

What you need to know about

the Building Appeals Board – Disputes

How is the Board's decision conveyed?

The decision is mailed to the applicant unless unusual circumstances require a faster method. The applicant may also collect the determination from the BAB office.

Is the decision final?

The decision is final and binding and must be put into effect by all parties to a hearing. The BAB can provide a statement of the reasons for its decision if requested by a party to the dispute.

What is the Building Appeals Board?

The BAB is an independent statutory body established under the *Building Act 1993* (the Act). It seeks the best possible building outcomes for the building industry and the community as a whole.

This brochure provides an overview of one of the roles and functions of the BAB.

What is a dispute?

The BAB hears disputes about a building, building work or proposed building work where it concerns the application, compliance or effect of any provision of the *Building Regulations 2006* (the Regulations).

The following case study provides a greater insight into how the BAB may assist you with a dispute:

You have employed a registered builder to construct your house but are not satisfied with the standard of building work. The studs are spaced at 900 mm centre to centre while the Regulations typically require studs to be spaced at 600 mm centre to centre. You are also unhappy with the quality of brickwork. The builder believes both the studs and brickwork are satisfactory. The building surveyor has also been consulted and is satisfied with the work.

You are now in dispute with both the builder and building surveyor. You can seek to resolve it at the BAB by applying for a dispute hearing.

The BAB does not hear contractual building disputes between consumers and builders. This type of dispute should be referred to Building Advice & Conciliation Victoria (BACV) on 1300 557 559. BACV is a joint initiative between Consumer Affairs Victoria and the Building Commission.

Need more information?

More information regarding the BAB can be found in the following brochures:

What you need to know about the Building Appeals Board
What you need to know about the Building Appeals Board – Appeals
What you need to know about the Building Appeals Board – Modifications

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Who can apply?

An application for a dispute hearing can be lodged at the Building Appeals Board (BAB) by the owner of the building or the land on which the building work is being or is to be carried out, the person who carries out or is to carry out the building work, the relevant building surveyor or the Building Commission.

How do I apply?

All applications for hearings at the BAB must be made on the forms available from the BAB, and from the Building Commission website (www.buildingcommission.com.au). Applications may be made in person or by mail.

Should an application be faxed, it will be registered but no further action on the application will occur until the original documents are submitted.

The application must be accompanied by the appropriate fee and all necessary documentation as indicated in the application form.

How long does it take?

Disputes are generally determined within approximately eight weeks of an application. Parties to a dispute are not able to request a 'fast track' determination.

What does it cost?

The following fee schedule applies to dispute hearings at the BAB:

Fees – Class 1 & 10			
Section of Act	Amount	Section of Act	Amount
151	\$250	156	\$250
152	\$250	157	\$250
153	\$250	158	\$250
154	\$250	150	\$150
155	\$250	164	\$150

Fees – Class 2–9			
Section of Act	Amount	Section of Act	Amount
151	\$500	156	\$500
152	\$500	157	\$500
153	\$500	158	\$500
154	\$500	150	\$250
155	\$500	164	\$250

Note Classes 1 and 10 generally are houses and outbuildings, Classes 2-9 are all other buildings other than houses and outbuildings.

The BAB is not legalistic and efforts are made to minimise costs for applicants. Generally parties pay their own costs regardless of the outcome of a hearing. However, the BAB has the power to award costs in certain circumstances. Claims for costs, including supporting details of those costs, must be made in writing when the application is lodged or during the dispute hearing.

What do I need to know about the hearing?

Notice of hearing

The *Notice of hearing* sets out the time, date and venue at which the dispute is to be heard and contains details of the nature of the dispute. Parties to a dispute should ensure that any witnesses they wish to be present on their behalf, are given adequate notice.

Attendees

All parties to a dispute may attend the hearing and are encouraged to do so in order to present their case. Alternatively, they may be represented by a nominee.

If an applicant cannot be present at a hearing, he or she may forward a written submission or rely on material already lodged with the BAB. The Registrar must receive written material no later than the day prior to the meeting.

Board members

The Panel which hears the dispute will be selected from the BAB members in an impartial manner with due consideration given to the skills required to deal with matters which are the subject of the hearing.

How the hearing proceeds

The hearing will begin with the Chairperson hearing the matter, making some opening remarks and confirming that both parties agree to the nature of the hearing.

The party lodging the dispute (the appellant) will then be asked to present arguments in support of their application. Panel members and the other party (the respondent) to the dispute may then ask questions to clarify any points made.

Following this, the respondent to the dispute is invited to provide arguments to support their case. Panel members or the appellant may then ask questions in order to clarify any points being made.

Hearings are not required to proceed in a formal manner, but are bound by the rules of natural justice, with all parties to a dispute being given an opportunity to state their case.

Witnesses

Witnesses may appear for either party to support their case. However, witnesses (such as adjoining owners) are not legally considered to be parties to a dispute. Witnesses should only make submissions to the BAB through the party they are supporting. This is because each party is expected to retain responsibility for the overall co-ordination and presentation of their own case.

Site inspections

Building site inspections are carried out at the discretion of the Panel hearing the dispute. An inspection will be carried out if it is felt that the matters subject to dispute would not be fully appreciated unless an inspection of the site was undertaken.

Additional information

Submission of additional information after a hearing has been completed, should not be necessary unless requested by the Panel hearing the matter. Parties should ensure their case is adequately presented on the day of the hearing. In exceptional circumstances, the BAB has the discretion to consider additional information.

Submission of additional information (including that from witnesses and adjoining owners) must be made by or through a party to the matter under consideration. No consideration can be given to information received after a determination has been made.