

**2016 Annual Report**

**Property Assessment Appeal Board**

## Table of Contents

	<b>Page</b>
<b>Board Profile</b>	1
<b>Report on Performance</b>	3
<b>Analysis of Outstanding Appeals</b>	
• Volume of New Appeals	4
• Year-end Position	5
<b>Appeals to the Courts</b>	8
<b>Responses to Challenges in 2016</b>	8
<b>Other Activities</b>	
• Consultation with the Assessment Community	9
• Transformation & Technology	9
<b>Board Finances</b>	10
<b>Looking Forward to 2017</b>	12
<b>Appendices</b>	
1. Board Members	13
2. Glossary of Terms	14
3. 2016 Appeal Completions Compared to 2015	16
4. Appeal Completions by Year of Appeal	17
5. Summary of Outstanding Appeals	18
6. Board Activities in 2016 Compared to Prior Years	19
7. Breakdown of Expenditures	20

## **Board Profile**

The Property Assessment Appeal Board is an administrative tribunal established under the *Assessment Act*. It is the second level of appeal 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.

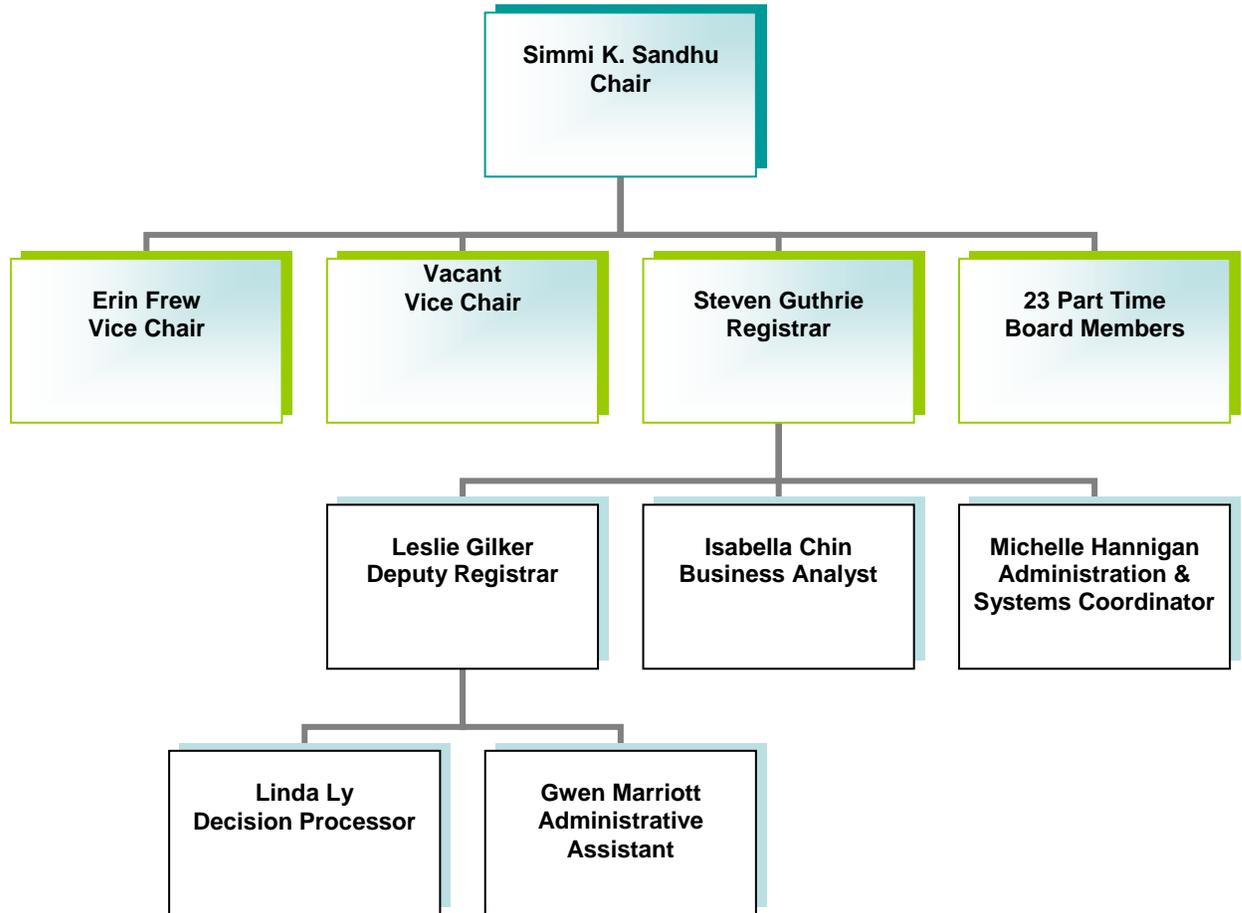
The Board's objectives are:

