



APPEALS IN DIRECT CONTROL (DC) ZONES

In all appeals of developments on sites zoned Direct Control (DC), the authority of the Subdivision and Development Appeal Board (SDAB) is limited by Section 641(4) of the Municipal Government Act.

Specifically, the initial question the SDAB has to address is whether, in approving or refusing the application, the Development Officer did or did not follow the directions of City Council as set out in the Direct Control provision and the land use/zoning bylaw of which it is a part.

If the SDAB finds that the decision of the Development Officer did follow the directions of City Council, the Board has no authority to change that decision.

Alternatively, if the SDAB finds that the decision of the Development Officer did not follow the directions of City Council, the Board is authorized to substitute its decision for that of the Development Officer, provided that such decision must also be in accordance with the directions of City Council.

The onus is on the appellant to provide evidence to establish that the Development Officer did or did not follow the directions of City Council and that is the only evidence that is relevant in the initial stage of the appeal.

MUNICIPAL GOVERNMENT ACT

Designation of direct control districts

641(4) Despite Section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

This document is intended to provide general information only. If you require specific advice, please consult the appropriate legislation or contact a lawyer.