



## CODE OF CONDUCT AND PERFORMANCE EXPECTATIONS

November 2015

This document has two parts. The first part is the code of conduct ("Code") of the Alberta Surface Rights Board and the Alberta Land Compensation Board (the Boards), which applies to all Board Members. The second part incorporates by reference the performance measures and quality assurance standards that apply to all Board Members.

Both parts are reviewed at least every 36 months by the Chair with a view to ensuring ongoing effectiveness.

Each Board Member must affirm to the Chair, at each appointment or reappointment, her or his ongoing agreement to abide by the Code and to meet the performance expectations as part of the Member's evaluation.

## PART 1 – CODE OF CONDUCT

The Code reflects a commitment to the Boards' values and provides a framework to guide ethical conduct in a way that upholds the integrity and reputation of the Boards. Board Members are expected to behave in a way that conforms to this Code. Because they understand that this Code does not cover every specific scenario, they agree to use the spirit and intent behind it to guide their conduct where its provisions do not apply directly.

To demonstrate transparency and accountability, this Code is available to the public on the Boards' website and is filed with the Agency Governance Secretariat.

This Code applies to all Board Members of the Boards, including those who are full-time and those who are part-time. Employees are Government of Alberta employees and, as such, are subject to the Code of Conduct and Ethics for the Public Service.

### A. The Boards' Core Values

- i) **Respect** – respect is conveyed through a consistent display of honesty, integrity and empathy.
- ii) **Excellence** – a high standard of performance is achieved through accountability, a commitment to quality, consistent service, and continuous learning.
- iii) **Fairness** – fairness is achieved through being independent, impartial, unbiased, and by treating everyone equitably.
- iv) **Co-operation** – co-operation is achieved through open internal and external communication, and by operating as a team that is respectful of all contributions and recognizes the authority of the Chair of the Boards to establish policies, rules, guidelines, and other standards, protocols and procedures necessary for the effective governance of the Boards.

## B. Guiding Principles

These principles guide the behaviour and decisions of Board Members:

- a. Board Members behave in a way that demonstrates that their actions and decisions are ethical, impartial, independent, and in alignment with the Boards' core values.
- b. The actions and decisions of Board Members are taken and made in good faith to promote and uphold the law and the public interest, and to advance the mandate and long-term interests of the Boards.
- c. Board Members have a responsibility to act in good faith and to place the interests of the Boards above their own private interests.
- d. When a Board Member, as an individual, is subject to more than one code of conduct, the Board Member must consider the expectations in all. Board Members understand that this Code is not intended to conflict with other codes of conduct, and will discuss any potential conflicts between codes with the Chair of the Boards.
- e. The Code applies to all Board Members unless a specific exemption is granted in writing by the Chair of the Boards.
- f. When Board Members become aware of a real or apparent conflict of interest, they must at the first opportunity disclose this conflict to the Chair of the Boards.
- g. Board Members understand that disclosure itself does not remove a conflict of interest.
- h. Board Members encourage their colleagues to act fairly and ethically, and know that they are able to raise concerns about a suspected breach by another Member to the Chair of the Boards.
- i. Board Members know that breaches of this Code may result in rescission of their appointment as a Member of the Boards or termination of their employment at the Boards.

- j. If they have any questions about this Code, or are not sure how to apply these principles, Board Members should consult with the Chair of the Boards.
- k. Each Board Member confirms, upon commencement of appointment or reappointment, understanding of a commitment to the Code's provisions.

### **C. Behavioural Standards**

Behavioural standards help Board Members make appropriate decisions when the issues they face involve ethical considerations. Behavioural standards cannot cover all situations but provide guidance in support of day-to-day decisions. Board Members are governed by the following standards. They must:

- a. Not engage in any criminal activity and must comply with all relevant laws, regulations, policies and procedures.
- b. Not use their status or position with the Boards to influence or gain a benefit or advantage for themselves or others.
- c. Contribute to a safe, healthy and productive workplace that is free from passive resistance, obstruction of Board policies, rules, guidelines and other standards, protocols and procedures, discrimination, harassment or violence. This applies to behaviours in and out of the office, including online behaviours.
- d. Not use drugs or alcohol in a way that affects their performance and safety or the performance and safety of their colleagues, or that negatively impacts the Boards' reputation or operations.
- e. Not comment publicly to the media about the Boards or its work without first consulting with the Chair of the Boards. Board Members must not comment at all in the media about the Boards or its work. Board Members must promptly notify the Chair of the Boards of any media requests for comment and the Chair of the Boards will deal with them.
- f. Take reasonable steps to protect the privacy of the individuals the Boards serve. This impacts Board Members' behaviour, including how Board Members conduct themselves on social media websites. Board Members

must be careful to avoid disclosing others' personal information and must avoid holding out their own personal opinions as representative of the Boards' opinion.

