



**Building Materials Evaluation
Commission**

**Commission d'évaluation des
matériaux de construction**

Building Materials Evaluation Commission

ANNUAL REPORT 2020 - 2021

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May 26, 2021

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, Ontario M7A 2J3

Dear Minister Clark:

**Re: Building Materials Evaluation Commission
Annual Report – Fiscal year –2020-2021**

It is my pleasure, as Chair of the Building Materials Evaluation Commission, to present to you the Building Materials Evaluation Commission's Annual Report for the fiscal year ending March 31, 2021.

The enclosed Annual Report highlights the Building Materials Evaluation Commission's accomplishments over the 2020-2021 fiscal year and outlines challenges that have been identified for the future. In total, the Building Materials Evaluation Commission received four new applications, issued four new authorizations, and completed its review of existing authorizations.

I would like to thank my fellow Commission members whose knowledge and dedication have earned the Building Materials Evaluation Commission an excellent reputation as a valuable service provider in the building and construction industry. On behalf of all members of the Building Materials Evaluation Commission, I would like to express our thanks to the staff of the Ministry of Municipal Affairs and Housing for their support to the Building Materials Evaluation Commission. Without their excellent administrative, technical, secretariat, operational and legal assistance the Building Materials Evaluation Commission simply could not function.

Sincerely,



Leo Grellette
Chair, Building Materials Evaluation Commission

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Building Materials Evaluation Commission 2020-2021 ANNUAL REPORT

TABLE OF CONTENTS

A.	MANDATE	1
	Commitment to Service and Guiding Principles	1
B.	ABOUT THE BUILDING MATERIALS EVALUATION COMMISSION.....	2
	Building Materials Evaluation Commission Process and Procedure	2
	Commission Members and Ministry Staff	2
	Caseload	3
C.	ANALYSIS OF BUILDING MATERIALS EVALUATION COMMISSION PERFORMANCE	4
	Performance Measures and Targets	4
	Ranking	4
	Operational Performance.....	5
D.	FINANCIAL REPORT	6
	Budget	6
	Revenues	7
	Remuneration of Members	7
	Appendix 1 – Performance Measures Table	8
	Appendix 2 Building Materials Evaluation Commission Appointees List	10

Building Materials Evaluation Commission

2020-2021 ANNUAL REPORT

A. MANDATE

The Building Materials Evaluation Commission (the “Commission”) is an independent regulatory agency whose legislative authority is set out in Section 28 of the *Building Code Act, 1992*.

The Commission has a mandate to evaluate and authorize for use in construction in Ontario, innovative construction materials, systems or building designs not specifically meeting the requirements of the Building Code. In doing so, the Commission has the power to conduct, or cause to be conducted, research, analysis and evaluation of such innovative materials, systems and building designs. The Commission is not a testing body but may require that testing be carried out by an applicant as part of its evaluation.

Commitment to Service and Guiding Principles

The inaugural meeting of the Commission was held on February 18, 1976, shortly after the first *Building Code Act*, came into effect in 1974. Since then, the Commission has endeavoured to provide a timely, expert, and transparent process for authorizing the use of innovative materials, systems and building designs. In doing so, the Commission has earned a reputation of being an effective, useful and quality service provider within the construction industry.

The Commission has signed a Memorandum of Understanding with the Minister relating to the exercise of its mandate. The Memorandum of Understanding sets out the relationship between the Commission Chair and the Minister and the Ministry of Municipal Affairs and Housing with respect to the Commission and the services it provides. The purpose of the Memorandum of Understanding is to establish the responsibilities of these parties and to ensure that accountability is a fundamental principle observed in the management, administration and operations of the Commission.

As an agency of government, the Commission conducts itself according to the management principles of the Government of Ontario. The Commission’s proceedings are governed by the *Building Code Act, 1992*; the Building Materials Evaluation Commission’s Guidelines, Policies and Procedures Handbook, and Management Board of Cabinet directives. These principles and governance elements include ethical behaviour, accountability, excellence in management, wise use of public funds, and high-quality service to the public, by contributing to the health, safety, accessibility and energy efficiency of buildings in Ontario and by playing a positive role within Ontario’s construction sector.

B. ABOUT THE BUILDING MATERIALS EVALUATION COMMISSION

Building Materials Evaluation Commission Process and Procedure

Applications for authorization are submitted to the Commission by companies or individuals producing building materials, systems or designs.

While the Commission makes decisions on applications, subcommittees are usually established to carry out detailed evaluations and report to the Commission. The subcommittees typically consist of Commission members who are familiar with, and/or have expertise in, the field of technology associated with the application. The Commission may request comments from Ministry of Municipal Affairs and Housing's technical staff or other research or standards issuing bodies.

