



appeals
COMMISSION
FOR ALBERTA WORKERS' COMPENSATION



ANNUAL
REPORT
2015 - 2016



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Letter from the Minister

The Appeals Commission is the final level of appeal for workers' compensation matters in Alberta. It is independent of the Workers' Compensation Board (WCB), and is accountable to the Minister of Labour.

The Ministry of Labour strives to ensure our province is equipped with a skilled workforce, and safe thriving workplaces to keep growing our economy and contribute to a better quality of life for Albertans. Our Ministry encourages the success of workers, employers and Albertans by supporting the jobs of today as well as tomorrow, through a workplace environment that is safe, fair and healthy.

In the coming months and years, we can expect to see the Appeals Commission expand upon the successes of 2015-2016, particularly in the areas of quality assurance and information technology. I congratulate the Appeals Commission on their past achievements, and anticipate future improvements will assist the Ministry of Labour in our mutual goal of ensuring Albertans have access to timely, fair and independent workers' compensation appeal services.

We are eager to hear from Albertans during the public consultation phase of our continuing review of the workers' compensation system, including a review of the Appeals Commission for Alberta Workers' Compensation. The final report is expected to be released in the spring of 2017.

I look forward to working further with the Appeals Commission as it continues to provide valuable services to Albertans.

Christina Gray
Ministry of Labour
Minister







Introduction to the Appeals Commission

This document reports on the performance of the Appeals Commission as it relates to deliverables outlined in the 3 year rolling business plan and covers the timeline between April 1, 2015 and March 31, 2016 inclusive.

Who we are

The Appeals Commission for Alberta Workers' Compensation is a quasi-judicial tribunal operating under the authority of the *Workers' Compensation Act* as the final level of appeal for decisions made by a review body appointed by the system administrator, the Workers' Compensation Board (WCB). Our mission is to provide a timely, fair, and independent appeals process consistent with legislation, policy, and the principles of natural justice. As a Government of Alberta entity independent of the WCB, the Commission reports to the Minister of Labour. This reporting relationship is guided by the Appeals Commission's Mandate and Roles Document, which is housed with the Agency Governance Secretariat.

Our People

Adjudicators, including the Chief Appeals Commissioner, are merit-based appointments recruited through public competition. Using guidelines to ensure unbiased adjudication, commissioners are appointed by the Lieutenant Governor in Council as representative of either the interests of employers or the interests of workers.

Presently, there are 55 adjudicators consisting of 20 full-time hearing chairs and 35 part-time commissioners. The Chief Appeals Commissioner also acts as the CEO of the Appeals Commission, directing its operations with the support of an executive team comprised of two Vice-Chairs, General Counsel, and the Executive Director.

Appeals Process

Appeals are heard by panels made up of three adjudicators, who issue a decision that must be implemented by the WCB within 30 days. Decisions of the Commission are published on the Canadian Legal Information Institute website, CanLII.

Letter from the Chief Appeals Commissioner

I am pleased to deliver the Appeals Commission's annual report for the 2015/16 fiscal year (April 2015 through March 2016 inclusive).

An annual report is an opportunity to reflect upon the past year and celebrate our achievements. I am especially proud of the accomplishments of the Commission in the 2015/16 fiscal year. It was an exciting twelve months, during which we saw many carefully laid plans come to fruition.

I am particularly pleased to report that in early 2016, the Appeals Commission was chosen as a finalist for the Institute of Public Administration of Canada's (IPAC) award for innovative management.

The Appeals Commission was recognized for its Electronic Information Access Project (EIAP), which facilitates efficient and secure electronic document exchange between the Appeals Commission and the WCB. In one short year, the electronic transfer protocol has reduced our timelines for processing and hearing appeals from 150 days to 130 days.

Additionally, the Commission has built upon the progress of the electronic information access project and moved closer to our ultimate goal of paperless hearings. This past fiscal year, we outfitted our commissioners with laptop computers. This resource allows our adjudicators easy, portable and secure access to appeal documents throughout the course of a hearing.

This year also saw continued support for our decisions from the Office of the Ombudsman and the Courts. From April 1, 2015 to March 31, 2016, Appeals Commission decisions were the subject of one Court of Appeal decision, five Court of Queen's Bench decisions, and 24 concluded Ombudsman investigations. All but one of those reviews upheld the Appeals Commission decision in question. The decision that was returned to the Appeals Commission for re-hearing by the Court of Queen's Bench dealt with a narrow question of jurisdiction.