- 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 Minister of Community, Sport and Cultural Development. In 2016, the Board had two full time Board members including the Chair, 23 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 Board met its targets for 2016:

	Target	Result
2015 commercial and industrial appeals	Complete or set for hearing 75 to 85% of appeals by Mar. 31, 2016	86%
2016 residential appeals	Complete or hear 90 to 100% of appeals by Dec. 31, 2016	98%
Decisions following a hearing	Issue 90% within 90 days	94%

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

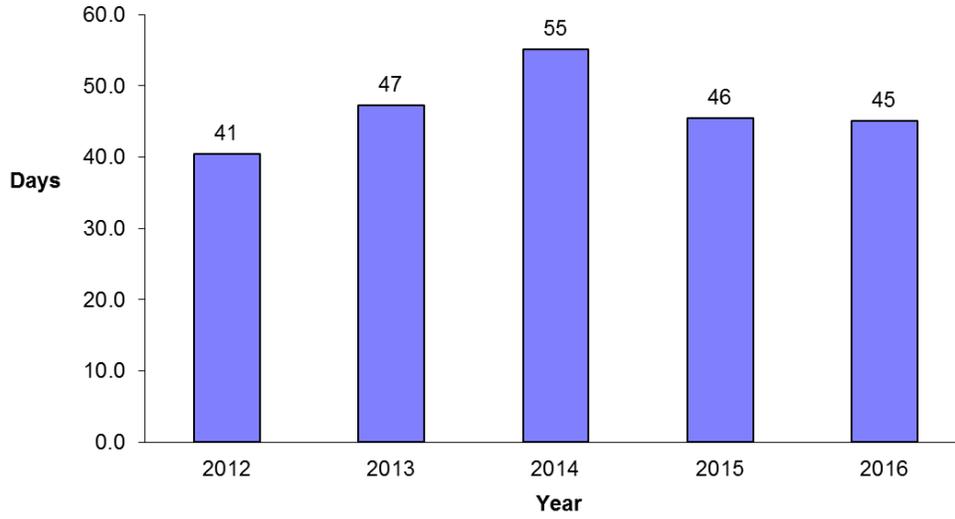
Activity	2016	2015	2014
New appeals received in year	2,197	2,338	1,556
Carry over from earlier years	1,349	997	911
Total appeal workload	3,546	3,335	2,467
Appeals completed during the year	1,755	1,994	1,470
# and % of appeals resolved without a hearing	1,645 (94%)	1,889 (95%)	1,351 (92%)

The Board resolved appeals without a hearing by using alternative dispute resolution practices. An appeal resolves either by being discontinued or by an agreement by the parties to change the assessment. For those appeals which do not resolve, the Board adjudicates either through an in-person hearing or by way of written submissions. See Appendix 4 for more detailed statistics on completions.

Approximately 45% of the Board's decisions resulted in a change to the assessment.

On average it took 45 days for the Board to issue a written decision following a hearing. This timeframe is in-line with the performance over the last 5 years and within our performance objective of 60 days for residential appeals and 90 days for commercial and industrial appeals.

