

Appeal Process

Preamble

Article 8 of the Municipal Pension Plan Joint Trust Agreement (the “Joint Trust Agreement”) provides that a person, an organization or a person and an organization directly affected by a decision of the Pension Corporation in the application of Pension Plan Rules (an “Appellant” or “Appellants”) may, by written notice to the Municipal Pension Board of Trustees (the “Board”), appeal all or part of the decision in accordance with the practice and procedures for appeals to the Board.

Appeals Panel

Under the authority granted to it by the Joint Trust Agreement the Board has established an Appeals Panel (the “Panel”) to hear appeals. The terms of reference adopted by the Board in establishing the Panel (the “Terms of Reference”) specify that a quorum shall consist of at least four members, of whom two (2) must be Employer Trustees (or alternates) and two (2) must be Member Trustees (or alternates).

The Board Chair or his or her designate presides over the Panel.

For an appeal referred to the Panel:

- (a) the Panel has all the jurisdiction and may exercise the powers and perform the duties of the Board; and
- (b) a decision of the Panel is a decision of the Board.

All appeals have been referred to the Panel except those, which the Board, by resolution, exempts from the Panel. The Panel can also recommend an appeal be referred back to the Board.

The Terms of Reference require Panel members to declare any conflict of interest in accordance with the Board’s policy on conflicts of interest and to refrain from participating in the disposition of the appeal where a conflict exists.

The Panel has the authority to adopt its own rules of procedure, provided that they are consistent with the Joint Trust Agreement, the Plan Rules and the Terms of Reference.

This document sets out the Panel’s practices and procedures for appeals. This document is subject to amendment by the Panel from time to time. Appellants should confirm with the Registrar that they have the most current version.

Appeals Registrar

The Board has appointed a Registrar to administer the appeal process on behalf of the Panel (the “Registrar”). All notices and other communications concerning an appeal should be directed to the Registrar. Contact particulars for the Registrar can be obtained from the Pension Corporation or the Municipal Pension Plan Website.

Matters that can be appealed

Any decision of the Pension Corporation (who acts as the Board’s administrative agent) regarding the application of the Pension Plan Rules can be appealed. The decision being appealed must be confirmed in writing by the Pension Corporation before an appeal can be initiated. A decision of the Superannuation Commission made before the Pension Corporation became the administrative agent of the Pension Plan is not subject to appeal.

If the Registrar determines that an Appellant does not have a written decision from the Pension Corporation, the Appellant will be informed that his/her correspondence has been forwarded to the Pension Corporation for a written decision. The Pension Corporation will be requested to provide the Appellant with a written explanation of how the Pension Plan Rules were applied within 30 days. If an Appellant disagrees with the written response provided by the Pension Corporation, the Appellant may initiate an appeal in accordance with these practices and procedures for appeals.

Time limits to initiate an Appeal

Appeals must be initiated by written notice to the Registrar within one year of the date of the written decision of the Pension Corporation (the “Limitation Period”). The Limitation Period shall not commence until the Pension Corporation provides its written decision.

The Panel may grant an extension of the Limitation Period provided the Appellant demonstrates by written application to the Panel good and sufficient reason to the satisfaction of the Panel why the appeal was not initiated within the Limitation Period.

Where the Registrar receives an appeal out of time the Registrar shall so advise the Appellant he or she may apply in writing to the Panel for an extension of the Limitation Period provided the Appellant demonstrates, to the Panel’s satisfaction, good and sufficient reason why the appeal was not initiated within the one-year time limit. On receipt of such application from the Appellant, the Registrar shall forward same to the Panel for consideration.

Who can appeal?

Parties to an Appeal

Any person, an organization or a person and an organization directly affected by a decision of the Pension Corporation in the application of the Pension Plan Rules may appeal all or

part of that decision to the Panel by written notice to the Panel in accordance with these practices and procedures for appeals.

