



CP #1-03 APPEALS

Approved: 1/17/04

Revised: 5/20/07

This policy governs the process for appeals.

1.0 Right to Appeal: Any person may appeal an action or inaction in accordance with the policies of the ICC Board.

2.0 Filing

2.1 An appeal shall be in writing, and shall be directed to and received by the ICC CEO within 30 days of notice of the action or inaction which forms the issue being appealed or no appeal shall lie.

2.2 An appeal shall not stay the action or inaction appealed unless so ordered by the ICC Board of Directors, which may occur at any time following filing of the appeal.

2.3 The appeal shall include the following:

2.3.1 A specific description of the issue being appealed;

2.3.2 A statement describing precisely why the issue is being appealed;

2.3.3 All appeals, except as to a staff action or inaction, shall also include the following:

2.3.3.1 A detailed description of how the issue being appealed will adversely affect the appellant;

2.3.3.2 A statement indicating the requested remedial action;

2.3.3.3 The names and mailing addresses of individuals and organizations that may have an interest in or be affected by the matter being appealed. Notice of the appeal will be provided to those parties in accordance with 5.1; and

2.3.4 A nonrefundable filing fee of \$500.

3.0 Processing

- 3.1 If the appeal is not in regard to a committee or staff action, the appeal shall be placed before the Appeals Board within thirty (30) days of receipt of the appeal.
- 3.2 If the appeal is in regard to a committee action, the CEO or a designee shall submit the appeal to the appropriate committee within 30 days of receipt of the appeal. No appeal to the Appeals Board shall lie until the committee has reconsidered the matter being appealed. The committee may reconsider substantive and/or procedural matters. The committee shall have full discretion to determine how it conducts the reconsideration, and to determine the information that it deems appropriate for purposes of the reconsideration. The appellant shall have the right to address the committee, under terms and conditions established by the committee, if so requested in writing prior to committee reconsideration.
- 3.3 The committee shall, within 30 days of its receipt of the appeal, revise its action in accordance with the appeal, sustain its action, or request the appellant to meet with the committee for the purpose of discussion and possible resolution. If the committee revises its action in accordance with the appeal, further action on the appeal is terminated and all parties are so advised. If the committee does not revise its action in accordance with the appeal, the appellant may appeal to the Appeals Board. Such request shall be submitted in writing to the ICC CEO who shall, within 30 days of receipt, place the appeal before the Appeals Board.
- 3.4 Appeals of a staff action shall be heard before the Steering Committee of Councils. If the staff action is upheld, the appellant may file an appeal as set forth in section 2.0. The CEO or a designee shall, within thirty (30) days of receipt, place the appeal before the Appeals Board. The Appeals Board shall process the appeal in accordance with this Policy.

4.0 Appeals Board

- 4.1 **Appeals Board Members:** The Appeals Board shall consist of the Vice President of the ICC Board of Directors who shall serve, ex-officio, nonvoting, as the Chair, and three (3) members appointed by the CEO and confirmed in writing by the Chair of the Appeals Board. No member of the ICC Board of Directors shall be a voting member of the Appeals Board.
- 4.2 **Conflict of Interest:** No person shall serve on the Appeals Board in connection with an appeal where that person (a) has performed any investigative or other functions directly related to the matter being appealed, (b) has a financial, property, business or personal interest in the matter being appealed, or (c) has an actual or apparent conflict of interest in connection with the matter being appealed.

5.0 Notice of Appeal and Appeal Hearing

- 5.1 **Notice of Appeal:** Within 30 days of receipt by ICC of the appeal, notice of the appeal shall be sent to all parties identified pursuant to 2.3.3.3, and such other parties, identified by ICC, who have direct and materially affected

interests in the matter being appealed. The notice shall include the following:

5.1.1 A statement inviting that person, or that person's representative, to respond to the appeal by submitting their views in writing to the CEO for consideration by the Appeals Board or the committee, and stating that such person may, subject to the discretion of the Appeals Board or the committee, participate in and present information at the Appeals Board or committee hearing.

5.1.2 A statement indicating that they will be informed of the date, time and place of the appeal hearing or committee meeting at least 20 days prior to the scheduled appeal hearing or committee meeting.

