



**Building Materials Evaluation
Commission**

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

Building Materials Evaluation Commission

ANNUAL REPORT 2021 - 2022

777 Bay Street, 16h Floor
Toronto, Ontario, M7A 2J3

T: 416 585 4234

W: www.ontario.ca/buildingcode/

777, rue Bay, 16 étage
Toronto, Ontario, M7A 2J3

T: 416 585 4234

W: www.ontario.ca/buildingcode/

May 25, 2022

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 –2021-2022**

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, 2022.

The enclosed Annual Report highlights the Building Materials Evaluation Commission's accomplishments over the 2021-2022 fiscal year and outlines challenges that have been identified for the future. In total, the Building Materials Evaluation Commission received five new applications, issued two new authorizations, one application was withdrawn, and the remaining two are under review.

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

encl.

Building Materials Evaluation Commission 2021-2022 ANNUAL REPORT

TABLE OF CONTENTS

A.	MANDATE	<u>14</u>
	Commitment to Service and Guiding Principles	<u>14</u>
B.	ABOUT THE BUILDING MATERIALS EVALUATION COMMISSION	<u>22</u>
	Building Materials Evaluation Commission Process and Procedure	<u>22</u>
	Commission Members and Ministry Staff	<u>22</u>
	Caseload	3
C.	ANALYSIS OF BUILDING MATERIALS EVALUATION COMMISSION PERFORMANCE	<u>55</u>
	Performance Measures and Targets	<u>55</u>
	Operational Performance	<u>66</u>
D.	FINANCIAL REPORT	<u>77</u>
	Budget	<u>77</u>
	Revenues	<u>88</u>
	Remuneration of Members	<u>88</u>
	Appendix 1 – Performance Measures Table	<u>99</u>
	Appendix 2 – Building Materials Evaluation Commission Appointees List	<u>1144</u>

Building Materials Evaluation Commission

2021-2022 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 Ontario, innovative construction materials, systems or building designs not currently recognized by 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 and was made possible by the Legislature passing the first *Building Code Act* 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 operation 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 as a whole 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 the 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 if any additional information is required of the applicants, as well as the timeliness of their response(s).

Commission Members and Ministry Staff

As of March 31, 2022, the Commission had 11 part-time members, which includes the Chair and the Vice Chair. All members are appointed by Order in Council (OIC). 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/branches of the Ministry and technology cluster support the Commission:

- the Planning and Growth Division's Building and Development Branch;
- the Business Management Division's Corporate Services Branch, and Controllershship and Financial Planning Branch;
- Legal Services Branch; and
- 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, staff of the Building and Development Branch includes a person assigned to support the Commission. This individual, the Commission's 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 works 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.

The following is a summary of the appointments for the past fiscal:

- One new member was appointed in March 2022 for a two-year term, and
- In March, six members were reappointed for three-year terms.

In addition, the Commission's Vice-Chair's OIC is set to expire in August 2022, leaving the BMEC with a vacant Vice-Chair position.

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	Expired Authorizations
2017 - 2018	6	3	10	9	-
2018 - 2019	8	3	1	5	-
2019 - 2020	5	7	3	4	-
2020 - 2021	4	4	41	4	-
2021-2022	5	3	2	0	4

In 2021-2022, the Building Materials Evaluation Commission received five new applications, issued three new authorizations, one application was withdrawn, and the remaining one is under review. The Commission notes that the increased application fee (in effect since 2018) may have an impact on an applicant's decision to apply to the Commission.

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 amendments 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. 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 long standing established performance measures and targets. These are: fairness, timeliness, quality and consistency, transparency, expertise and courtesy. The results of the Commission's performance can be found in Appendix 1.

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 2021-2022 fiscal year were asked to complete a survey to provide feedback on the Commission's performance. The following is a summary of how the Building Materials Evaluation Commission fared on its targets for its goals in 2021-2022:

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 2021-2022 fiscal year. No judicial reviews were received.
- Survey results of the parties that utilized Commission services in the 2021-2022 fiscal year indicate that 100% of respondents agreed that they were treated fairly.

Timeliness

- The Commission aims to make a decision within an average of 120 days of the initial consideration of an application. Records from the 2021-2022 fiscal year indicate that the Commission met this target and made decisions within 120 days.

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.

These performance measures were adopted as a result of the recommendations established in 2000 by the Agency Reform (Guzzo) Commission.

Strategic Direction

The Commission's strategic direction is consistent with its mandate as well as government priorities for the agency sector. As part of the government of Ontario, agencies are expected to act in the best interests of Ontarians by being efficient, effective, and providing value for money to taxpayers. In alignment with this expectation, the Commission's direction and objectives are consistent with the following government priorities that were outlined in the BMEC's 2021-2024 Business Plan and are reflected in the work done during the 2021-2022 fiscal year:

1. Transparency and Accountability

- Abiding by applicable government directives and policies and ensuring transparency and accountability in reporting.
- Adhering to requirements of the Agencies and Appointments Directive, and responding to audit findings, where applicable.
- Identifying appropriate skills, knowledge and experience needed to effectively support the board's role in agency governance and accountability.

2. Risk Management

- Developing and implementing an effective process for the identification, assessment and mitigation of risks, including planning for and responding to emergency situations such as member shortages and COVID-19.

