



## SURFACE RIGHTS BOARD INFORMATION SHEET #9

# JUDICIAL REVIEW

### Appealing a Board Decision

Board decisions can be appealed to the Supreme Court of British Columbia. This is called a judicial review and is governed by the *Judicial Review Procedure Act*.

The steps required to file an appeal, prepare and present your case require legal training and expertise. For these reasons, you should get legal advice before you proceed. This information sheet is not intended as legal advice – rather it generally describes your rights to appeal.

A judicial review is started by a Petition to the Court in the form prescribed by the Rules of Court. The Petition must be filed within 60 days from the date of the Board's decision. The Court may extend the deadline for starting a judicial review in certain circumstances. A Petition must be served on the Board and the other parties in accordance with the Rules of Court.

A judicial review is not a complete re-hearing of the application before the Board but a review of the Board's record including any documentary evidence filed with the Board. Depending on the type of issues, the Court will apply different standards to a review of the Board's decisions. For some issues, the Court will determine whether the Board was correct. For other issues, the Court will determine whether the Board was reasonable. The concepts of "correctness" and "reasonableness" and the question of which "standard of review" will apply are complicated legal issues that are beyond the scope of what can be explained in this Information Sheet.

If the Court concludes that the Board erred in law, the case may be sent back to the Board. Depending on the nature of the error, the Board may have to completely re-hear the case.

A decision of the Supreme Court on a judicial review may be appealed to the Court of Appeal with "leave" (or permission) from the Court of Appeal.

### Costs

The Court charges filing fees which must be paid by the party filing the Petition for judicial review. The Supreme Court may order that the unsuccessful party pay the costs of the successful party.

### Legal Advice

**You should get legal advice if you are considering an application for judicial review. The Board cannot provide you with legal advice or assist you in preparing an application for judicial review.**

For questions or other Information Sheets, please contact us or see our web site at:

#### SURFACE RIGHTS BOARD

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Application Forms and Information Sheets are available from any Service BC Centre (Government Agent) and Applications may be delivered to the Board either directly or through Service BC	