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

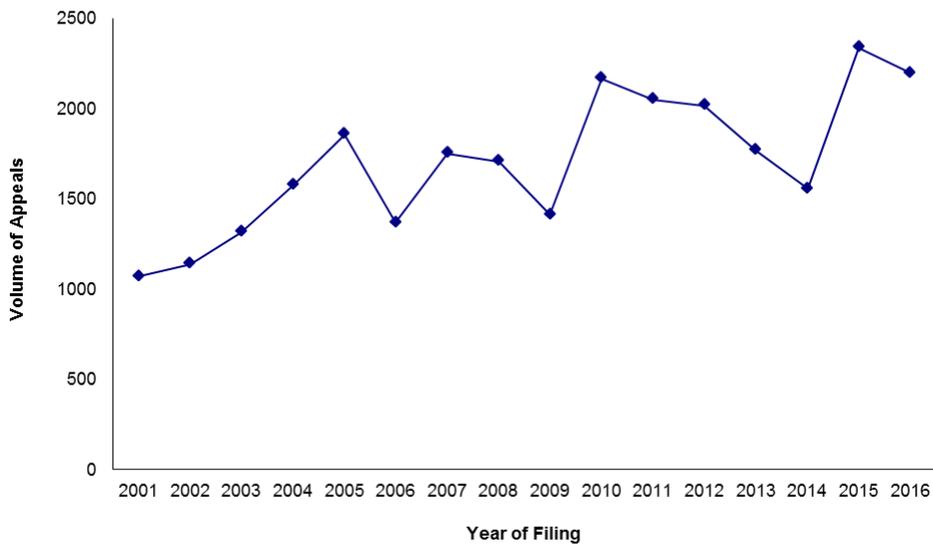


## Analysis of Outstanding Appeals

### Volume of New Appeals

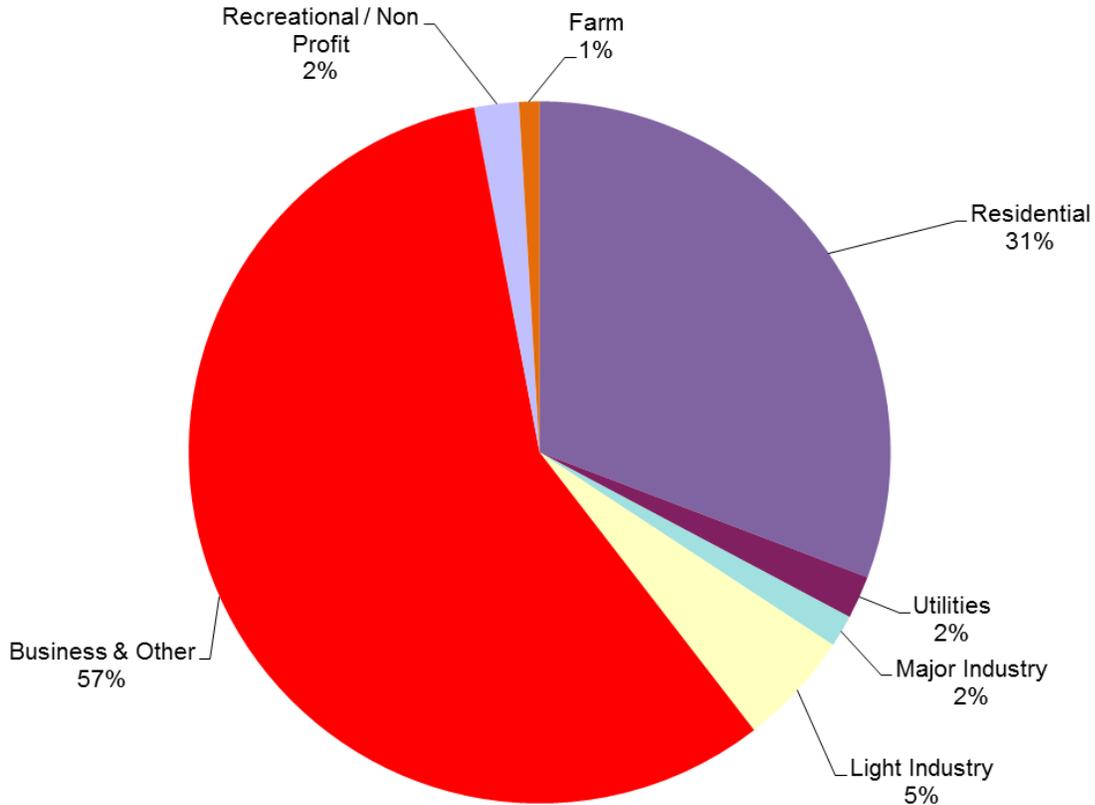
The Board received 2,197 new appeals in April 2016. This is down from 2015, but up over the 15 year average of 1,673 annual appeals

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



The majority of appeals are for commercial and industrial properties. There was a slight decrease (10%) in commercial and industrial appeals over the previous year. There was an increase in residential appeals in 2016, probably due to the active real estate market in the lower mainland.