As part of our commitment to continuous improvement, over the summer of 2015, the Appeals Commission undertook a series of internal and external focus groups to obtain feedback about the document records for our hearings, known as Appeal Documents Packages (ADPs). We were grateful for the valuable feedback that we received from our stakeholders, including comments about ADP content, organization, training and delivery, and were able to generate a series of recommendations as a result of the information we obtained. At present, we are working to implement those recommendations in order to ensure that our ADPs best respond to the needs of those who engage with the Appeals Commission.

Did you know?

The IPAC awards recognize projects which:

- transform public administration
- advance knowledge management systems and structures
- enhance the use and management of public funds
- improve transparency, accountability and responsiveness
- increase public participation

In one short year, the electronic transfer protocol has reduced our timelines for processing and hearing appeals from 150 days to 130 days.

To further support continuous improvement, quality assurance, knowledge management, succession planning and training within the Commission, we have successfully recruited an in-house Knowledge Officer. The creation of this important position demonstrates the Commission's dedication to supporting our team in providing the best possible service, experience and decisions to our stakeholders.

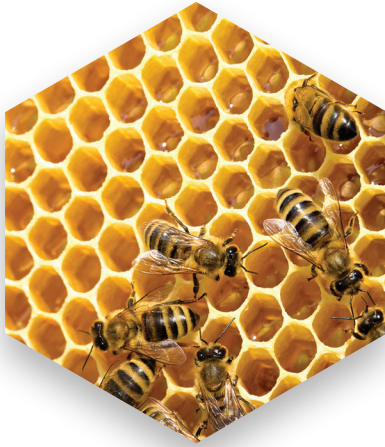
It is important to note that in March 2016, the Government of Alberta launched a formal review of all of Alberta's agencies, boards and commissions. As part of this review, an independent panel will review the workers' compensation system in Alberta and make recommendations. The panel will review WCB governance and effectiveness, all relevant legislation, the principles of compensation, and WCB policies. The Appeals Commission is included in the review and looks forward to its participation in the process. We will certainly have updates to share in respect to the review in our next annual report.

The Appeals Commission continues to face challenges, particularly in term limits imposed by the operation of the Alberta Public Agencies Governance Act which limits adjudicator appointment to a maximum of 12 years. In light of this fact, we are taking every opportunity to prepare for the changes to come through recruitment, knowledge management, succession planning, and progressive implementation of our technological resources. We believe that the diversity of our staff is a point of strength for the commission, and we continue to underscore the value of workforce diversity in our recruitment and retention efforts.

I have every confidence that, with the support of our excellent commissioners and staff, we are well equipped to take on the challenges that face us. We look forward to another productive and innovative year ahead.

Douglass Tadman QC
Chief Appeals Commissioner





Alberta is the largest honey producing province, producing about 40 per cent of Canadian honey. Average honey production in Alberta is 141 pounds per hive annually, twice the world average.¹