5.1.3 A statement indicating that their views in writing, and notice as to whether they will attend the appeal hearing or committee meeting, must be received by the CEO at least 15 days prior to the scheduled hearing or committee meeting.

5.1.4 A copy of, or electronic link to, this Policy.

5.2 Notice of Hearing: Within 30 days after receipt by the Appeals Board of the appeal, the Appeals Board Chair shall schedule an appeal hearing and serve written notice upon the appellant.

The notice shall be served either personally or by certified mail, return receipt requested, or by e-mail where a record of receipt is available, at least 20 days prior to the scheduled hearing, and shall include a copy of, or electronic link to, this Policy and:

5.2.1 A statement of the date, time and place of the hearing;

5.2.2 A statement that the proceeding before the Appeals Board will be an informal inquiry conducted in accordance with this Policy, and will not be conducted in strict accordance with rules of evidence; and

5.2.3 A statement that the appellant has a right to be represented by legal counsel.

5.3 Hearing Procedure: Hearings shall be held before the Appeals Board and the procedures specified in this Policy shall apply.

5.3.1 The Appeals Board shall have the discretion to conduct the hearing in person or by conference call or by other electronic means, or by some combination thereof, upon such conditions as the Appeals Board may determine.

5.3.2 The hearing shall be open to the public, in a manner to be determined by the Appeals Board, except that hearing, or portions thereof, may be closed if the Appeals Board determines that there is good cause for so doing.

- 5.3.3** Any appellant, or any interested party referenced in 5.1, may be represented by legal counsel.
- 5.3.4** Formal rules of procedure shall not apply.
- 5.3.5** The Appeals Board shall have discretion to consider whatever information it deems relevant to the appeal. This includes, but is not limited to, the discretion whether to consider (a) expert opinions, or (b) documents or other information that was not considered by the decisional authority whose action is being appealed. The Appeals Board may attach such weight to any information, including expert opinion, that it deems proper. If expert opinion is considered by the Appeals Board, it shall be supported by reasons and/or data and by the qualifications of the person offering the opinion.
- 5.3.6** The appellant's presentation to the Appeals Board shall be the first in order. ICC may then make its presentation, followed by any respondents to the appeal. All participants shall have an opportunity for rebuttal thereof. The Appeals Board shall have the discretion to vary the order of presentations.
- 5.3.7** Review by the Appeals Board shall be limited to matters of process and procedure. The Appeals Board shall not render decisions on the relative merits of technical matters.
- 5.3.8** In order to sustain the appeal, or any part thereof, the Appeals Board must find that there was a material and significant irregularity of process or procedure.
- 5.3.9** If the Appeals Board sustains any part of the appeal, it may fashion any remedy that it deems appropriate.
- 5.3.10** All procedures of a hearing shall be recorded by mechanical or electronic means except that the Appeals Board may direct that the proceedings be recorded verbatim by a certified shorthand reporter.
- 5.3.11** Where good cause is shown, reasonable continuances may be granted by the Appeals Board.
- 5.3.12** Interested parties referenced in 5.1 may, subject to the discretion of the Appeals Board, participate in and present information at the hearing. Other attendees at the hearing shall not be permitted to participate or present information without the approval of the Appeals Board.
- 5.3.13** Any matter arising in connection with the appeal or the appeal hearing, which is not addressed by this Policy, shall be subject to the decision of the Appeals Board.

6.0 Appeal Results

- 6.1** The report of the Chair of the Appeals Board and the Appeal Board's recommendations shall be completed and submitted to the CEO in a timely manner.
- 6.2** The CEO shall submit the report and recommendations of the Appeals Board to the ICC Board of Directors (a) at least 10 days prior to a regularly scheduled meeting of the ICC Board for action by the Board at that meeting, or (b) within 15 days of receipt by the CEO, for action by the ICC Board by mail ballot.
- 6.3** The Board of Directors shall review the appeal and the report of the Appeals Board and shall take appropriate action on the appeal. In the case of a mail ballot, ballots shall be returned to the CEO within forty-five (45) days of receipt of the Appeals Board report by the CEO. The decision of the Board of Directors shall be final.
- 6.4** The CEO shall notify the appellant and parties referenced in 5.1 in writing or by e-mail of the decision of the Board of Directors.