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**Building Materials Evaluation  
Commission**

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

# **Building Materials Evaluation Commission**

## **ANNUAL REPORT 2022 - 2023**

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April 1, 2023

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 –2022-2023**

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, 2023.

The enclosed Annual Report highlights the Building Materials Evaluation Commission's accomplishments over the 2022-2023 fiscal year and outlines challenges that have been identified for the future. In total, the Building Materials Evaluation Commission received seven new applications, issued five new authorizations, one application was withdrawn, and three applications are under review.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 2022-2023 ANNUAL REPORT**

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# Building Materials Evaluation Commission

## 2022-2023 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 an average of three 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, 2023, the Commission had 9 part-time members, which includes the Chair. The Vice-Chair position is currently vacant. 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:

- Planning and Growth Division's Building and Development Branch;
- Business Management Division's Corporate Services Branch, and Controllershship and Financial Planning Branch;
- Legal Services Branch; and
- Community Services Information and Information Technology 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").

The direct support staff assigned by the Ministry to the Commission consists of a 0.8 Full Time Equivalent (FTE) for the Commission Secretary. The Secretary is responsible for the overall administration of the Commission. This involves managing the appointments process, issues management, business planning, performance measurements, 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 year:

- Six members were reappointed in May and August 2022 for a three-year term.
- The Vice-Chair was not reappointed, leaving the BMEC with a vacant Vice-Chair position.

## Caseload

Chart 1 below provides a summary of the Commission's caseload over the last five years:

| Fiscal Year | Applications Received | Authorizations Issued | Authorizations Amended/Revised | Authorizations Revoked | Expired Authorization |
|-------------|-----------------------|-----------------------|--------------------------------|------------------------|-----------------------|
| 2018 - 2019 | 8                     | 3                     | 1                              | 5                      | -                     |
| 2019 - 2020 | 5                     | 7                     | 3                              | 4                      | -                     |
| 2020 - 2021 | 3                     | 4                     | 41                             | 4                      | -                     |
| 2021 - 2022 | 5                     | 3                     | 2                              | 0                      | 4                     |
| 2022 - 2023 | 7                     | 5                     | 0                              | 0                      | 10                    |

In 2022-2023, the Building Materials Evaluation Commission received seven new applications, issued five new authorizations, one application was withdrawn, and three applications are 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 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. 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 2022-2023 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 2022-2023:

#### **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 2022-2023 fiscal year. No judicial reviews were received.
- Survey results of the parties that utilized Commission services in the 2022-2023 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 2022-2023 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. 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 2022-2025 Business Plan and are reflected in the work done during the 2022-2023 fiscal year:

### **1. Transparency and Accountability**

- Abide by applicable government directives and policies and ensuring transparency and accountability in reporting.
- Adhere to accounting standards and practices, and responding to audit findings, where applicable.
- Identify appropriate skills, knowledge and experience needed to effectively support the board's role in agency governance and accountability.

### **2. Risk Management**

- Develop and implement an effective process for the identification, assessment, and mitigation of agency risks, including COVID-19 impacts and any future emergency risks.

### **3. Digital Delivery and Customer Service**

- Explore and implement digitization for online service delivery to ensure customer service standards are met.
- Use a variety of approaches or tools to ensure service delivery in all situations, including pursuing delivery methods that have evolved since 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 2022-2023:

- The Commission continued to provide a cost effective and expeditious mechanism for the evaluation of innovative materials, systems and building designs.
- The Commission continued to deliver the same level of service 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 received an overall satisfaction rating of 100% from clients who had used the services of the Commission

between April 1, 2022 and March 31, 2023.

- The Commission continued to maintain its compliance with the Agencies and Appointments Directive (AAD) as follows:
  - Prepared, finalized and submitted the annual three-year Business Plan;
  - Completed its Annual Report for 2021-2022 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 for meetings were incurred this past fiscal year as all meetings were held virtually.
- The Commission Chair and Ministry staff worked with the Public Appointments Secretariat and the Minister's Office on the reappointment of six 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.
  - A job advertisement to recruit a Vice-Chair and members is currently underway.

## 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.

Chart 2 below provides details of the costs associated with supporting the Commission:

| Expense Type                           | 2023-2024<br>Estimates* | 2022-2023<br>Estimates* | 2022-2023<br>Actuals | 2022-2023<br>Actuals vs.<br>Estimates | 2021-2022<br>Actuals |
|----------------------------------------|-------------------------|-------------------------|----------------------|---------------------------------------|----------------------|
| Members' per diems                     | \$111,000               | \$112,000               | \$37,871             | \$(74,129)**                          | \$30,247             |
| Members' travel and meeting expenses   | \$23,300                | \$61,900                | \$0                  | \$(61,900)***                         | \$0                  |
| Other administration                   | \$10,000                | \$10,100                | \$2,783              | \$(7,317)                             | \$1,420              |
| <b>Subtotal</b>                        | <b>\$144,300</b>        | <b>\$184,000</b>        | <b>\$40,654</b>      | <b>\$(143,346)</b>                    | <b>\$31,667</b>      |
| Full Time Equivalents (FTE)            | 0.8                     | 0.8                     | 0.8                  | -                                     | 0.8                  |
| FTE costs ( <i>salary + benefits</i> ) | \$67,300                | \$65,916****            | \$65,916             | \$0                                   | \$40,553             |
| <b>Total Expenses</b>                  | <b>\$211,600</b>        | <b>\$249,916</b>        | <b>\$106,570</b>     | <b>\$(143,346)</b>                    | <b>\$72,220</b>      |

\*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's 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. Operating expenses cover costs associated with meetings, administration, per diems for members and reimbursement for out-of-pocket travel expenses related to meetings. These include hotel accommodations, meal allowances, parking and public transit in accordance with the Management Board of Cabinet's Travel, Meal and Hospitality Expenses Directive.