Generally, the Commission holds one meeting each month, with approximately two to four subcommittee meetings in that same period. The issuance of decisions by the Commission usually takes between 90 and 120 days, depending on the complexity of the application and the additional information required of the applicants, as well as the timeliness of their response(s).

Commission Members and Ministry Staff

As of March 31, 2021, the Commission had 12 part-time members, which includes the Chair and the Vice Chair. All members are appointed by Order in Council. Current Management Board of Cabinet Directives permit individuals appointed to the Commission to serve a combined term of appointment of up to 10 years. Commission members attend monthly meetings and subcommittee meetings and make decisions on applications for authorizations. The Chair and Vice-Chair are also responsible for making administrative decisions regarding operations and relations with the Ministry.

The following divisions of the Ministry support the Commission:

- o the Municipal Services Division's Building and Development Branch;
- o the Business Management Division's Corporate Services Branch, and Controllershship and Financial Planning Branch;
- o Legal Services Branch; and
- o Community Services I&IT Cluster.

The Commission receives all of its staffing and financial resources from the Building and Development Branch of the Ministry of Municipal Affairs and Housing (the "Ministry").

Although the Commission has no staff of its own, the Secretary is the Ministry staff person assigned to support the Commission. The Secretary is responsible for the overall administration of the Commission. This involves managing the appointments process, issues management, business planning, performance measurement, monitoring of expenditures, and ensuring compliance with agency sector requirements and Management Board of Cabinet directives.

The Commission's Vice-Chair was reappointed in August 2020 for a period of 2 years. Five members in May 2020 and two more in August 2020 were reappointed for two additional years.

The Commission is working towards staggering the terms of appointment for the Commission so that Orders in Council expire in small groups. This will allow for newly appointed members to be mentored by experienced members and will support knowledge maintenance within the Commission.

In addition to ensuring an adequate number of members, the Commission must also continue to work at maintaining the knowledge base of its membership, so it is important for the Commission to continue to solicit new members with expertise that reflects a full spectrum of relevant technical disciplines (e.g. plumbing, mechanical systems, on-site sewage systems, etc.). As described in the Memorandum of Understanding, the role of the Chair includes keeping the Minister informed of upcoming appointment vacancies and providing recommendations for appointments and/or reappointments to the Commission.

Caseload

The chart below provides a summary of the Commission's caseload over the last five years:

Chart 1

Fiscal Year	Applications Received	Authorizations Issued	Authorizations Amended/Revised	Authorizations Revoked
2016 - 2017	3	3	6	11
2017 - 2018	6	3	10	9
2018 - 2019	8	3	1	5
2019 - 2020	5	7	3	4
2020 - 2021	4	4	41	4

In addition to new applications, the Commission considers requests for substantive and/or technical amendments to existing authorizations and reviews its existing authorizations for possible revocation. Applications for amendment are processed in the same manner as a new application. The Commission reviews and evaluates the details of the proposed amendment as innovative products, systems and designs are modified and updated. The process for review and revocation adds to the workload of the Commission.

In 2008 the Commission launched an initiative to manage and keep current all existing authorizations including the decision to make all existing (and future) authorizations expire after a set time period. This initiative involved reviewing and revising as many as 325 authorizations and was completed in July 2020.

As necessary, the Commission will continue to review authorizations with the release of each new Building Code.

C. ANALYSIS OF BUILDING MATERIALS EVALUATION COMMISSION PERFORMANCE

Performance Measures and Targets

The Commission has adopted the recommendations for performance measurement established in 2000 by the Agency Reform (Guzzo) Commission. The Commission assesses its annual performance based on a standardized set of metrics. These are: fairness, accessibility, timeliness, quality and consistency, transparency, expertise, optimum cost, and courtesy. The Commission has processes in place to ensure that all goals are integrated into the Commission's operation and are, therefore, adequately addressed.

Chart 2 below indicates how the Commission rated the goals. Performance measures were developed for goals that were rated "high" and "medium" in Chart 2 and the results of the Commission's performance can be found in Appendix 1.

Goals	Ranking
Fairness	High
Accessibility*	Low
Timeliness	High
Quality and Consistency	High
Transparency	Medium
Expertise	High
Optimum Cost	Low
Courtesy	Medium

* It should be noted that the term "Accessibility" was related to providing seamless and simple access so that the public can receive quality and timely services regardless of their familiarity with the system.

Several steps have been taken to enhance the Commission's performance and accountability over the past several years, including continued monitoring of Commission-specific performance measures.

Once an application has been processed by the Commission, all applicants that utilize Commission services in the 2020-2021 fiscal year were asked to complete a survey to provide feedback on the Commission's performance. The following is a sample of how the Building Materials Evaluation Commission fared on its targets for its goals in 2020-2021:

Fairness

- The stated target of not more than 10% of decisions should result in judicial review on an annual basis was again met in the 2020-2021 fiscal year. No judicial reviews were received.
- Survey results of the parties that utilized Commission services in the 2020-2021 fiscal year indicate that 100% of respondents agreed that they were treated fairly.