- g. Take reasonable steps to avoid situations where they may be placed in a real or apparent conflict between their private interests and the interests of the Boards. In other words, actions or decisions that Board Members take on behalf of the Boards must not provide them with an opportunity to further the private interests of themselves, their families, their business associates or others with whom they have a significant personal or business relationship.

The following specific requirements apply:

### **1. Confidential Information**

Board Members must respect and protect confidential information, use it only for the work of the Boards and not use it for personal gain. Board Members must comply with the *Freedom of Information and Protection of Privacy Act*, as applicable.

Confidential information includes personal information received by the Boards in the course of business, as well as information pertaining to decision processes of the Boards.

### **2. Gifts and Gratuities**

Board Members must not accept or receive gifts and gratuities other than the normal exchange of gifts between friends or business colleagues, tokens exchanged as part of protocol, or the normal presentation of gifts to people participating in public functions.

### **3. Outside Activities**

Board Members must avoid participating in outside activities that conflict with the interests and work of the Boards. For example:

- a. **Business Interests:** Board Members must not hold interests in a business directly or indirectly through a relative or friend that could benefit from, or influence, the decisions of the Boards.
- b. **Employment:** Board Members must not take employment that affects their performance or impartiality.
- c. **Political Activity:** Board Members may participate in political activities including membership in a political party, supporting a candidate for elected office, or seeking elected office. However, they must not participate directly in soliciting contributions for a political party.

In addition, any political activity must be clearly separated from activities related to the work for the Boards, must not be done while carrying out the work of the Boards and must not make use of Board facilities, equipment or resources.

- d. **Volunteer Activity:** If Board Members are involved in volunteer work, the activity must not influence or conflict with decisions relating to the Boards or affect their performance or impartiality.

#### **4. Before Board Members Leave the Boards**

Board Members considering a new offer of appointment must be aware of and manage any potential conflicts of interest between their current position and their future circumstance, and must remove themselves from any decisions affecting their appointment.

#### **5. After Board Members Leave the Boards**

Once a Board Member has left the Boards, the Board Member must not disclose confidential information, including information pertaining to the Boards' processes, of which he or she became aware while a Board Member, and he or she must not use contacts with former colleagues to gain an unfair advantage for his or her current circumstance. To avoid conflict, former Board Members may not appear as

representatives before the Boards, or provide advice to others appearing before the Boards for twelve (12) months after the termination of their appointment.

## **6. Related Persons or Parties**

Board Members must avoid dealing with those people where the relationship between them might bring into question their impartiality.

## **D. Code-Related Administrative Processes**

### **1. Administration**

Administrative processes help Board Members manage ethical dilemmas, including any real or apparent conflict of interest concerns.

The Chair of the Boards receives and ensures the confidentiality of all disclosures, except for disclosures made to the Ethics Commissioner, pursuant to the cabinet directive regarding Financial Disclosure and Conflicts of Interest dated February 3, 1993.

The Chair of the Boards ensures that any real or apparent conflict of interest is avoided or effectively managed. As well, the Chair of the Boards is responsible for providing advice and managing all concerns and complaints concerning potential breaches of the Code within the Boards.

### **2. Disclosure**

It is the responsibility of each Board Member to declare in writing to the Chair of the Boards those private interests and relationships that they believe could be seen to impact the decisions or actions they take on behalf of the Boards. When there is a change in their responsibilities within the Boards or in their personal circumstance, including a change in volunteer or employment circumstances, Board Members shall disclose in writing any relevant new or additional information about those interests as soon as possible. Where a real or apparent conflict of interest cannot be avoided, Board Members must take the appropriate steps to manage the conflict.

Board Members disclose these real or apparent conflicts of interest so that the Chair of the Boards is aware of situations that could be seen as influencing the decisions or

actions they are making on behalf of the Boards. This provides Board Members, following a review by the Chair of the Boards, an opportunity to take action to minimize or remove the conflict. To actively manage a conflict of interest, options include:

- removing themselves from matters in which the conflict exists or is perceived to exist;
- giving up the particular private interest causing the conflict; and
- in rare circumstances, resigning their position with the Boards.

### **3. Reporting a Potential Breach by Another**

Board Members are encouraged to report to the Chair of the Boards, in writing, any apparent or potential breach of the Code.

