



Practice Direction on Appeal Records

The Island Regulatory and Appeals Commission has developed the following Practice Direction to guide parties with respect to the expectation of the Commission regarding the information that is to form the Appeal Record in all appeals before the Commission. The information outlined in this Practice Direction provides general information only. It is not a rule within the meaning of the Commission's [Rules of Practice and Procedure](#). The Commission may vary this Practice Direction where appropriate.

For greater clarity, this Practice Direction applies to all appeals before the Commission except in the case of appeals to the Commission pursuant to the *Residential Tenancy Act*.

Appeal Record

1. The decision-maker responsible for the decision which is the subject of the appeal (the "Decision-Maker") shall file with the Commission, and with any other party, a complete Appeal Record.
2. The Appeal Record is to **contain all documents the Decision-Maker has that are relevant to the appeal**. This includes, but is not limited to, all applications, correspondence, and reports relating to the decision under appeal and a copy of the relevant legislation, regulations and municipal bylaws in force at the material time, including the Official Plan, Municipal Land Use Bylaw, other legislation, or bylaw(s) of a municipality applicable to the decision under appeal.
3. For greater clarity, an Appeal Record generally consists of the following (to the extent they exist):
 - (a) a table of contents;
 - (b) a copy of the application submitted to the Decision-Maker;
 - (c) a copy of the decision under appeal;
 - (d) a copy of any advertisements for any public hearing held relating to the subject of the appeal;
 - (e) a copy of the minutes of any public hearing respecting the subject of the appeal;
 - (f) a copy of the minutes of any council meeting at which the subject of the appeal was discussed, including the minutes of any committee of council at which the subject of the appeal was discussed;
 - (g) a copy of any report, letter, submission, recommendation or other matter respecting the subject of the appeal which was submitted to or was considered by the Decision-Maker, excluding any legal opinion prepared for the Decision-Maker for which privilege is claimed;
 - (h) a copy of all documents and supporting information supplied by the applicant and all correspondence between the applicant and the Decision-Maker relevant to the subject of the appeal;
 - (i) a copy of all internal correspondence of the Decision-Maker relevant to the subject of the appeal, excluding any internal correspondence for which privilege is claimed;
 - (j) a copy of any resolution of the Decision-Maker with respect to the decision that is the subject of the appeal;

- (k) a copy of the publication of the notice of the decision;
 - (l) a copy of the written notice which was sent to the Applicant; and
 - (m) any other documents the Decision-Maker has that are relevant to the appeal.
4. Where the Decision-Maker has audio or video recordings of meetings in which the decision subject to appeal was discussed or considered (e.g. public meetings, committee meetings, and council meetings) the Commission expects that verbatim minutes of those meetings be provided.
 5. Where a Decision-Maker claims privilege over documents in accordance with 3(g) or 3(i), they are required to list and describe all documents for which privilege is claimed and the grounds for the claim.
 6. These documents shall be provided in an electronic format to the Commission and any other party.
 7. Prior to a hearing, the Commission may require up to four (4) hard copies of the Appeal Book. Please contact Commission Staff for direction on whether hard copies are required.
 8. Other parties may make a request in writing (email is sufficient) to the solicitor or representative of the Decision-Maker.
 9. In the event of a dispute between parties about the contents of the Appeal Record, the Commission may require a representative of the Decision-Maker to certify the completeness of the Appeal Record.

Commission's Discretion

10. The Commission may vary this Practice Direction where appropriate.
11. The Commission retains the sole discretion to determine what is considered relevant in any given appeal matter.
12. The Commission is not bound by the formal rules of evidence and may receive all evidence it deems relevant, even though such evidence may not be admissible in a court of law.
13. The parties will have the opportunity to argue as to the appropriate weight the Commission ought to afford to the evidence at an appeal hearing.
14. In accordance with Rule 46 of the Commission's Rules of Practice and Procedure, the Commission may request parties to file any further information, material or documents, in addition to the Appeal Book that the Commission considers necessary for a complete understanding of an issue in a hearing.