Timeliness

- The Commission aims to make decisions within an average of 120 days of the initial consideration of an application. Records from the 2020-2021 fiscal year indicate that the Commission did not meet this target and on average made decisions within 180 days.
 - o Factors that may have impacted this increase in time include the transition and adaptation to remote working due to the COVID-19 outbreak, and the change in staffing during the past fiscal year.

Quality and Consistency

- Survey results indicated that 100% of respondents felt that the processes and procedures had a high degree of quality and consistency.

Transparency

- Survey results indicated that 100% of respondents felt that the processes and procedures were clear and understandable.

Expertise

- Survey results indicated that 100% of respondents felt that members demonstrated an appropriate level of expertise regarding the technical matters under consideration.

Courtesy

- Survey results indicated that 100% of respondents felt that they were treated with courtesy by Ministry staff and Commission members.

Operational Performance

The Commission believes that in order to provide quality service to the public and the construction sector in particular, the Commission, as an agency, must operate as effectively and efficiently as possible. This means more than having performance measures in place to strive for service excellence on a day-to-day basis. It also means pursuing excellence from an operational and administrative standpoint over the long term. In order to achieve this, the Commission also assesses itself on its operational performance. The following are some of the operational achievements from 2020-2021:

- The Commission continued to provide a cost effective and expeditious mechanism for the evaluation of innovative materials, systems and building designs.

- The Commission adapted quickly and efficiently to respond to the COVID-19 outbreak. It delivered almost the same level of service as under normal conditions by moving to accept electronic applications and conducting all meetings electronically. These measures are in keeping with the government's priority to enhance digital delivery and customer service.
- The Commission continued its practice of surveying clients and received an overall satisfaction rating of 100% from clients who had used the services of the Commission between April 1, 2020 and March 31, 2021.
- The Commission continued to maintain its compliance with the Agencies and Appointments Directive:
 - o Prepared, finalized and submitted a three-year Business Plan;
 - o Completed its Annual Report for 2019-2020 fiscal year and approved within the specified time frame.
 - o Publicly posted the Commission's Memorandum of Understanding, Business Plan and Annual Report as required by the Agencies and Appointments Directive.
- No member expenses were incurred after March 15, 2020, due to COVID-19 and work from home policies. The Commission did not publicly post members' expense information as required by the Travel, Meal and Hospitality Expenses Directive.
- The Commission completed its strategic plan to review existing authorizations. This review ensured that all of its authorizations are current and up to date.
- The Commission Chair and Ministry staff worked with the Public Appointments Secretariat and the Minister's Office on the reappointment of eight members.
- The Commission Chair and Ministry staff continue to work with the Public Appointments Secretariat and the Minister's Office to improve its membership in terms of regional representation and technical expertise.

D. FINANCIAL REPORT

Budget

The Commission has no financial budget of its own, separate from that of the Ministry of Municipal Affairs and Housing. All costs, including Commission per diem remuneration, support, operational costs and administrative support, are borne by the Ministry.

The Chart 3 below provides details of the costs associated with supporting the Commission:

Expense Type	2021-2022 Estimates	2020-2021 Estimates	2020-2021 Actuals	2019-2020 Actuals
Per diem*	\$112,000	\$112,000	\$ 57,190	\$78,231
Members' travel and meeting expenses **	\$60,100	\$58,350	\$63	\$19,477
Other administration	\$9,800	\$9,550	\$ 3,166	\$3,217
Total Expenses***	\$181,900	\$179,900	\$60,419	\$100,925

*The operating expenses cover costs associated with monthly Commission meetings and subcommittee meetings; per diems for Commission members.

**Due to COVID-19 and work from home policies, no member expenses were incurred from March 15, 2020 to March 31, 2021. Posted expense noted above was incurred prior to March 15, 2020.

***The number of Commission meetings and subcommittee meetings is determined by the application rate. Member per diem remuneration rates are established by the Management Board of Cabinet Agencies & Appointments Directive regarding part-time OIC appointed members. The expenditure estimates are based on typical application rates (using historical data and projecting forward), member per diem remuneration rates and other operating expenses noted above.

Revenues

Revenues in the form of application fees are received, deposited and accounted for as part of the Ministry of Municipal Affairs and Housing's non-tax revenues.

The current application fee for the Commission (in effect since 2018) is \$11,000.