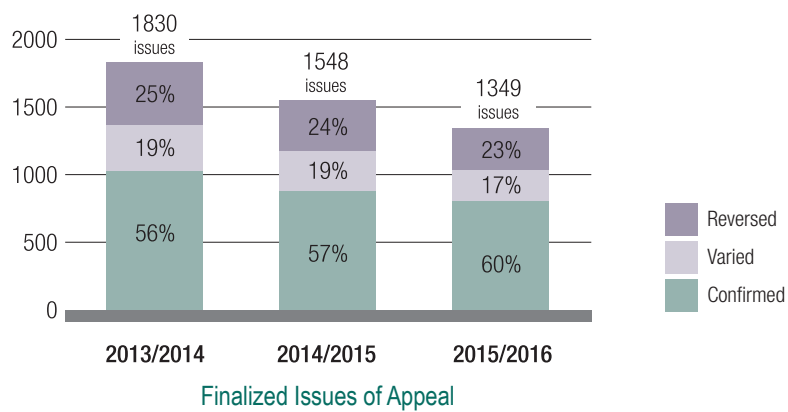
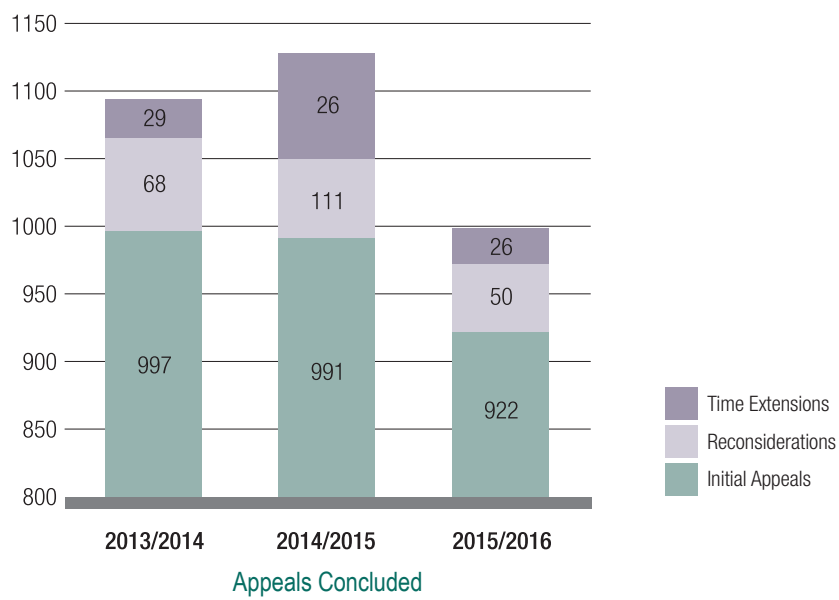
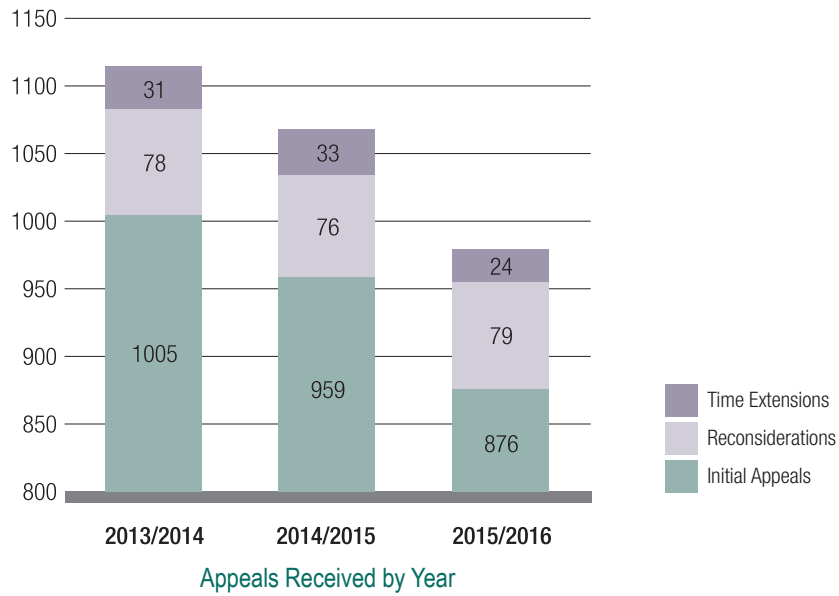
Review by the Courts

830 → **9** → **98.92%**
 initial appeals decisions upheld
 concluded actioned

Quality Performance Indicator

From April 1, 2015 to March 31, 2016, the Courts issued 10 decisions in respect of judicial review/appeal of decisions of the Appeals Commission.

1. *In Hill v Alberta (Appeals Commission for Alberta Workers' Compensation Board)*, unreported (April 17, 2015), the Court considered whether the Appeals Commission has jurisdiction to review a Dispute Resolution and Decision Review Body (DRDRB) decision that reconsiders an earlier decision about an extension of time. The Court found that the Appeals Commission does not have jurisdiction to hear an appeal of a decision about an extension of time, it does have jurisdiction to hear an appeal of a reconsideration decision regarding an extension of time. The Appeals Commission was directed to rehear this matter.
2. *In Schulte v Alberta (Appeals Commission for Alberta Workers' Compensation Board)*, 2015 ABCA 148 (April 30, 2015), Mr. Schulte sought an extension of time to appeal a 2012 decision of the Court of Queen's bench which dismissed his application for judicial review of an Appeals Commission decision. The Court found that Mr. Schulte was unable to provide a reasonable explanation for his delay in filing his appeal, and the extension of time was not granted.
3. *In Naylor v Alberta (Appeals Commission for Alberta Workers' Compensation)*, 2015 ABQB 333 (May 22, 2015), the Court reviewed the Appeals Commission's decision regarding an economic loss payment (ELP). Mr. Naylor argued that the Appeals Commission erred in its interpretation of s.63 of the Workers' Compensation Act, and failed to provide notice that s.63 of the Act and certain WCB Business Procedures would be considered. The Court held that the interpretation of s.63 was reasonable and that the Appeals Commission acted in a procedurally fair manner.
4. *In Moffatt v Lethbridge College*, 2015 ABQB 394 (June 29, 2015), the Court reviewed the Appeals Commission's decision that Mr. Moffatt, who sustained injuries while attending a motorcycle training course at Lethbridge College, was a worker, and therefore covered by the Act, at the time the accident occurred. The Court held that the decision was reasonable and dismissed the application.