Where an appeal is initiated by a party other than a plan member who is directly affected by a decision being appealed, the Registrar may request the Appellant to provide a written explanation as to how the Appellant is directly affected by the decision being appealed. On receipt of such written explanation, the Registrar shall forward same to the Panel for consideration along with the other appeal materials.

Third Party/Legal Representation

An Appellant may by written notice filed with the Registrar, authorize another person (e.g. a lawyer or other representative) to initiate and/or pursue an appeal on their behalf. The written authorization must indicate the name, address, and phone number of the Appellant's representative. Upon receipt of such written authorization, the Registrar will direct all correspondence related to the appeal to the representative of the Appellant. The Appellant may revoke any such authorization upon written notice to the Registrar. The Appellant shall be bound by all actions of the representative prior to a written revocation being received by the Registrar.

THE APPEAL PROCESS

Notice of Appeal

To appeal a decision an Appellant must forward a written request to the Registrar.

The written request must include:

- the Appellant's name, address and phone number and person ID number;
- the written authorization, if any, appointing another person to initiate and/or pursue the appeal on the Appellant's behalf;
- a copy of the written decision being appealed;
- the grounds (a detailed explanation of the objections to the decision and a description of any errors or omissions relating to the decision) for the appeal;
- a statement of the facts supporting the appeal;
- a statement of the relief the Appellant seeks; and
- the signature of the Appellant or agent/representative.

An appeal shall be sent to the Registrar by regular or registered mail, delivered in person, faxed or sent by email.

If the appeal submission does not include a written decision of the Pension Corporation, the Registrar will advise the Appellant by letter that a request for a written decision has been made of the Pension Corporation together with a copy of the request.

Acceptance of a Notice of Appeal

The Registrar will review the written Notice of Appeal and any supporting documents for completeness. If the submission is complete, the Registrar will send a written acknowledgement to the Appellant.

If the Notice of Appeal is incomplete, the Registrar will notify the Appellant in writing of the deficiencies. If the deficiencies are not remedied within 90 days, the appeal will be deemed to have been abandoned. After 90 days, the Appellant may thereafter remedy the deficiencies provided the Limitation Period has not expired. Otherwise, to reinstate the appeal the Appellant must apply in writing to the Panel for an extension of the Limitation Period which extension may be granted if the Appellant demonstrates to the Panel's satisfaction good and sufficient reason why the deficiencies were not remedied in time.

While many decisions under appeal can have implications for the Pension Plan as a whole, the appeal jurisdiction is limited by the Joint Trust Agreement and the Terms of Reference to a person or organization directly affected by the particular decision under appeal. Where it appears to the Registrar that a person or organization other than the Appellant may be directly affected by a decision of the Pension Corporation in the application of the Pension Plan Rules, or a person or organization asserts that they are so affected, the Registrar shall provide the Panel with a briefing note for its consideration outlining the relevant circumstances as well as all available documentation. On consideration of the Registrar's briefing note, the Panel shall determine whether such person or organization is directly affected by the decision under appeal and if so that person or organization shall be a "Third Party" for the purposes of the appeal in question.

Step 1 Review

Upon receipt of a complete appeal request, the Registrar will forward the appeal together with all the supporting material provided by the Appellant to the Pension Corporation. Upon receiving an appeal from the Registrar, the Pension Corporation will review the original written decision and any other supporting documentation to determine if the Pension Plan Rules were correctly applied. The Pension Corporation will document the results of its internal consideration of the appeal in a written report entitled "Step 1 Appeal Report." The Director of Policy for the Pension Corporation is expected to prepare and provide the Step 1 Appeal Report within 90 days of receipt of the Notice of Appeal. If the Step 1 Report is not prepared within 90 days, the Registrar will contact the Pension Corporation and obtain a status report concerning the appeal. The Registrar will inform the Appellant of the status of the appeal and the reasons for any delays that may be present

(e.g., the material being researched is complex, consultation with legal counsel may be required, etc.).