3. Digital Delivery and Customer Service

- Exploring and implementing digitization or digital modernization strategies for the provision of services online and continuing to meet and exceed customer service standards through transition.
- Using a variety of approaches or tools to ensure service delivery in all situations, including COVID-19.

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 and strategic direction 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. To achieve this, the Commission also assesses itself on its operational performance. The following are some of the operational achievements from 2021-2022:

- 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 continued to deliver the same level of service as under normal conditions by accepting electronic applications and conducting all meetings electronically. These measures are in

keeping with the government's aforementioned priority to enhance digital delivery and customer service.

- The Commission continued its practice of surveying clients and, despite the on-going impacts of the COVID-19 pandemic, received an overall satisfaction rating of 100% from clients who had used the services of the Commission between April 1, 2021 and March 31, 2022.
- The Commission continued to maintain its compliance with the Agencies and Appointments Directive (AAD) as follows:
 - Prepared, finalized and submitted a three-year Business Plan;
 - Completed its Annual Report for 2020-2021 fiscal year and approved within the specified time frame;
 - Publicly posted the Commission's Memorandum of Understanding, Business Plan and Annual Report as required by the AAD.
- No member expenses related to travel and meetings were incurred this past fiscal year, due to COVID-19 and work from home policies.
- The Commission Chair and Ministry staff worked with the Public Appointments Secretariat and the Minister's Office on the appointment of one new member and 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 separate from that of the Ministry of Municipal Affairs and Housing. All costs, including Commission per diem remuneration, operational costs and administrative support, are provided by the Ministry.

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

Chart 2

Expense Type	2022-2023 Estimates*	2021-2022 Estimates*	2021-2022 Actuals	2020-2021 Actuals
Per diem	\$112,000	\$112,000	\$30,247	\$57,190
Members' travel and meeting expenses	\$61,900	\$60,100	\$0**	\$63
Other administration	\$10,100	\$9,800	\$1,420	\$3,166
Total Expenses	\$184,000	\$181,900	\$31,667***	\$60,419***

*The number of Commission meetings and subcommittee meetings is determined by the application rate. Members 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. Note that ministry staff support costs are not reflected. The actual salaries and employee benefits in 2021-2022 were \$40,553 and the estimates were \$82,400. Salaries and benefits were lower than estimated due to a vacancy for a part of the year. Ministry staff ensured that administration support continued to be provided to the Commission during this period.

**Due to COVID-19 and work from home policies, no member expenses related to travel and meetings were incurred from April 1, 2021 to March 31, 2022.

***The operating expenses cover costs associated with monthly Commission meetings and subcommittee meetings which include per diems for Commission members and any related travel expenses; and other administration. In 2021-2022, lower than estimated per diem costs are mainly due to COVID-19 and work from home policies since travel time was eliminated; and fewer applications received than estimated. Refer to the first footnote (*) for the expenses related to the Secretary.

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 3

Revenue	2022-2023 Estimates*	2021-2022 Estimates*	2021-2022 Actuals	2020-2021 Actuals
Application Fees	\$66,000	\$66,000	\$44,000	\$30,396
Total Revenues	\$66,000	\$66,000	\$44,000**	\$30,396

*The revenue estimates are based on receiving six applications per year based on the last Building Code cycle (2007-2012).

**The total revenues include four applications received in the 2021-2022 fiscal year. The fifth application in 2021-2022 was processed in 2022-2023 and therefore not included in the 2021-2022 Actuals.

Remuneration of Members

As part-time appointees, Commission members receive remuneration in the form of a per diem as established by the Management Board of Cabinet Agencies and Appointments Directive. 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 list of the Commission's members remuneration for this fiscal year 2021-2022 can be found in Appendix 2.

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	2021-2022 Status	2022-2023 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 met	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	2021-2022 Status	2022-2023 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 2021-2022*
Leo Grellette, Chair	February 15, 2017	March 31, 2024	Severn	\$6,607
Andrew Hellebust, Vice Chair	February 8, 2018	August 6, 2022	Toronto	\$2,229
Andras Szonyi	May 4, 2011	June 7, 2021	Oshawa	\$425
Craig Cunningham	November 16, 2016	May 15, 2022	Huntsville	\$11,756**
Saleha Hussain	November 16, 2016	May 15, 2022	Markham	\$716
Ben Pucci	November 16, 2016	May 15, 2022	Woodbridge	\$431
Gerry Egberts	November 30, 2016	May 27, 2022	Willowdale	\$1,419
Dale Kerr	November 30, 2016	May 27, 2022	Sutton West	\$2,882
Michaela Tataru	February 8, 2018	August 6, 2022	Richmond Hill	\$1,098
Rui Sousa	February 8, 2018	August 6, 2022	Thornhill	\$913
Mark Green	June 20, 2019	September 1, 2024	Mallorytown	\$1,348
Tony Chow	June 20, 2019	June 19, 2021	Richmond Hill	\$425
Total Annual Remuneration for Commission				\$30,247

* Numbers may not add due to rounding. Remuneration represents the per diems and does not include expenses.

** The member's remuneration includes some per diems earned prior to 2021-2022.

April 1, 2021 to March 31, 2022