Did you know?

[Alberta] is recognized world-wide for its expertise within niche areas like robotics and unmanned vehicle systems, defence electronics, and space science and geomatics. [The industry] employs over 6,000 highly skilled Albertans. ²

The number of employed women in Alberta with university degrees increased by 81.0% from 2005 to 2015. ³

5. *In Schulte v Alberta (Appeals Commission for Workers' Compensation Board)*, 2015 ABCA 268 (August 28, 2015), Mr. Schulte sought permission to appeal the April 30, 2015 decision described above. The application was dismissed.
6. *In Seweryn v Alberta (Appeals Commission for Alberta Workers' Compensation)*, unreported (September 30, 2015), the Court reviewed four Appeals Commission decisions arising from Mr. Seweryn's claim for compensation. The Court found that the decisions were reasonable and dismissed the applications.
7. *In Zimmer Estate v Alberta (Appeals Commission for Alberta Workers' Compensation)*, unreported (October 7, 2015), the Court found that Mr. Zimmer's failure to name and serve the employer with notice of the application for statutory appeal and judicial review was fatal to the application proceeding.
8. *In Bow River Restaurant (Boston Pizza Cochrane) v Alberta (Appeals Commission for Alberta Workers' Compensation)*, 2015 ABQB 688 (November 6, 2015), the Court upheld the Appeals Commission's decisions to include recorded tips and gratuities as insurable earnings.
9. *In Boyd v JBS Foods Canada Inc.*, 2015 ABCA 380 (December 14, 2015), the Court of Appeal heard an appeal of a prior Court of Queen's Bench decision which quashed a decision of the Appeals Commission. In overturning the Court of Queen's Bench decision and restoring the decision of the Appeals Commission, the Court of Appeal emphasized the expertise of the Commission in considering and weighing medical evidence, which demands a high degree of deference.
10. *In Miller v Alberta (Appeals Commission for Alberta Workers' Compensation)*, 2016 ABQB 79 (February 8, 2016), the Court considered Mr. Miller's application for judicial review of a reconsideration threshold decision. It held at the decision fell within a range of possible, acceptable outcomes which are defensible in respect of the facts and law, and dismissed the application.

2015/2016	CONCLUDED	ACTIONS
Ombudsman	24	0
Court (QB & Appeal)	10	1
Reconsideration Requests	50	5

Appeals Received

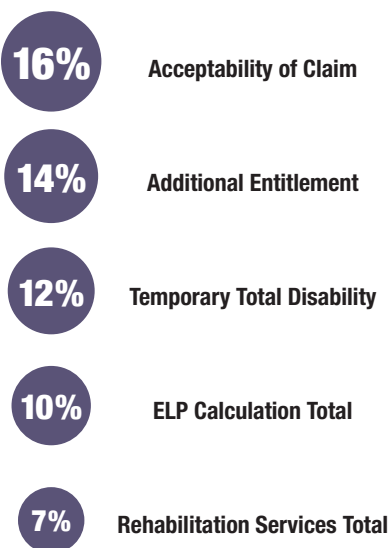
Review by the Ombudsman

From April 1, 2015 to March 31, 2016, the Appeals Commission was notified of 27 complaints to the Office of the Ombudsman regarding decisions made by the Commission. In the same time period, the Ombudsman concluded 24 investigations dealing with Appeals Commission matters.

