. Additional copies may be requested by the Board.**
- 3. Failure to follow this guideline will not result in a loss of jurisdiction by the Board.**

Purpose

4. This Guideline will be in effect for all hearings scheduled to commence on or after September 2, 2008, and for any prior hearing where disclosure requirements are determined at a pre-hearing dispute resolution conference or as otherwise fixed by the Board.

Objectives

5. The objectives of this guideline are to ensure that:
 - a) parties to Board hearings have prepared and disclosed all relevant documentary evidence to be used as evidence in a particular case before the Board;
 - b) parties are aware of the relevant Reports to be used as evidence by an opposing party in a particular case before the Board and have the opportunity to prepare their response prior to the commencement of the hearing; and
 - c) Board hearings embody the principles of natural justice and are based upon evidentiary processes that are fair and equitable.
6. This guideline is not intended to limit or constrain the discretion of the Board to make whatever decision it believes is appropriate in the individual circumstances of each case, while taking into consideration all the circumstances of a particular case before it.

Definitions

7. "Board" means either a one-member Board or a three-member Board.
8. "Party" or "parties" means the operator, the owner, the occupant, the lessor and any person entitled to compensation as defined by the *Surface Rights Act*, that would be materially affected by the application or the outcome of the hearing.
9. "Guideline" means a policy that will normally be followed by the Surface Rights Board ("the Board") while taking into consideration all the circumstances of a particular case before it.

10. "Reports" means all appraisal reports and other documentary evidence prepared by a person, other than a party, which is intended to give written opinion evidence and testimony based on the person's special knowledge and which a party intends to introduce at the hearing.
11. "Deliver" means to provide, to all other parties, by registered mail, courier, fax or email, the receipt of which can be proven.

Exception to the Disclosure Process

12. The Board retains the right to determine whether or not submissions of Reports not disclosed in accordance with this guideline will be allowed for presentation to, and consideration by, the Board at a hearing.
13. The Board may allow the introduction of Reports that have not been disclosed in accordance with the Disclosure Guideline if:
 - a) The Reports are relevant to the hearing;
 - b) The Reports can be reviewed by the parties within a reasonable timeframe;
 - c) The party requesting to present the Reports at the Hearing has an explanation acceptable to the Board for failing to comply with the Disclosure Guideline, or provides evidence that the Reports were not available prior to the date of the hearing; and
 - d) The Board determines that the parties are not prejudiced by failure to comply with the Disclosure Guideline and the principles of natural justice are maintained.
14. Where a party makes a request to present Reports to the Board at the Hearing the Board may take any of the following steps:
 - a) Request an explanation of:
 - why the Reports are being introduced;
 - why they could not have been provided at an earlier date; and,
 - why they are relevant; or
 - b) Adjourn the hearing to make a decision on the admissibility of the Reports; and/or
 - c) Adjourn the hearing to allow the parties sufficient time to review the Reports.
15. If the Board decides to allow the Reports to be admitted as evidence it will provide the parties sufficient time to review the Reports.