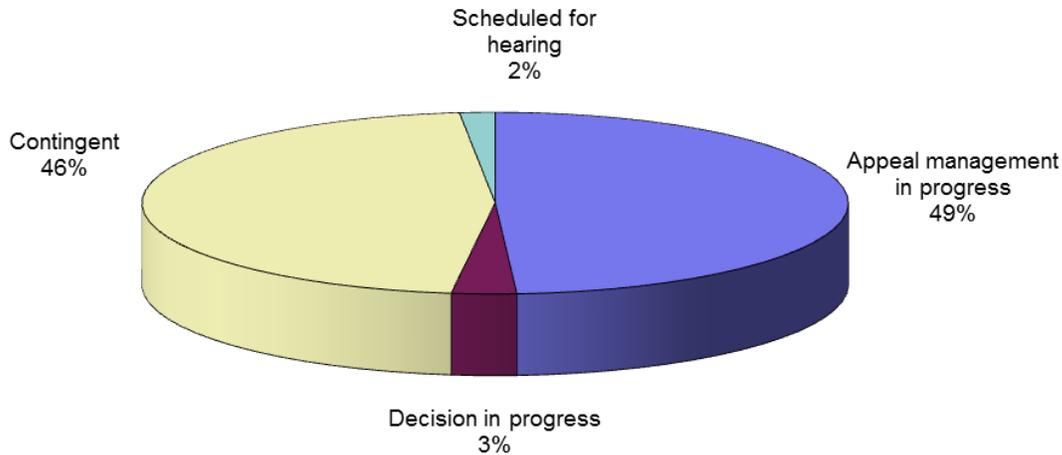
**Figure 3 – Classification of 2016 Appealed Properties**



### Year-end Position

As of December 31, 2016, there were 1,791 appeals still open. This is an increase from the year-end position in 2015, reflecting the record and near record levels of appeals over the last two years.

**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. We did see an increase of 102 appeals in this holding category in 2016. This is mainly due to new 2016 appeals that are contingent upon three Court cases (Victory Motors, Nav Canada, and Home Depot/Walmart). Once the Courts issue their decisions on these cases, the Board will work with the parties to complete these appeals.

In 2016, the Supreme Court of BC referred the Amacon appeals back to the Board to decide on a discrete issue. Amacon involves classification of properties that can be developed into mixed use for residential and commercial purposes. In September 2016, the Board issued its decision as a result of the Court’s referral. The Board can now move forward with 364 appeals from 2012 to 2016 that were being held contingent on Amacon. These appeals moved from contingent to active appeal management resulting in the increase in number of appeals carried over from earlier years. The Board is working with parties to either resolve these remaining appeals by March 31, 2017 or set them for adjudication.

The proportion of contingent appeals increases with older appeals. At year-end, 29% of the outstanding 2016 appeals were contingent, whereas 54% of the 2015 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 (60%) are in Greater Vancouver.