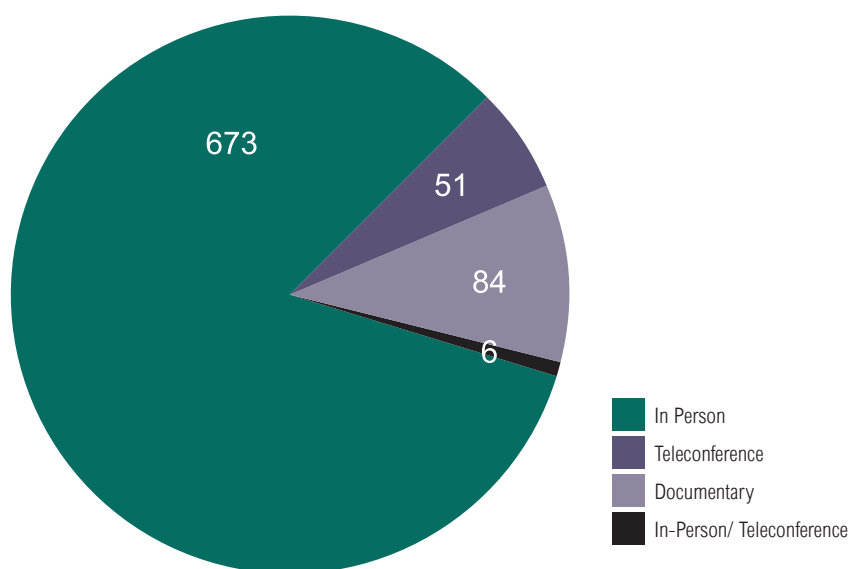
None of the above investigations were supported by the Ombudsman.

2014/2015

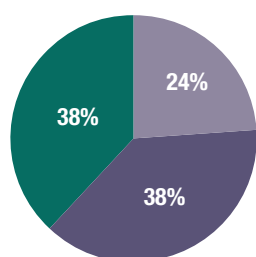
2015/2016



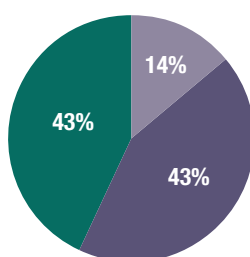
Top Five Issues of Appeal



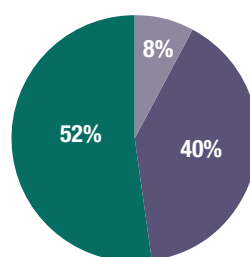
Hearing Format



2013/2014



2014/2015



2015/2016

Representation Before the Commission



Small decrease in both the average number of days from filing an appeal to the first available hearing date (145 days) and time from hearing to issuing the decision (27.7 days)

Many of our staff are members of the Occupational Health and Safety (OH&S) Committee, the Emergency Response Officer (ERO) Team, the Social Recognition Committee and Process Review Committee. Their efforts continue to benefit the Appeals Commission.

We were pleased to welcome an internal Appeals Secretary into a permanent Appeals Officer role.

Appeals Services Accomplishments

Reduction in Appeals Timeline

The Appeals Services department has experienced a significant decrease in the timeline between the Notice of Appeal being accepted and hearing date. The previously held standard was the provision of a hearing date within 150 days of the acceptance of Notice of Appeal.

Recently, we have met this timeline consistently, despite the timeline hovering at 150 days. The Appeals Commission has decreased this timeline as a result of paperless ADP production, electronic ADP transfers and electronic faxes. This last year saw a noticeable decline as our monthly timeline has gone as low as 131 days, nearly a full 20 days less than our standard.

This is a direct result of the time savings associated with operating in a paperless environment. In particular, the time involved in requesting and processing a paper file from WCB has been completely eliminated. We expect to see this trend continue over the coming year, something parties to an appeal will highly value.

Appeals Timeline

Target	2014/2015	2015/2016
150 days	148 days	144 days

Average number of days from the date the appeal is filed to the first hearing date offered

Target	2014/2015	2015/2016
30 days	26.58 days	28.04 days

Average number of days from hearing to the decision issue date

Regular requests for adjournment after hearings are scheduled due to parties not being ready to proceed indicates that further decreasing our timelines is not appropriate at this time.

Staff Engagement

Appeals Services staff were involved in a variety of projects over the last year, often performing multiple roles.

We've engaged our staff more in the hearing and decision-making processes by observing hearings and often observing pre- and post-caucus discussion. A strong understanding of the appeals process from a panel member's perspective will aid in retention efforts, as well as provide staff members with the ability to apply this insight to their respective roles within the Commission.

