

INFORMATION PACKAGE – URBAN

The Board of Reference for the Province of Manitoba is established under authority provided by *The Public Schools Act*. The Board's main function is to decide upon matters related to the boundaries of school divisions and districts at the request of property owners, school boards, and First Nation band councils.

Other matters considered by the Board include school division and district wards, and trustee representation. The Board is quasi-judicial in nature and its awards are final.

The following is a brief guide to the Board of Reference. For more detailed information, please review the relevant sections of *The Public Schools Act* which are contained in this package.

1. Who can approach the Board of Reference (“the Board”)?

On written request to the Secretary, the following can request a hearing of the Board:

- a person owning a parcel land requesting that it be transferred;
- the Minister of Education and Advanced Learning;
- a First Nation band council; or
- two or more school divisions requesting jointly that they be amalgamated.

2. What kinds of issues does the Board normally hear?

A Board of Reference hearing will address the following written requests asking:

- that land not included in any school division/district be added to an existing school division/district;
- that land be transferred from one school division/district to another school division/district;
- to remove reserve land from a school division/district; and
- to amalgamate school divisions.

3. What is the process?

First, an interested party makes a request to the Secretary of the Board of Reference for a hearing. A **Board of Reference Hearing Request** form is included in this package. You are required to provide a urban land description and identify your reasons and any other relevant information for requesting a land transfer. The request form must be signed and completely filled out. (A sample of a completed urban land description is attached.) The request should then be forwarded to the Secretary of the Board of Reference at the return address noted on this form.

4. Then what happens?

The Secretary's office will acknowledge receipt of the request and will advise the person(s) submitting the request (and other interested parties such as school boards) of the hearing date. The hearing date and the location of the hearing will be published in at least one local newspaper or in a newspaper that serves the affected area.

5. When will a hearing be scheduled to have my case heard by the Board?

The Board generally waits until there are several requests in the same geographic area so that more than one case may be heard on the same day. The length of time it takes to schedule a hearing depends on many circumstances. A hearing may be scheduled within either mere weeks or several months.

6. How does the Board hearing operate?

All hearings of the Board of Reference are open to the public. There can be up to 7 members on the Board and quorum for a hearing is 3.

People attending the hearing are asked if they will be making a presentation and whether it will be a verbal presentation or a written submission. They will also be asked if they are in favour of, against, or neutral toward the case. Participants are asked to record this information on a simple form so that the Chair of the Board can keep track of who will participate in the hearing and in what capacity. People may also attend as observers. Only those who have identified themselves as participants are allowed to address the Board once the hearing begins. This allows the hearing to proceed in an orderly fashion.

The Chair will call for arguments in this order: in favour, against and neutral. Participants are asked to give their name, address and identify the land they will speak about. After presenting their case, members of the Board will in all likelihood ask the participants questions about their position.

For example, if a parent came to the Board to ask that his/her land be transferred out of School Division A and into School Division B so that his/her child could attend a certain school in division B and ride on the school bus, the parent should expect the Board members to ask why the parent wants to send his/her child to a school in division B. The Board may ask if schools in division A have been investigated, if the child currently rides the school bus, how long the ride is expected to take, and other questions of a similar nature.

If a participant refers to notes or papers during a presentation, the Chair will ask for a copy of those papers at the end of the presentation so that members can refer to the participant's arguments during deliberations. If a participant wishes to distribute to the Board any other documentation, such as maps, notes and the like, he/she should make this known to the Chair at the beginning of the presentation.

7. What does the Board consider in reaching a decision?

If the request is to transfer, add or remove land, under subsection 9(5.1) of *The Public Schools Act* the Board must be satisfied that the request

- is for an educational purpose;
- does not result in transferring rights, property, debts, obligations, liabilities, or employees to a new school division or school district without the consent of the affected school divisions and school districts; and
- does not have a materially detrimental impact on the ability of any of the affected school divisions or school districts to meet the educational needs of pupils within their boundaries or area.

8. If I've forgotten to include something in my presentation, can I offer more information after the hearing is over?

No. Once a hearing is closed, it is closed. The hearing is similar to a court of law where all relevant information must be presented during the trial. It is important that all parties have their information organized so that no one forgets to raise important points during the hearing.

9. How long does it take the Board to deliberate after the hearing and when will I know the result?

A decision of the Board is never announced at the time of the hearing. The award is announced in writing 4 to 6 weeks after the hearing. The award is always written and a request can be granted in whole, in part, or denied. Copies are sent to the Minister of Education and Advanced Learning, the municipality/local government/school division(s)/school district(s)/First Nation band council affected and the landowners. No application to the Board respecting the same case will be considered for at least three years after an award has been made.

10. Can the result of the hearing be appealed?

Subsection 9(7) of *The Public Schools Act* states as follows:

"An award of the board of reference is final and has effect in accordance with its terms. But this subsection does not preclude an application to the Court of Queen's Bench for judicial review respecting the award."

11. What happens when the Board's decision is finalized?

Once the Board of Reference issues an award, it is registered as a regulation and published under *The Statutes and Regulation Act*.

FOR COMPLETE INFORMATION, PLEASE READ THE ATTACHED RELEVANT SECTIONS OF *THE PUBLIC SCHOOLS ACT*.

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