**Figure 5 - Regional Distribution of Appeals**

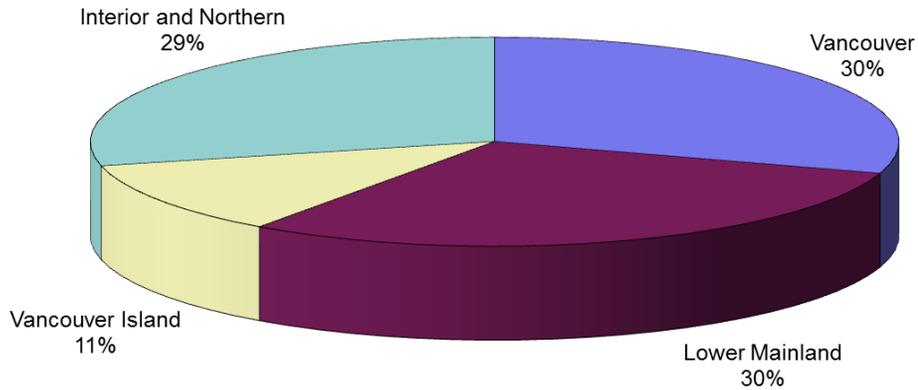
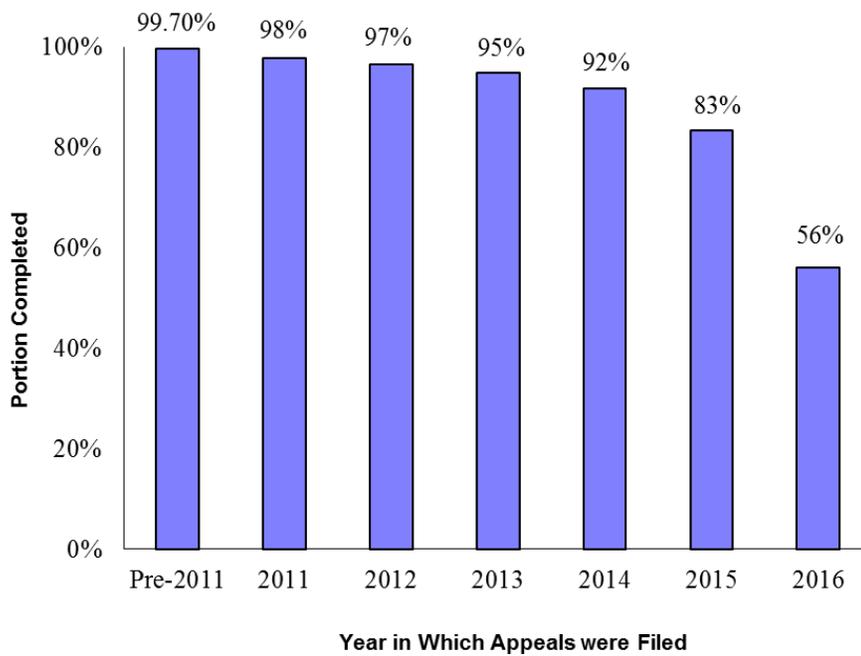


Figure 6 shows that the vast majority of 2014 and older appeals have been completed.

**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.

At the beginning of 2016, six cases from previous years were outstanding before the B.C. Supreme Court. During the year, two new cases were filed. The Court confirmed the Board's decision in three appeals and two cases were referred back to the Board. At year-end, three cases were still before the B.C. Supreme Court.

The Court of Appeal referred back to the Board the Nav Canada case on air traffic control towers and related properties at four airports. Nav Canada filed a leave to appeal to the Supreme Court of Canada, however, this application was denied.

The Court of Appeal has not decided the Victory Motors case which deals with the value of a contaminated site. The Court denied leave to appeal from the Home Depot/Walmart appeals; however, there is a variance application outstanding on this decision.

## **Responses to Challenges in 2016**

The Board used the following strategies to resolve appeals:

1. The Board uses alternative dispute resolution to try and resolve appeals without expensive adjudication. For lower value, less complex appeals we limit the time for dispute resolution. For more complex commercial and industrial appeals, the Board may have several dispute resolution teleconferences and, in some cases, hold in-person settlement conferences.
2. The Board offered residential property owners two options to resolve their appeals;
  - on-line dispute resolution (ODR) with interactive website tools; or
  - a telephone appeal management conference.

ODR takes more time for the Board and the appeal parties than a one-hour teleconference. However, over the last four years, the resolution rate for the ODR method was 5% higher at 70%. Since adjudication is the most costly part of the appeal process, the higher resolution rate makes both methods approximately equivalent from a cost point of view.

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 commercial and industrial appeals, the Board conducted teleconferences to narrow the issues and seek resolution as well as settlement conferences to facilitate without prejudice discussions. The Board also conducted group teleconferences and meetings with tax agents and BC Assessment to discuss their portfolios of appeals. This approach is generally more efficient than dealing with appeals individually.
4. The Board offered self management to tax agents that have consistently resolved appeals in a timely manner. 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. In response to the vacancy of the full time vice chair positions, the Board recruited a few part time Board members to perform the duties of vice chairs, including appeal management, mediation, and adjudication. Due to the continuing vacancy of one vice chair position, the Board will continue to rely on these part time members to meet its operational needs.

