

Bryant, Shellie

From: Cameron Choquette [REDACTED]
Sent: May 29, 2020 9:25 AM
To: Bryant, Shellie
Subject: [SPAM] - BOR Governance Review Submission - Found word(s) beneficial offer in the Text body

Good morning, Shellie.

I'm pleased to offer my comments on the decision report to be presented to GPC and Council.

- Training for the Board and Secretary is key to ensuring consistent decisions across various appeal years.
- Compensation may positively impact the ability to recruit more qualified individuals to the Board.
- Creating a more intentional performance evaluation plan for BOR members will help improve decision writing consistency and identify where training needs to be improved.
- With the increased complexity of tax assessments, it is crucial that Panel Chairs be able to navigate the hearings and the various documents associated with the hearings.
- It is important for GPC and Council to consider the impacts of the BOR and how it influences tax policy in our City.

A couple of training ideas that I've seen are through the Canadian Association of Administrative Tribunals - they have an online decision writing course that I have pondered taking and may do so in the future. Perhaps a board membership to this agency or the provincial agency could be beneficial for the Board and Secretary.

I'd be happy to speak before GPC or Council on this matter if you and Adrian would like.

Cam

Bryant, Shellie

From: Randy Pangborn [REDACTED]
Sent: May 23, 2020 10:01 AM
To: Adrian Deschamps
Cc: Bryant, Shellie
Subject: GPC recommendation - my comments

That the Governance and Priorities Committee recommend to City Council that option

1 be pursued: **I agree**

1. That preferred qualifications advertised for potential appointees to the

Board of Revision be amended to include:

- Previous real estate experience; **I agree with the comments made during our call this week. This is not a qualification that is necessary.**

- Previous assessment or property appraisal experience; **This not a qualification that is necessary**

- Previous experience on or with a quasi-judicial or an administrative tribunal; **Agree**

- The ability to be fair, open-minded and impartial; **Agree**

- The ability to conduct themselves with integrity and consistency; **Agree**

- The ability to interpret and apply the relevant statutes and case law to complex scenarios; and **Agree**

- The ability to absorb and analyze complex material information and write comprehensive, intelligible decisions. **Agree**

2. That the compensation of members appointed to the Board of Revision be increased as of January 1, 2021 as outlined in this report. **Agree**

3. That advertising forums for Board of Revision vacancies be reviewed and expanded at the discretion of the City Clerk's Office. **Agree**

4. That training options for both Board of Revision members and the Board of Revision Secretary be explored and mandatory training be implemented for

2021 appointments. *Totally agree, this has been a weakness for the BoR. We need a robust quality review feature and a system to ensure consistency in our decisions. The same set of facts and circumstances should result in the same decision.*

5. That resources, including access to legal counsel for members appointed to the Board of Revision and the Secretary to the Board of Revision continue to be offered and the potential to increase access to those resources be further explored. *Agree*

6. That a process be established for the performance evaluation of appointed Board of Revision members for consideration by the Governance and

Priorities Committee in advance of reappointments and to identify potential

areas for further training and development. *Strongly agree. I feel, over the years, we have some board members who are very competent and some are barely competent*

Further, I believe that the administrative duties such as word processing and formatting need to be left to those in the City Clerks office who have the training and expertise to do this.

Thank you for the opportunity to provide comments.

And thank you for your thoroughness and thoughtfulness on Board of Revision matters

Randy

I believe the preferred qualifications should be the same as in the qualifications of the current Calgary Assessment Review Board ("CARB"). I.e. BOR members should demonstrate that they have significant knowledge of the real estate industry and preferably have experience in the following areas:

- ☑ Real estate;
- ☑ Property management, development, and appraisal;
- ☑ Assessment.

The British Columbia's Assessment Review Board ("BCARB") lists the following preferred qualifications:

- ☑ Previous assessment review panel experience;
- ☑ Real estate market knowledge;
- ☑ Property appraisal skills;
- ☑ Business experience; and
- ☑ Mediation skills.

The above can be obtained by completing relevant courses and training. E.g. courses of the Appraisal Institute of Canada (University of British Columbia) and complete training courses through the Alberta Ministry of Municipal Affairs

Provincial training requires potential CARB members to receive certification prior to hearing assessment appeals. The Alberta Training Manual covers the following topics for both panel members and clerks/secretaries:

- ☑ Administrative law, including the duty of fairness;
- ☑ Assessment principles;
- ☑ How evidence is treated;
- ☑ Conducting a hearing; and
- ☑ How to write a decision.

I believe additional training that would benefit BOR members is Basic Statistical Analysis and Regression Analysis, as well as understanding how mathematical models are used in property development, appraisals, and assessments.

Knowledge of basic micro-economics (theory of demand and supply, equilibrium price and quantity, real estate markets etc.) and understanding how external forces such as Covid 19 impact on the equilibrium point. In addition understanding the mathematical concept or model of Net Present Value (NPV) in property development should enable BOR member to better appreciate the business of real estate markets.

This is a tall order, but achievable!