\*\*In 2022-2023, lower than estimated per diem costs are mainly due to COVID-19 and work from home policies since travel time was eliminated; fewer meetings were held; and the Commission has been working with nine members and the vice-chair position has been vacant.

\*\*\*Due to COVID-19 and work from home policies, no member expenses related to travel and meetings were incurred from April 1, 2022 to March 31, 2023. This also applied to 2021-2022.

\*\*\*\*Note, for 2022-2023 Estimates, the salary and benefits for the 0.8 FTE (Commission Secretary) reflect the actual expenditures only which are in line with the projection of \$67,300 for 2023-2024 Estimates.

## Revenues

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

The current application fee for the Commission, which has been in effect since 2018, is \$11,000.

Chart 3

| Revenue               | 2023-2024<br>Estimates* | 2022-2023<br>Estimates* | 2022-2023<br>Actuals | 2022-2023<br>Actuals vs.<br>Estimates | 2021-2022<br>Actuals |
|-----------------------|-------------------------|-------------------------|----------------------|---------------------------------------|----------------------|
| Application Fees      | \$66,000                | \$66,000                | \$77,000             | \$11,000                              | \$44,000             |
| <b>Total Revenues</b> | <b>\$66,000</b>         | <b>\$66,000</b>         | <b>\$77,000**</b>    | <b>\$11,000</b>                       | <b>\$44,000</b>      |

\*The revenue estimates are based on receiving six applications per year based on the last Building Code cycle.

\*\*The total revenues include six applications received in the 2022-2023 fiscal year. No payment was received for the seventh application in 2022-2023 as the application was withdrawn prior to being considered by the full Commission. Note that total revenues also include payment for one application received in 2021-2022 fiscal year.

## 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's 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 members' remuneration for this fiscal year 2022-2023 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                                                                                                                                                                                                                                          | 2022-2023 Status                                        | 2023-2024 Commitments                                             |
| <b>Fairness</b> (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 |
| <b>Timeliness</b> (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                                                |
| <b>Quality and Consistency</b> (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%                                                     |
| <b>Transparency</b> (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%                                                     |
| <b>Expertise</b> (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<br><br>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<br><br>b) Provide 180 days notice to the Ministry in advance of members' appointments expiring | a) Target met and exceeded at 100%<br><br>b) Target met | a) Target of 85%<br><br>b) Target of 180 days                     |

| Building Materials Evaluation Commission: Performance Measures  |                                                                                                                 |                                                                                                                        |                                 |                       |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------------|
| Outcomes                                                        | Measures                                                                                                        | Targets                                                                                                                | 2022-2023 Status                | 2023-2024 Commitments |
| <b>Courtesy</b> (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 2022-2023* |
|-------------------------------------------------|---------------------------|------------------------------------|---------------|--------------------------------------|
| Leo Grellette, Chair                            | February 15, 2017         | March 31, 2024                     | Severn        | \$6,821                              |
| Andrew Hellebust, Vice Chair                    | February 8, 2018          | August 6, 2022                     | Toronto       | \$2,467                              |
| Craig Cunningham                                | November 16, 2016         | May 15, 2025                       | Huntsville    | \$4,307                              |
| Saleha Hussain                                  | November 16, 2016         | May 15, 2025                       | Markham       | \$1,357                              |
| Ben Pucci                                       | November 16, 2016         | May 15, 2025                       | Woodbridge    | \$809                                |
| Gerry Egberts                                   | November 30, 2016         | May 27, 2025                       | Willowdale    | \$2,982                              |
| Dale Kerr                                       | November 30, 2016         | May 27, 2025                       | Sutton West   | \$7,943**                            |
| Michaela Tataru                                 | February 8, 2018          | August 7, 2025                     | Richmond Hill | \$1,124                              |
| Rui Sousa                                       | February 8, 2018          | August 6, 2022                     | Thornhill     | \$1,127                              |
| Mark Green                                      | June 20, 2019             | September 1, 2024                  | Mallorytown   | \$5,106                              |
| Robert Kok                                      | March 4, 2022             | March 3, 2024                      | Burlington    | \$3,830                              |
| <b>Total Annual Remuneration for Commission</b> |                           |                                    |               | <b>\$37,871</b>                      |

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

\*\* The member's remuneration includes some per diems earned prior to 2022-2023.

*April 1, 2022 to March 31, 2023*