Infrastructure Accomplishments

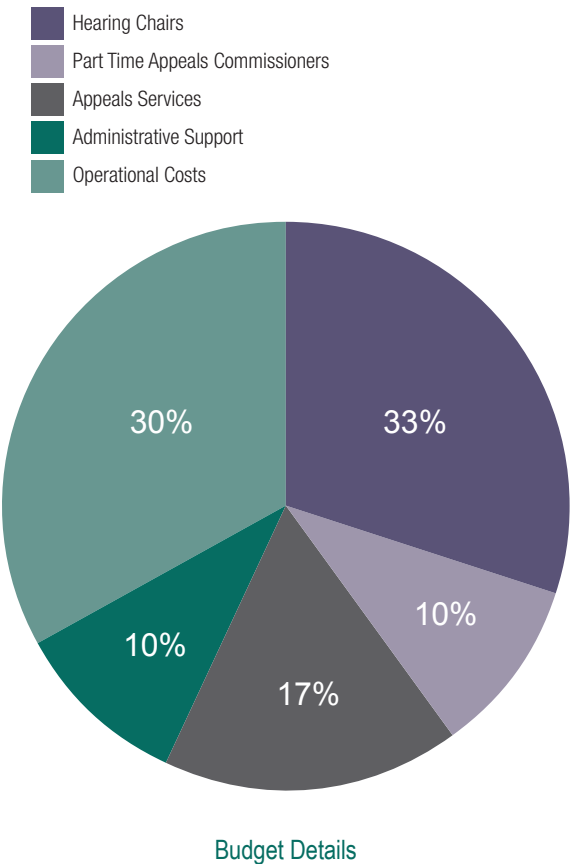
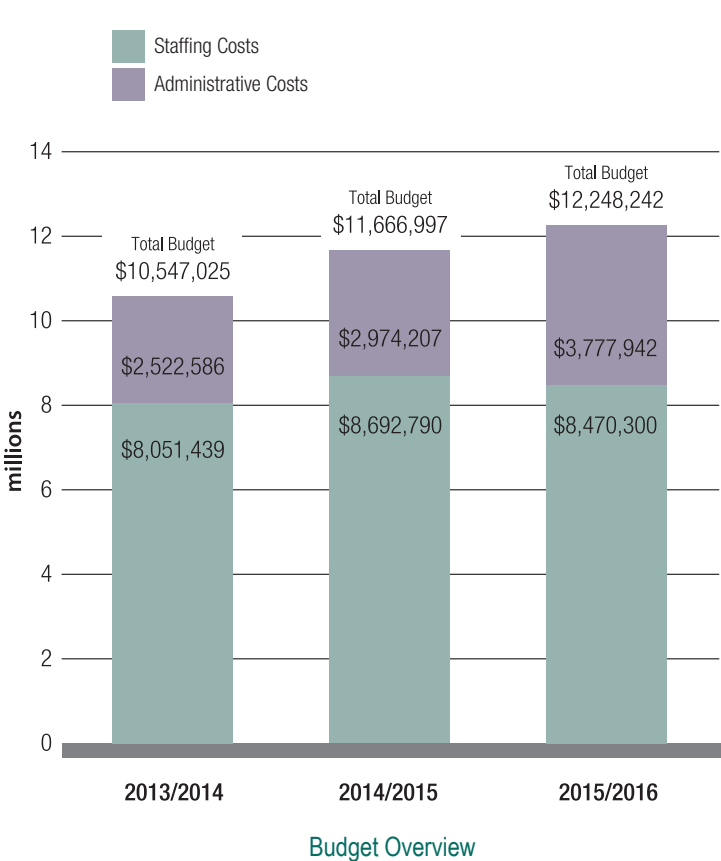
Move to new office premises (Calgary)

Our staff and commissioners did an excellent job of ensuring that the move to our new office premises in Calgary was executed efficiently. The new location provides a much more suitable work space for our staff and commissioners as well as for those who appear before us.

Redevelopment of hearing rooms and meeting rooms (Calgary and Edmonton)

The required upgrades to the Audio Visual (AV) equipment in all hearing rooms has been completed in both the Edmonton and Calgary offices. Upgrading of the AV systems in meeting rooms has also been completed.

Finance Accomplishments





Alberta boasts the highest per-capita ratio of engineers in the population in Canada and one of the highest in North America. ⁴

(Alberta is) a leader in cold weather construction. [The] Alberta EC (architecture, engineering and construction) sector knowledge in this area has been utilized around the globe. ⁵

Alberta produced \$5.4 billion in forest products in 2015, [including] lumber, pulp, newsprint, panelboard and secondary wood products. ⁶

Updated Travel and Meal Expense policy

- Updated meal allowance schedule
- Expanded accommodation booking options

Part Time Commissioners Honoraria Payment Transition

- Transition to Government Of Alberta (GoA) withholdings policy (IMAGIS to payroll)
- Commencement of Commissioners as “Board Members”

Digitization of Finance Records

- Digitization of financial records has been drafted
- Financial records for the 2014-2015 and 11 months of the 2015-2016 fiscal years have been reviewed and compared against their digital counterparts
- Ready to dispose of 2014-2015 paper files
- This year (2016-2017), all finance records from Recall will be retrieved for final audit before eventual disposal