## **Other Activities**

### **Consultation with the Assessment Community**

In October 2016, the Board held a forum with tax agents, legal counsel and BC Assessment. The main purpose of the meeting was to reinforce the Board's expectations to resolve appeals in a timely manner. The Community raised an issue on confidentiality of information provided to BC Assessment. BC Assessment and the Canadian Property Tax Association agreed to form a working group to examine this further.

### **Transformation & Technology**

The Board is working with the Ministry of Justice, BC Assessment and the Ministry of Community, Sport and Cultural Development to improve customer service by delivering interactive on-line tools across the whole property assessment appeal system. We will examine the feasibility of adopting technology developed by the new Civil Resolution Tribunal. The Board is in a good position to adopt these new technologies given it pioneered similar technologies over the last four years.

## Board Finances

The Board's budget for April 1, 2016 to March 31, 2017 is \$1.39 million, fully funded from the property tax levy and appeal fees.

The estimated expenditures for 2016/2017, compared with the past five fiscal years, are as follows:

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

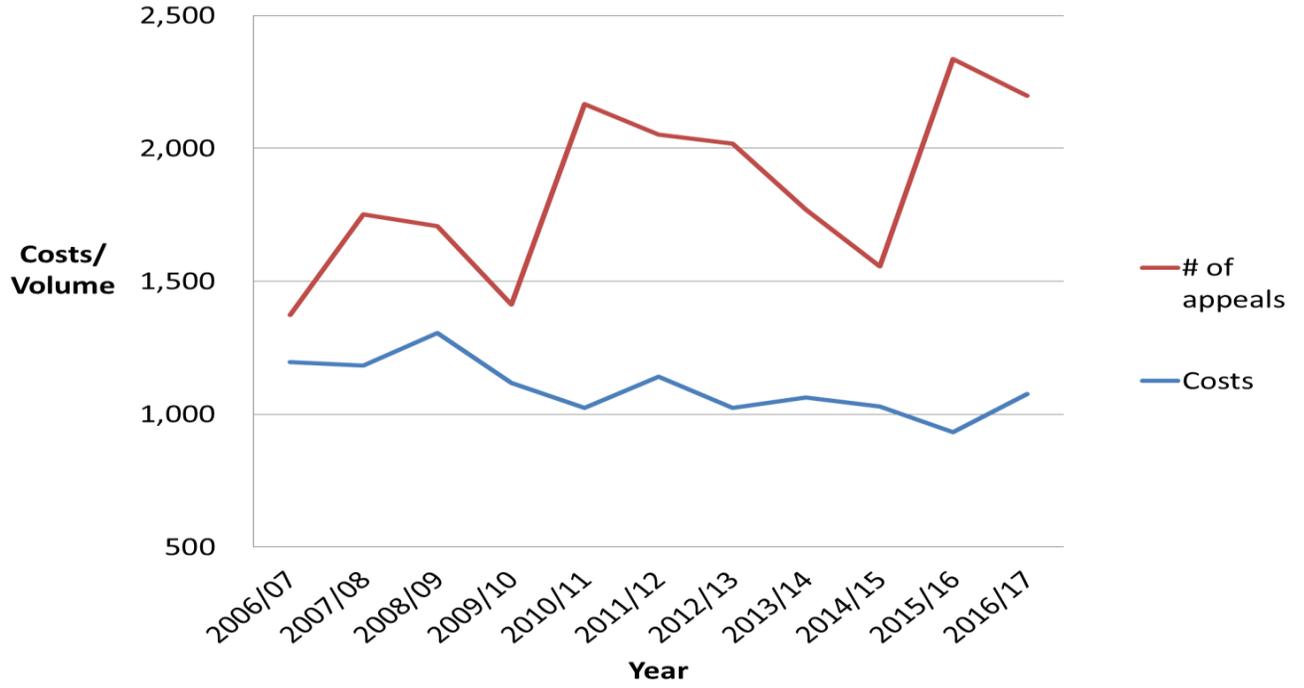
Fiscal Year	Budget	Actual	Under/(Over)	%
2016/17 <sup>1</sup>	\$1,388	\$1,205	\$183	13%
2015/16	\$1,388	\$1,105	\$283	20%
2014/15	\$1,388	\$1,202	\$186	13%
2013/14	\$1,388	\$1,236	\$152	11%
2012/13	\$1,404	\$1,210	\$194	14%
2011/12	\$1,287	\$1,291	(\$4)	(0.3%)