The Step 1 Appeal Report will either confirm, vary or reverse the original decision. The Pension Corporation will attach to the Step 1 Appeal Report copies of relevant documents that would materially assist the Panel and the Appellant in understanding the basis for the Pension Corporation's conclusions.

The Pension Corporation will forward the complete Step 1 Appeal Report, along with any attachments, to the Registrar. The Registrar will then forward the Report (and attachments if applicable) to the Appellant with a letter advising that if the Appellant is still dissatisfied with the findings, he or she may continue the appeal by filing a Step 2 Notice of Appeal form within 30 days of the date of the Registrar's letter. The Registrar shall also forward the Step 1 Appeal Report to any Third Party with a letter advising the Third Party of the Board's decision to accept them as a Third Party and advising that if the Third Party is dissatisfied with the Pension Corporation's findings, the Third Party may file a Step 2 Notice of Appeal outlining their position and attaching copies of any documents in support thereof within 30 days of the date of the Registrar's letter.

Step 2 Review

If the Registrar does not receive a Step 2 Notice of Appeal within 30 days of the date of the Registrar's letter forwarding the Step 1 Appeal Report to the Appellant and any Third Party, the appeal will be deemed to be abandoned. The Appellant or any Third Party may thereafter file a Step 2 Notice of Appeal provided the Limitation Period has not expired. Otherwise, to reinstate the appeal the Appellant or Third Party, if any, must apply in writing to the Panel for an extension of the Limitation Period which extension may be granted if the Appellant or Third Party, as the case may be, demonstrates to the Panel's satisfaction good and sufficient reason why the Step 2 Notice of Appeal was not filed in time.

In filing a Step 2 Notice of Appeal, the Appellant or Third Party, if any, may submit new information and/or documentation to rebut any of the points raised by the Pension Corporation in the Step 1 Appeal Report.

If the Appellant or Third Party, if any, does not elect to include any new information or evidence with the Step 2 Notice of Appeal, the Registrar will notify the Panel of the appeal and proceed to schedule the appeal for consideration by the Panel. Once a date has been determined, the Registrar will notify the Appellant and any Third Party of the date scheduled for review by the Panel.

If the Appellant files a Step 2 Notice of Appeal and includes additional documentation or evidence, the Registrar will forward the letter and attached material to the Pension Corporation to complete a Step 2 Appeal Report within 30 days or confirm that that it has no further comment.

If the Pension Corporation has no further comment on the new material, the Registrar will notify the Panel and will proceed to schedule the appeal for consideration by the Panel. Once a date has been determined, the Registrar will notify the Appellant and any Third Party of the date scheduled for review by the Panel.

If the Pension Corporation elects to comment upon any new information or evidence presented by the Appellant or Third Party, if any in the Step 2 Notice of Appeal, it will prepare a Step 2 Appeal report within 30 days of the receipt of the Appellant's or Third Party's response to the Step 1 Appeal Report. The report will either confirm that the Pension Plan Rules were correctly applied or conclude, that based on the new information or evidence, the Pension Corporation has decided to vary or reverse its original decision.

The Pension Corporation will attach to the Step 2 Appeal report, copies of relevant documents that would materially assist the Panel, the Appellant, and any Third Party in understanding the basis for the Corporation's conclusions in the Report.

The Step 2 Appeal Process will continue until all new information and evidence has been presented by the Appellant and any Third Party and the Pension Corporation and responses have been received and distributed within the timelines established by the Registrar. Once it has been determined by the Registrar that all submissions have been received, the Registrar will notify the Panel of the appeal and proceed to schedule the appeal for consideration by the Panel. Once a date has been determined, the Registrar will notify the Appellant and any Third Party of the date scheduled for review by the Panel.