Finance Reports in OneNote

- Actuals vs Budget
- Expenditure Summary
- WCB Quarterly Invoice

Updated Employee Recognition (Spontaneous and Service/Retirement)

- GoA Decentralization of the Milestone and Retirement process
- Broader range of options to choose from

Transition from IMAGIS Accounts Payable to Pcard

- Contacted all vendors to switch method of payment
- All manual updates complete

Legal Services Accomplishments

Exemplary Support for Appeals Commission Decisions

Appeals Commission decisions were the subject of 3 Court of Appeal decisions, 7 Court of Queen's Bench decisions, and 24 concluded Ombudsman investigations. All but one of those reviews upheld the decision of the Appeals Commission. The decision that was returned to the Appeals Commission for re-hearing dealt with a narrow question of jurisdiction.

Spotlight on Privacy Rights

In February 2015, the Appeals Commission took on the full delegation and responsibility for Freedom of Information and Protection of Privacy (FOIP) compliance within our public body. This has facilitated enhanced awareness, training, procedures and responsiveness to privacy matters.

Development of a system for Records and Information Management

In 2014, the Appeals Commission received an analysis of its current records management system, which included recommendations for how its records management practices could be improved. In 2015, in response to these recommendations, the Appeals Commission hired a dedicated Senior Records Officer to build a Records and Information Management (RIM) system, compliant with government and legal standards.

The first year of a multi-year plan to respond to the recommendations has seen all recommended milestones met and exceeded, including new policies and procedures to move the Appeals Commission into a paperless, digital environment which saves time and money on duplicating efforts in order to better serve our clients.

Executive Support

In support of the executive team, support was focused around Agency Review Process preparation, Process Review Committee participation, and recruitment.

Information Technology (IT) Accomplishments

WCB Initiative

Secure electronic transfer of documents from the WCB to the AC occurred March 31 2015 with a 6 month transition period.

Electronic Document Transfer to the Office of Appeals Advisors (OAA)

Secure electronic transfer of documents from the AC to the OAA occurred on July 8, 2015.





In 2015, women in Alberta had the highest participation rate of all women in Canada, at 66.6%.⁷

Continuous Improvement of ACES

Implementation of release 1.7.0 occurred July 8, 2015 and considered 20 Requests for Change (RFCs) along with the Appeals Officer (AO) Workload Balance reports and Decision reports for Secretaries, Chairs and Commissioners.

Migration of IT Infrastructure and Supports to the GOA

Migrated AC Active Directory and print queues to the GOA to be managed by Service Alberta desktop support services

- Migrated outstanding components with additional requirements and/or security features (Lenel & For the Record)
- Migrated all AC files shares to the GOA environment
- Migrated ACES application from current onsite server environment to the GOA data centres

IT Disaster Recovery Plan

Recovery plan was completed December 2015, and aligns with GOA policy and processes.

Training for Order in Councils (OICs)

(Phase 2 of use of electronic documents and managing files electronically)

A number of training sessions were held in Edmonton and Calgary in June 2015 to bring Hearing Chairs and Commissioners back into ACES.

Calgary Office Move

Coordinated and managed the move of IT equipment/infrastructure for the Calgary office relocation, completed Dec 2, 2015.



Paperless ADP Production

Our biggest accomplishment of the past year was the successful transition into electronic ADP production. We were granted access to WCB's eCo System in March of 2015, and completed the transition within a few months. Our annual consumption of one million plus pages of paper from WCB is now zero. The amount of time and man hours saved has been substantial. Formerly, the documentation process was antiquated and time consuming. This timeline has now been completely eliminated as documents are instantaneously accessible to relevant parties, and an Appeals Officer can be assigned to begin processing an appeal immediately after receipt of the Notice of Appeal form.

ADP production makes up the majority of the Appeals Officer's role and our team took on this major shift in duties with no disruption. The transition was incredibly smooth thanks to a team that is open to change and excited about improvements to our processes.

Electronic Faxes

This year also saw the implementation of an electronic fax system. Instead of retrieving paper faxes and scanning them manually, our faxes are now automatically converted into PDF format, ready to be uploaded to ACES and processed accordingly. The electronic faxes are automatically date stamped, making them easier to work with and reference by staff. This has added a great deal of efficiency to the process.

Occupational Health & Safety

We have put in place the government-mandated OH&S program and had our committee members undergo the 4 required training sessions as well as first aid training where necessary. Training will continue for new OH&S committee members in these mandated courses.