Governance Review – Board of Revision – Decision Report

Comments by Asit Sarkar, Member and Vice Chair, Board of Revision

This report addresses three issues – member recruitment, qualifications, training and remuneration. While matters of training and remuneration require attention, the Report does not provide *how* changes in recruitment process could improve Board performance, nor does the discussion regarding the qualification of Board members leads to the proposed changes in qualifications. The Report also mentions a number of assumptions about Board decisions and their relationship to Board member qualifications. More specifically,

1. With regard to the current working of the Board, the Report makes two assumptions about the Board (a trier of fact; an expert panel; acting in a manner of procedural fairness, accuracy of property assessment value reflected in Board decisions) but does not provide any data on Board decisions, AAC decisions on appeals of Board decisions and in particular, the extent to which Board decisions were overturned by AAC because the Board misinterpreted the state of existing jurisprudence, accepted evidence improperly or acted unfairly in its hearings. In the absence of such evidence, it is difficult to make a case one way or the other how any rewriting of member qualifications would improve Board performance. It is important to recognize that the Board, acting as an appellate body, has the responsibility to accord both appellant and assessor a fair hearing. Therefore, the Board emphasizes that it is charged to act in an impartial manner. While there is scope for highlighting certain qualifications of prospective Board members such as - previous assessment or property appraisal experience; previous experience on or with a quasi-judicial or an administrative tribunal; ability to be fair, open-minded and impartial; ability to conduct themselves with integrity and consistency – the recommendation to place “previous real estate experience” ahead of the others has not been justified by any objective evidence (other than what is listed for Calgary Board). There are a number of instances where the Board was presented with evidence from appellants that were based on real estate appraisals. In all of these cases, these represented single property assessments or were not information from the Base year of assessment. The Board consistently ignored such information. Thus, flagging “previous real estate experience” as the top preferred qualifications will contribute very little to the improvement of Board performance. Where the Board felt that the appellant has not been provided with adequate information to formulate the appeal, the Board questioned the process of information seeking and response from the assessor prior to the hearing in order to ensure that fair consideration of the appeal can be made.
2. Board training is one of most important determinants of Board performance, particularly in discharging its “duty of fairness” in an appropriate manner. In the past two years, this has been a key part of the training, particularly in ensuring that the duty of fairness is also applied in terms of allowing evidence and evaluating evidence. The other important component of training would be the mass appraisal process and its relevance to the assessed value. In addressing it, it is important to recognize that while mass appraisal basis is viewed as an objective measure, the Board has been presented with evidence

from time to time where appellants questioned Assessor's selection of properties or boundaries. The Board, in all such cases, applied its duty of fairness in evaluating the two positions and came to its decision. Although I do not have all the data on these, it would be a rare situation where AAC questioned the Board's decision as being inappropriate.

3. With regard to instituting a process to review Board (or member) performance, such an ongoing process can contribute to improvements in Board performance and will have the support of the Board.
4. With regard to remuneration, a revaluation is overdue. The Council may deem it appropriate to adjust the level of remuneration periodically, perhaps every five years.
5. The Report mentions the University of Saskatchewan- City of Saskatoon research project on governance of Boards and agencies. In order that such research incorporates all relevant input, it is essential that Board of Revision members are able to provide input on matters that involve judgements on Board performance.

Input from June Bold for the Board of Revision's Written Submission to the City of Saskatoon's BOR Governance Review 2020

The input below is in response to the City of Saskatoon's Governance Review Reports (Decision Report and Approval Report) considered by Saskatoon's Board of Revision (BOR) at its annual organizational meeting on May 21, 2020. The Board had a good discussion about the matters raised in the governance review material and the recommendations therein. It was clear that there was solid consensus among BOR members on the matters raised and discussed, the highlights of which were no doubt captured by the support staff who participated in the meeting.

The BOR welcomed the Governance Review currently underway and appreciated the opportunity to provide feedback and input. We, in fact, have had discussions about some of these matters in previous years. Below are my points for input into the BOR's written submission to the City's Governance and Priorities Committee, as requested of all BOR members.

INPUT

The BOR supported Option 1, which is the option being recommended by staff to the City's Governance and Priorities Committee and is "To amend qualifications, compensation, training, and Resources of the Board of Revision".

a. Qualifications

Option 1 includes in its recommended qualifications previous real estate experience and previous assessment or appraisal experience. I agree with the BOR discussion that these qualifications are less important than the other qualifications listed. In fact, during hearings, real estate listings and appraisals are usually disregarded because the system focusses on mass appraisal, not individual property values.

The other qualifications listed in Option 1 are important and relevant. In addition, I would suggest the addition of some experience with statistical analysis and modelling, which is how our Assessors develop their assessments using market data from large numbers of property sales and rental / lease information. During some hearings, many hours are spent on defining what certain statistical measures and methods actually mean, because they are so important for understanding the evidence before the Panel.