### **4. Responding to a Potential Breach**

If an apparent or potential breach has been reported, the Chair of the Boards will review the circumstance and details and will notify the Board Member involved. The Board Member in question has the right to complete information and the right to respond. The identity of the Board Member who reported the matter will not be disclosed unless required by law or in a legal proceeding. The Chair of the Boards will make a decision, and then complete a report of the review in a timely manner.

### **5. Consequences of a Breach**

Board Members who do not comply with the standards of behaviour identified in this Code, including taking part in a decision or action that furthers their private interests, may be subject to disciplinary action up to and including removal of the Board Member.

### **6. Review of a Decision**

Board Members can request in writing that the Ethics Commissioner review a decision that has been made by the Chair of the Boards about a real or apparent breach of this Code, including a conflict of interest involving that Member.

## **E. Other Resources**

### **1. Where to Get Advice**

A Board Member, who requires advice and guidance in determining whether misconduct or a conflict exists, or who needs clarification, may seek it from the Chair of the Boards or, in the case of the Chair of the Boards, from the Ethics Commissioner.

### **2. Questions to Consider**

When Board Members are faced with a difficult situation, the following questions may help them decide the right course of action:

- Have I reflected on or consulted with the Chair of the Boards about whether I am compromising this Code's values, principles or behavioural standards?
- Have I considered the issue from a legal perspective?
- Have I investigated whether my behaviour aligns with a policy or procedure of the Boards?
- Could my private interests or relationships be viewed as impairing my objectivity?
- Could my decision or action be viewed as resulting in personal gain, financial or otherwise?
- Could my decisions or actions be perceived as granting or receiving preferential treatment?

## **PART 2 – PERFORMANCE EXPECTATIONS FOR BOARD MEMBERS**

### **A. Performance Expectations Relating to the Boards' Decisions**

The Chair of the Boards is responsible and accountable for the management and administration of the Boards. The Boards are independent, quasi-judicial administrative tribunals. It must perform its functions and duties in accordance with the law. It strives to produce legally sound, well-reasoned, clearly written, and timely decisions. The performance measures and quality assurance standards adopted by the Chair of the Boards are intended to assist Board Members in meeting these objectives.

It is recognized that the Boards' effectiveness depends upon timely and competent decision-making. The Chair of the Boards has devised performance measures and quality assurance standards for the Boards, which may be amended as needed, to provide objective parameters to assist in meeting these goals.

Decisions are to be written in accordance with the guidelines, policies and protocols developed by the Boards. Decisions must accord with legislation, policy and natural justice, and they must align with the Boards' performance measures and quality assurance standards. Board Members acknowledge the importance of seeking consistency in decision-making so that applications with similar facts will result in decisions with similar outcomes.

Board Members recognize that the reputation of the Boards is built or diminished one decision at a time and that the essence of responsible decision-making by a quasi-judicial administrative tribunal is consistency. Board Members will participate in plenary sessions to promote decision consistency and shall, to the extent practicable, write decisions in conformity with leading decisions.

Board Members agree that the expectations regarding timeliness, quality, or consistency expressed by the Chair of the Boards do not in any way affect adjudicative independence respecting any application or matter.

## **B. Performance Expectations for Working Relationships**

In all aspects of their work with the Boards, Board Members are expected to demonstrate the following qualities and competencies, which the Chair of the Boards will assess as part of each Board Member's performance assessment. Performance criteria may be amended; however, the following characteristics shall remain part of the criteria, where applicable:

- a. Appropriate time management, hearing management and writing skills, including the ability to consistently meet both the Boards' performance metrics for decision completion and expectations for work volume;
- b. A sound understanding of all applicable legislation, relevant case law (including administrative law principles), the Boards' Rules, and the application of each of these to the issues and facts of each decision;
- c. Support for the overall practices, protocols and objectives of the Boards and its' administration, including support of the authority, responsibility and decisions of the Chair of the Boards.
- d. Contribution to the Boards by effective participation on a committee determined by the Chair of the Boards, and active interest and participation in discussions impacting the Boards' operations and procedures;
- e. Collegiality and professionalism in dealings with other Board Members and staff, including a willingness to participate in and support activities that encourage a welcoming, enthusiastic, and sociable environment;
- f. Consensus-building skills when working with other Board Members or staff;
- g. Strong listening and communication skills in dealings with other Board Members or staff and in relation to those who appear before the Boards;
- h. Open-mindedness, neutrality, impartiality, respect, and fairness.

At least bi-annually, the Chair of the Boards or a delegate will conduct an evaluation, in writing, of each Board Member's performance measured against the above expectations and the Board Member's performance generally.