**Note:** Expenditures for fiscal year 2016/17 are forecasted based on actual expenditures to Jan. 31, 2017.

The Board forecasts it will be 13% under budget in fiscal 2016/17, primarily due to two vacant full time Board positions (one was filled in August 2016). The Board collected \$83,000 in appeal fees and forecasts billing the Surface Rights Board \$45,000 for management services. These revenues reduce the overall funding requirement from the property tax levy.

As shown in Figure 8, the Board has managed to keep expenditures steady or slightly decreasing with an increasing trend in appeals. This has been achieved by adopting new technologies and approaches to managing appeals on a portfolio basis.

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



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

## Looking Forward to 2017

The vast majority of 2016 residential appeals are complete. The Board will work with the parties to resolve the remaining commercial and industrial appeals. If the parties are not close to resolving these appeals by March 2017, the Board will schedule most of them for adjudication.

Once related Court and Board decisions are rendered on contingent appeals, the Board will work with the parties to complete these appeals.

In May 2017, the Board will start resolving the newly filed 2017 appeals.

### **Targets for 2017:**

1. To complete or schedule for hearing, by March 31, 2017, 75 to 85% of the active 2016 commercial and industrial appeals.
2. To complete or hear, by December 31, 2017, 90 to 100% of the 2017 residential appeals.
3. To complete or schedule for hearing, by March 31, 2018, 75 to 85% of the active 2017 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 2017 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, 2016

<b>Name</b>	<b>Position</b>	<b>Term Expiry Date</b>
Simmi Sandhu	Chair	March 31, 2018
Erin Frew	Vice Chair	July 21, 2019
John Bridal	Member	December 31, 2019
Winton Derby	Member	December 31, 2019
Larry Dybvig	Member	December 31, 2019
William Everett	Member	February 18, 2018
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
Don Risk	Member	December 31, 2017
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, 2018

## **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

### 2016 Appeal Completions Compared to 2015

Period	Appeals at Beginning of Period	Appeals at December 31	Appeals Completed Within Period	% Completed in Period
<b>2016</b>				
New Appeals	2,197	965	1,232	56%
Prior Year Appeals <sup>1</sup>	1,349	826	523	39%
<b>Year 2016 Total</b>	<b>3,546</b>	<b>1,791</b>	<b>1,755</b>	<b>49%</b>
<b>2015</b>				
New Appeals	2,338	877	1,461	62%
Prior Year Appeals	997	464	533	53%
<b>Year 2015 Total</b>	<b>3,335</b>	<b>1,341</b>	<b>1,994</b>	<b>60%</b>

1. Four 2013 and 2014 appeals were re-opened after the BC Supreme Court referred them back to the Board.

## Appendix 4

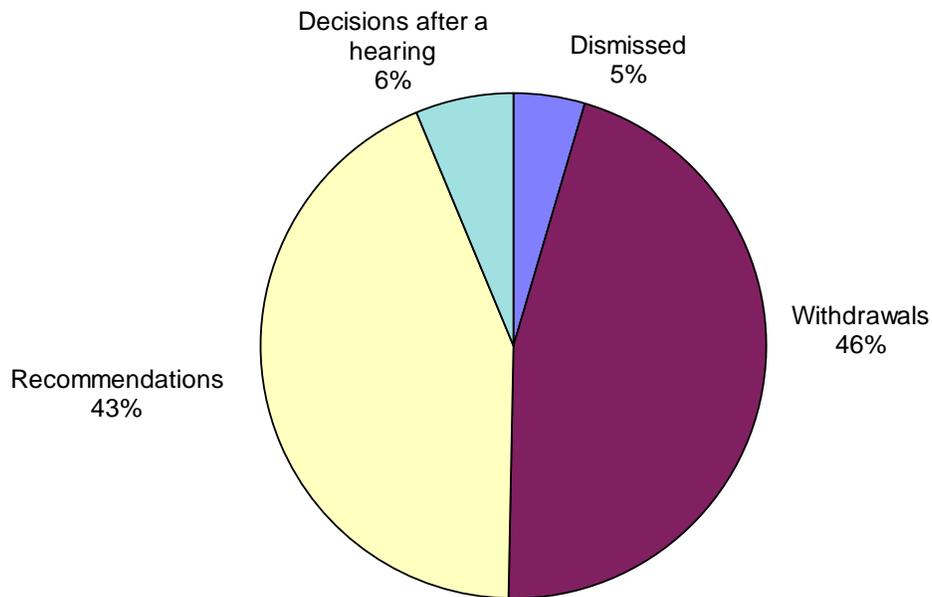
### Appeal Completions by Year of Appeal