An emphasis on both the ability and the willingness to take on decision-writing is critical. Perhaps, during recruitment, applicants could be asked to provide evidence of their track record in this area (e.g., an indication of some things they have written or that this skill was part of previous positions they have held).

b. Compensation

The BOR's compensation rates have remained unchanged for over 10 years, as the City's Decision Report indicates. The rates are now quite low, relative to the qualifications and responsibilities required of BOR members. Furthermore, the compensation system does not take into account the actual time involved when complex appeals are heard, given the amount of time spent reading very large packages of material, reviewing relevant legislation and decisions, hearing more than one appeal in a week, and writing decisions that can take several days. The time sheets provided to BOR members limit the amount of time that can be compensated for preparation, deliberation and writing per week, regardless of how many days are actually spent in those activities during busy times and on complex cases. Some extra time can be paid for but that requires a special approval process, which is seldom used, as far as I know.

I suggest that further research be done on compensation received by similar tribunals in various jurisdictions to determine the range of appropriate rates and methods. It may be useful to 'tag' BOR compensation rates to another relevant indicator or rate in the system, so that when the indicator rate changes, the BOR's rates are adjusted accordingly even so often (e.g., each assessment cycle). For example, in a previous leadership position I had, my salary was tagged to a provincial government salary level, so that when it changed, my salary was adjusted accordingly. It reduced the need to renegotiate regularly and also kept the salary competitive with similar positions. Such systems reduce administrative burden and contribute to retention, because compensation levels stay up-to-date.

I realize that BOR members are classified as volunteers and that their compensation is considered an honorarium. Therefore, compensation rates will not reflect salaries received by people similarly qualified who are employed rather than serving voluntarily. However, I think an increased rate may help with recruitment and retention.

BOR members are also expected to have appropriate technology (computer with internet access, software, printer, etc.) to perform their duties. This need will grow as the system seems to be moving more towards e-business. BOR members could be offered an allowance for acquiring such technology, especially if specific types are required.

c. Training

While BOR members are selected for their qualifications and should therefore be expected to have the essential skills, there is still a need for certain types of training.

First, an overview of the assessment system is necessary, including how the assessors build their models using large data sets, statistical analysis, and mass appraisal. It would also be helpful to have the different parts of the system explained, i.e., who does what, how it all fits together, what the SMB does and how, etc. While this knowledge can be acquired through experience on the BOR, it would be helpful for new members to have an overview of it early on in their service.

All BOR members should be encouraged to take a course in the Principles of Administrative Justice, if they don't already have one. Also, refresher courses should be encouraged for members who took such training some years earlier, as new methods and strategies emerge. These can be taken online, e.g., see <https://foaj.ca/>. Offering an allowance for such training (i.e., a cost-sharing approach) would encourage board members to take it up.

CLOSING

I feel privileged to serve on the Board of Revision. It is important work and the members take their responsibilities very seriously. It should also be recognized the BOR is one part of the system and its decisions are influenced by how other players, such as the Assessors, Appellants and Tax Agents, carry out their roles, and what is or is not presented or revealed during a hearing.

Assessment appeals and hearings are of course also shaped by the current assessment system, which is updated using more recent data every four years but is also based on some aspects that have not been updated in much longer than that. In my view, this is something that should be addressed to avoid having the BOR and the whole appeal process devoting precious time to hearing many of the same issues repeatedly. This may require reviewing *The Cities Act*. This note is to clarify the point I make in my 'input' document about possibly needing to review *The Cities Act*. By this I meant that certain sections of *The Act* may not currently be fully adhered; I am referring specifically to S 226 (5) which requires the assessor to change the assessment roll to reflect BOR decisions (which doesn't seem to happen) and S 227 (which states that repeated

appeals of the same matter for the same property are not actually necessary unless the appeals have run the full range of appeal options).

May 22, 2020: June Bold, BOR member,

Hi Shellie – meeting went well this morning

My thoughts on the Governance Review recommendation (as found at p. 30):

#1.

The “preferred qualifications” to be advertised for potential candidates seems to place a priority on some form of real estate experience, perhaps because it is listed first. In my experience, the last “qualification” might be better off listed first because that has been the greatest impediment to a candidate’s success on the board.

Even if a candidate meets all of the other “qualifications”, they cannot be a contributing board member if they cannot reasonably meet that last “qualification”.

On our current board (and every previous board) the members have had varying degrees of decision writing expertise. Your office learns this very quickly and I suspect that it greatly influences how panels are put together and hearings assigned.

In short, it would be misleading to place “previous real estate experience” as the very first “qualification”. I have had the pleasure to work with many very capable writers, not one of whom had any real estate experience. However, I did work with one very nice gentleman who was a former municipal administrator and was quite familiar with SAMA and the Saskatchewan system of assessment. I met privately with him several times to give him some assistance with decision writing. When he resigned, it was because he was tired of the struggle he had with the writing.

I would reverse the order of those “qualifications” top to bottom and identify real estate and property assessment experience not as “qualifications”, but rather as “assets”.

#2. Reasonable and expected.

#3. A very practical suggestion.

#4. We have discussing the need for this for some time.

#5. Another very practical suggestion.

#6. Long overdue.

Adrian