Chart 4

Revenue	2020-2021 Estimates	2021-2022 Estimates	2020-2021 Actuals	2019-2020 Actuals
Application Fees	\$66,000	\$66,000	\$30,396	\$77,000
Total Revenues	\$66,000	\$66,000	\$30,396*	\$77,000

*The total revenues include payment for three applications received in the 2020-2021 fiscal year. Payments for the fourth application was not processed until the 2021-2022 fiscal year and are therefore is not included in this total.

Remuneration of Members

As part-time appointees, Commission members receive remuneration in the form of a per diem as established by Management Board of Cabinet. Effective January 1, 2018, this per diem ranged from \$472 for members to \$583 for the Vice-Chair and \$744 for the Chair. Commission members are also reimbursed for out-of-pocket expenses associated with attending Commission meetings in Toronto and elsewhere in the province, in accordance with Management Board of Cabinet's Travel, Meal and Hospitality Expenses Directive. Costs associated with Commission activities, including operating costs and member per diems, form part of the overall budget of the Ministry of Municipal Affairs and Housing.

The Building Materials Evaluation Commission's application rate and/or complexity of issues directly impact the budget requirement in support of Commission activities.

Appendix 1 – Performance Measures Table

Building Materials Evaluation Commission: Performance Measures				
Outcomes	Measures	Targets	2020-2021 Status	2021-2022 Commitments
Fairness (processes and procedures that are fair and are seen to be fair)	Applicants are satisfied that the process was balanced, appropriate and fair	No more than 10% of Building Materials Evaluation Commission decisions should result in judicial review on an annual basis	Target met	Not more than 10% of decisions should result in a judicial review
Timeliness (quick and careful evaluation of innovative construction materials, systems and designs)	Average number of days from receipt of application to decision/issuance of authorization	Decisions made or authorization issued within an average of 120 days after the first Building Materials Evaluation Commission meeting following receipt of a complete application	Target not met Decisions made or authorizations issued were done within an average of 180 days.	Target of 120 days
Quality and Consistency (process and procedures that have integrity and uniformity)	Applicants are satisfied that the Commission process was conducted with a high degree of quality and consistency	85% of applicants feel that the process had a high degree of quality and consistency	Target met and exceeded at 100%	Target of 85%
Transparency (clear and understandable process and procedures)	Applicants are satisfied that the Commission process and procedures were clearly understood	85% of applicants feel that the process and procedures were clear and understandable	Target met and exceeded at 100%	Target of 85%
Expertise (thoughtful and sound Building Materials Evaluation Commission decisions made due to technical competence of members)	a) Applicants are satisfied that the Building Materials Evaluation Commission members demonstrated an appropriate level of knowledge and technical competency b) Timely notice to the Ministry regarding upcoming Building Materials Evaluation Commission member terms of appointment expiration	a) 85% of applicants feel that Commission authorizations reflected a high degree of technical knowledge and expertise appropriate to the proposal b) Provide 180 days notice to the Ministry in advance of members' appointments expiring	a) Target met and exceeded at 100% b) Target met	a) Target of 85% b) Target of 180 days

Building Materials Evaluation Commission: Performance Measures				
Outcomes	Measures	Targets	2020-2021 Status	2021-2022 Commitments
Courtesy (polite and courteous treatment of all parties)	Applicants are satisfied that they were treated with courtesy throughout the application and evaluation process	85% of applicants surveyed feel that they were treated with courtesy throughout the application and evaluation process	Target met and exceeded at 100%	Target of 85%

Appendix 2 Building Materials Evaluation Commission Appointees List

Commission Members	Original Appointment Date	Expiry Date of Current Appointment	Location	Total Annual Remuneration 2020-2021
Leo Grellette, Chair	February 15, 2017	March 31, 2024	Severn	\$8,003
Andrew Hellebust, Vice Chair	February 8, 2018	August 6, 2022	Toronto	\$7,316
Andras Szonyi	May 4, 2011	June 7, 2021	Oshawa	\$4,555
Craig Cunningham	November 16, 2016	May 15, 2022	Huntsville	\$5,570
Saleha Hussain	November 16, 2016	May 15, 2022	Markham	\$1,794
Ben Pucci	November 16, 2016	May 15, 2022	Woodbridge	\$1,419
Gerry Egberts	November 30, 2016	May 27, 2022	Willowdale	\$3,354
Dale Kerr	November 30, 2016	May 27, 2022	Sutton West	\$6,702
Michaela Tataru	February 8, 2018	August 6, 2022	Richmond Hill	\$1,345
Rui Sousa	February 8, 2018	August 6, 2022	Thornhill	\$873
Mark Green	June 20, 2019	June 19, 2021	Mallorytown	\$3,823
Tony Chow	June 20, 2019	June 19, 2021	Richmond Hill	\$6,820
Total Annual Remuneration for Commission				\$51,674

Note: Numbers may not add due to rounding.

April 1, 2020 to March 31, 2021