



REVIEW AND APPEAL PANEL RULES OF PROCEDURE REGULATION

Enacted under the *Review and Appeal Law*, section 37(2)

TNReg 10/2016

Enacted on April 5, 2016



Hegus [SIGNATURE]

Clint Williams

Hegus [NAME]

DEPOSITED IN THE TLA'AMIN
REGISTRY

ON 14, 04, 16
(day/month/year)



Signature of Law Clerk

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PART 1 - INTRODUCTORY PROVISIONS

Authority

1. This Regulation is made pursuant to section 37(2) of the *Review and Appeal Law*.

Purpose

2. The purpose of this Regulation is to set out the matters that must be addressed in the Review and Appeal Panel's rules of procedure.

Definitions

3. (1) In this Regulation,
 "Law" means the *Review and Appeal Law*; and
 "rules of procedure" means the rules of procedure of the Review and Appeal Panel.
(2) Unless otherwise expressly provided in this Regulation, all terms used in this Regulation have the same meanings as in the Law.

Application

4. This Regulation applies to the Review and Appeal Panel.

PART 2 - MATTERS TO BE ADDRESSED IN THE REVIEW AND APPEAL PANEL'S RULES OF PROCEDURE

Matters that must be addressed

5. (1) In developing rules of procedure under section 28 of the Law, the Review and Appeal Panel must address the following matters:
 - (a) forms to be used by applicants and respondents to initiate a review or appeal;
 - (b) the process for
 - (i) replacing standing panel members with alternate panel members,
 - (ii) adding a party or parties to an application,
 - (iii) exchange of documents and information among the parties,
 - (iv) access to documents,
 - (v) issuing notices,
 - (vi) service,
 - (vii) adjournments,

- (viii) hearing a review or appeal,
 - (ix) calling and excluding witnesses,
 - (x) calling and excluding technical experts or advisors,
 - (xi) public attendance,
 - (xii) withdrawing an appeal,
 - (xiii) filing written submissions and responses,
 - (xiv) amending an application or response to an application,
 - (xv) determining and issuing decisions, orders, rulings, recommendations and reports, and
 - (xvi) destroying exhibits after a hearing has been completed;
- (c) whether and under what circumstances interveners will be permitted to participate in a hearing;
 - (d) admissibility of evidence and other evidentiary matters, including pre-hearing receipt and disclosure, and the pre-hearing examination of a party on oath, by affirmation or by affidavit;
 - (e) costs;
 - (f) time requirements;
 - (g) stays; and
 - (h) representation.
- (2) The rules of procedure developed by the Review and Appeal Panel under section 28 of the Law must incorporate the following:
- (a) the standard of proof in respect of evidence in any hearing will be on a balance of probabilities; and
 - (b) where the three panel members are unable to reach a consensus,
 - (i) a determination that is agreed to by two of the standing panel members is considered a determination of the Review and Appeal Panel,
 - (ii) a standing panel member who does not agree with the other two panel members may prepare a dissenting determination, and
 - (iii) if none of the standing panel members are in agreement, the matter will be remitted to the original decision maker and the three standing panel members may provide their views on the matter.

Matters that may be addressed

6. In developing rules of procedure under section 28 of the Law, the Review and Appeal Panel may address the following matters:
 - (a) scheduling appeal management conferences;
 - (b) scheduling pre-hearing conferences, including confidential pre-hearing conferences;
 - (c) preliminary or interim matters, including a preliminary assessment;
 - (d) consensual alternative dispute resolution processes;
 - (e) providing and certifying the appeal record;
 - (f) audio and video recordings of hearings; and
 - (g) any other matters the Review and Appeal Panel considers advisable for the proper functioning and performance of its duties under the Law.



ORDER OF THE EXECUTIVE COUNCIL OF THE TLA'AMIN NATION

Executive Council Order No.: TNO-EC 19/2016
Approved and Ordered: April 5, 2016

Order

The Executive Council hereby enacts the following regulations under the authority of the *Review and Appeal Law* to take effect on the Effective Date:

- Review and Appeal Panel Rules of Procedure Regulation
- Review and Appeal Panel Forms Regulation

Authority

This Executive Council Order is made under the authority of the *Review and Appeal Law*, and in accordance with the *Order of the Legislative Assembly of the Tla'amin Nation* TNO-LA 01/2016 (respecting the Tla'amin Nation Effective Date Period Procedures).

*Signed by the Hegus on behalf of the
Executive Council of the Tla'amin Nation*

(Note: This portion is for administrative purposes only and is not part of the Order)

Authority under which the Order is made:

Law: *Review and Appeal Law*

Other (please specify): Final Agreement and the *Order of the Legislative Assembly of the Tla'amin Nation TNO-LA 01/2016* (respecting the Tla'amin Nation Effective Date Period Procedures).

DEPOSITED IN THE TLA'AMIN REGISTRY
ON <u>14 / 04 / 16</u> (day/month/year)
<u>Judith King</u> Signature of Law Clerk