HEARING OF THE APPEAL

Written Hearing Procedure

The Registrar will provide the Panel with a copy of the Appellant's Notice of Appeal, all documentary evidence provided by the Appellant and any Third Party, all submissions made by the Appellant and any Third Party, all Appeal Reports prepared by the Pension Corporation, and all documents attached to the Appeal Reports (collectively the "Appeal Submissions").

The Appeal Submissions shall be considered at a duly convened meeting of the Panel at which there is a quorum following which the Panel may:

- (a) adjourn the appeal pending receipt of legal advice from the Boards' counsel;
- (b) adjourn the appeal pending receipt of further information or documentation from the Appellant, the Pension Corporation or any Third Party;
- (c) adjourn the appeal pending an oral hearing at the request of the Appellant, a Third Party or the Panel;

- (d) adjourn the appeal and request the Board consider exempting the appeal from the jurisdiction of the Panel pursuant to the Terms of Reference;
- (e) proceed to dispose of the appeal by confirming varying or reversing the decision being appealed; or
- (f) decline jurisdiction to consider the appeal if in the Panel's opinion the Appellant is not a party who has standing to appeal under the Joint Trust Agreement or the matter being appealed is not a decision of the Pension Corporation in the application of the Pension Plan Rules, in which case the Appellant, any Third Party and the Pension Corporation shall be notified in writing accordingly.

The Appellant and Third Party, if any, will be given written notice of any adjournment and the reasons therefore. Where the Panel receives further information or documentation following an adjournment, the Pension Corporation, the Appellant and any Third party will be given a reasonable opportunity to consider and respond to such further information or documentation before the Panel disposes of the appeal.

Where the Appellant or a Third Party requests an oral hearing, the Panel in its discretion may convene an oral hearing or decline to do so provided the Appellant or Third Party, as the case may be, is provided written reasons for the Panel's decision. Where the Panel denies a request for an oral hearing, the Panel may, in its discretion, consider the merits of the appeal at the same meeting, based on the written submissions provided by all the parties. Where an oral hearing is held at the request of the Appellant, a Third Party or the Panel, the Panel's Oral Hearing Procedure in effect at the time shall govern the conduct of the oral hearing. An oral hearing will be appropriate in limited circumstances such as where issues of credibility are involved or there are material questions of fact in dispute.

Withdrawing or abandoning an appeal

An Appellant or Third Party and/or their representative may withdraw an appeal at any time during the appeal process by providing a signed, written notice. The Panel may elect to issue a Discontinuance of Proceedings to all parties to indicate that the appeal has been abandoned and the record is closed.

Issuance of a decision

The Panel may confirm, vary, or reverse the decision under appeal.

The decision of the Panel is final and binding on all parties.

The Panel will provide the Appellant, any Third Party and the Pension Corporation written reasons for its decision as soon as practical. It is anticipated that written reasons will be available within 30 days of the conclusion of an appeal in most cases. The Panel will

provide the Appellant and Third Party, if any, with written notice if any inordinate delay is expected, providing written reasons, and the circumstances contributing to the delay.

The written decision will set out the reasons for the Panel's decision, the relevant facts, and evidence considered and any legislation or Pension Plan Rules the Panel relied upon in reaching its decision.

Decisions may be published with all information that could identify an individual removed and an alpha/numeric identifier assigned in place of the Appellant's name. A master file copy will be kept by the Board Secretariat and placed in the Appellant's Pension Plan member file.

Decisions will be reported to the Board periodically without disclosing the Appellant's name or any personal information.

Applications to extend limitation period

When considering an application to extend the Limitation Period the Panel shall consider and dispose of the application in accordance with the practices and procedures for hearing appeals to the extent applicable.

Confidentiality

It is likely that documentation provided during the course of a hearing will contain sensitive and personal information pertaining to the Appellant or Third Parties. The Panel shall return all confidential materials to the Board Secretariat after considering and deciding an appeal. One copy of the materials, together with the minutes and other records of the Panel's proceedings shall be kept on file■