Year filed	Appeals at Beginning of Year	Method of Completion				Total Completed	Appeals Outstanding at Dec 31/16
		Dismissed	Withdrawals	Recommendations	Decisions after a hearing <sup>1</sup>		
2016 <sup>2</sup>	2,197	79	569	509	75	1,232	965
2015	877	1	223	241	24	489	388
2014	153	0	8	11	6	25	128
2013	101	0	3	0	5	8	93
2012	71	0	0	1	0	1	70
2011	48	0	0	0	0	0	48
Pre-2011	99	0	0	0	0	0	99
<b>TOTAL</b>	<b>3,546</b>	<b>80</b>	<b>803</b>	<b>762</b>	<b>110</b>	<b>1,755</b>	<b>1,791</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 2016 appeals is from May 1 to December 31.

### Method of Completion of Appeals in 2016



## Appendix 5

### Summary of Outstanding Appeals

APPEAL STATUS	OUTSTANDING APPEALS						
	TOTAL	2016 APPEALS <sup>1</sup>			PRIOR YEARS <sup>2</sup>		
	Dec 31/16	Dec 31/16	April 30/16	Inc./((Decr.))	Dec 31/16	Dec 31/15	Inc./((Decr.))
Appeal Management in Progress	878	631	2,197	(71%)	247	510	(52%)
Scheduled For Hearing	29	10	0	N/A	19	13	46%
Pending Board or Court Decision	831	282	0	N/A	549	729	(25%)
Decision in Progress	53	42	0	N/A	11	97	(89%)
Total Outstanding Appeals	1,791	965	2,197	(56%)	826	1,349	(39%)

Notes:

1. April 30, 2016 was the filing deadline for the 2016 appeals.
2. Includes all outstanding appeals to the Board from the 2015 and earlier rolls.

## Appendix 6

### Board Activities in 2016 Compared to Prior Years

Board Activity	Results in year:				
	2016	2015	2014	2013	2012
<b>Overall Appeal Caseload</b>					
New Appeals Registered	2,197	2,338	1,556	1,769	2,018
Prior Year Appeals (beginning of year)	1,349	997	911	1,165	891
Total Appeals	3,546	3,335	2,467	2,934	2,909
<b>Appeal Management Conferences (AMCs)</b>					
# of AMCs Conducted	350	456	445	513	584
# of Appeals Involved	1,832	3,053	1,017	1,300	1,523
<b>Settlement Conferences Held</b>	17	22	13	15	19
<b>Hearing Statistics</b>					
# of In-Person Hearings	11	8	11	8	11
# of Hearing Days	22	8	24	22	26
# heard by Written Submissions	103	80	71	125	112
<b>Appeal Completion Method</b>					
By withdrawals/dismissal orders	883	1,004	735	993	776
By recommendations	762	885	616	869	830
By decisions after a hearing	110	105	119	161	138
<b>Appeals</b>					
Number Completed	1,755	1,994	1,470	2,023	1,744

## 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
2016/17 <sup>1</sup>	678	235	5	102	124	61	1,205	45	1,160
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
2009/10	772	140	34	110	158	33	1,247	61	1,186

**Notes:**

1. Expenditures for fiscal year 2016/17 are forecasted based on actual expenditures to January 31, 2017.
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.