We have significantly upgraded our emergency procedures and readiness with establishing new practices and having in-house training and drills.

Training of OICs

In-house and external training was offered. External training included:

- Foundations of Administrative Justice courses;
- Canadian Evaluation Society 4 day training: Essential skills course dealing with quality assurance evaluation;
- Canadian Council of Administrative Tribunals Interactive Course of Adjudication;
- Legal Education Society of Alberta - clear writing course;
- Government of Alberta Crucial Conversations course



Our annual consumption of one million plus pages of paper from WCB is now zero.

Staff recognition

The Appeals Commission employs staff from a variety of backgrounds and disciplines. Without the diverse knowledge base and strong work ethic of our talented staff, the Appeals Commission could not perform at the level of excellence which it holds itself to. We value our staff and the passion with which they serve Albertans.

Meet our Staff

George Wright, Manager, Appeals Services



In September of 2015, George began pursuing his MBA with a specialization in Public Policy and Management through the University of Alberta. He has had the full support of the Appeals Commission's executive team through this journey which he credits with aiding in his success. This degree will further develop the skills he needs to lead the Appeals Commission and the Alberta Public Service into the future.

Todd Walsh, Executive Director



Continuous learning is an essential and rewarding part of Todd's role as the Executive Director, and obtaining an MBA was a natural next step. "This opportunity for growth was supported by the executive team through their forward thinking. Flexible work hours provide me enrichment in my daily life as I am able to balance work, school and family," he remarks, "I am honored to be a contributing part of the growth of the commission and am excited to see where this leads us".

Rob was the fourth generation to farm the quarter section of land purchased in 1898 by his great grandfather. He and his wife Marlene operated a cow-calf operation from 1971 until 2007.

Rob Reimer, Commissioner



Rob's extensive leadership experience and community support extends from 4-H club leader to Agricultural Society President, and from school trustee to Board Chair. He was also the co-chair of the Central Alberta Child and Family Services Authority, and an appointed member of the Subdivision and Development Appeal Board, where he served for 13 years. His passion for community services saw him sit for four years as chair of the Alberta Children's Services appeal panels and one year with the Municipal Government Board. Rob

brought his expertise into his current role as hearing chair with the Appeals Commission when he joined in 2011.

Brian McLeod, Commissioner

Brian served with the RCMP for 37 years in a variety of operational and administrative roles, and has served as Director of Campus Security Services, University of Alberta. After retiring from the RCMP in 2011, he remained engaged in public safety initiatives, acting as a private security consultant in projects such as a review of emergency services on Hwy 63 and 911 dispatch. In 2014, Brian joined the Appeals Commission, noting that the commission's mission and values remain in alignment with his personal core principals.

"I deeply respect the outstanding work of the Appeals Commission, practised by a highly talented team of administrative personnel, hearing chairs, part-time commissioners and executive. I am honoured to be a member of the Appeals Commission, as it continues to build a legacy that proudly serves all parties of interest."

Michelle Lang, Knowledge Officer



After serving as a Lay Member with the NHS Education for Scotland, Michelle knew that she wanted to continue her career in public service. The Knowledge Officer position fit well with her adult learning background as a Professor at the University of Nebraska, quality assurance and knowledge management, and familiarity with administrative tribunals. Michelle enjoys the variety of projects that she is involved in at the commission, and the people-oriented nature of her work. "People here are

so interesting, with such diverse backgrounds, and there's a culture of serious work and not taking oneself too seriously that's perfect for me".

Susan Gordon, Commissioner

Susan returned to Calgary from Edmonton in 2003 to pursue an opportunity with the Appeals Commission. She credits her success in part to the people who served as mentors to her. She refers to her colleagues at the commission as 'family', and says that challenging work, her respect for the people she works with and the philosophy of public service are what keep her engaged in her role at the commission. "I was mentored by kind, very patient people (with a much needed sense of humor in my case) who answered endless questions, read numerous decision drafts, and drank many cups of coffee with me."

Patrizia (Trish) Thorne, Appeals Secretary

Trish has worked with the Appeals Commission and the Workers' Compensation Board for over 30 years. She began with the WCB claims department where she was active in various clerical roles.

"Over the years there were lots of fun times and laughter with the staff that I came in contact and worked with that made my job interesting and I've met many different people that were very positive and made life easier to deal with. I enjoy working and it has been very challenging and, at times, stressful with many aspects of my job but it keeps things very interesting and creative. It's interesting and fun to work in a positive environment with the staff of the Appeals Commission!"

Factoid References

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