

**PREPARING FOR AN APPEAL HEARING
BEFORE THE
BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

This is a document prepared using, as a model, the ‘Getting Ready for Court’ brochure published by the Ministry of Attorney General for use at Small Claims Court. It is not intended as a substitute for the *Natural Products Marketing (BC) Act* or its *Regulations*.

1. Think about what you really want from this case. Make sure you know what it is you want the British Columbia Farm Industry Review Board (FIRB) to decide in your favour. It is useful to itemize at the outset what you want out of the appeal.
2. **Evidence.** Evidence is whatever you will use at the hearing to prove your case. You have to think about it as soon as possible, so that you can be prepared at the hearing. There are several kinds of evidence, including:
 - oral testimony: a witness comes and answers questions at the hearing; (In many FIRB hearings, you, as the Appellant or as a representative of the Respondent, will be providing oral testimony.)
 - documentary evidence: documents, such as business records, contracts, are presented at the hearing by either a witness or a party;
 - photographs: photographs are sometimes used as evidence if the person who took them can properly identify them and additional copies are provided; and
 - affidavit: a witness makes a sworn (i.e. using a Notary Public) statement in writing that is presented to the hearing panel.

Try to break your case down into each of its elements and decide what evidence you will use to prove each one. The best way to do this is to get out the notice of appeal (and other related documents such as the pre-hearing conference report) for reference and then draft yourself some speaking notes.

Check to ensure that you are providing evidence sufficient to establish what you want the FIRB to decide.

3. **Documents.** You must bring to the hearing all the documents that you will need. You also need to bring extra copies for the hearing panel, the other party(ies) to the appeal and hearing staff. A good way to organize your papers is to paperclip each of them to a page in a notebook or a three-ring binder and mark each of the pages in the upper right hand corner with numbers from the appropriate section in your speaking notes. When you are speaking, you can refer the panel and the other party(ies) to the appropriate document.
4. **Your role at the hearing.** You may be the main witness for your case and you may be asked to simply tell your story. So prepare what you will say. Usually the best way to organize a story is in the order that the events actually happened. Think about how you

would explain the case to another person who doesn't know you or the issue(s) involved. Use your speaking notes to list all of the points you wish to cover. Then go back over your notes to cross out any items that don't really have anything to do with the appeal. If you're not sure an item has something to do with the appeal, it is best to include it. ***The FIRB hearing panel will make its decision based on the arguments and evidence it hears at the hearing - make sure you say and produce everything you think might be necessary to prove your case.*** Have a brief opening statement (what you believe the appeal is about and what you want the FIRB to do) ready to present at the beginning of the hearing.

5. **Witnesses.** Witnesses, if you are calling any, must have a personal, first-hand knowledge of the facts you want them to tell the hearing panel about. Hearsay evidence is something that the witness only knows about from hearing someone else say it and, if allowed, will normally not be given much weight by the panel in its decision.
6. **Expert Witnesses.** Experts are the only witnesses who are allowed to give evidence about their opinions. This can include doctors, accountants, scientists, professional agrologists or, in some cases, people who have had a lot of experience in their field (for example, someone who has farmed for many years). There are special rules and deadlines for expert witnesses. If you think you will be calling an expert witness, please notify the FIRB office immediately to discuss what you need to do.
7. **Preparing Witnesses.** Think carefully about what questions you will have to ask your witness in order to get the evidence you need, and write the questions down. Don't ask questions that suggest the "right" answer. These are called "leading" questions. For instance, don't ask, "Was the light red?" Instead ask, "What colour was the light?" Do review the questions with your witnesses beforehand. It is all right for you to discuss the case with them, but you must not tell them what to say.
8. **Cross-examination.** After you have asked your witness questions, the other party and the hearing panel will ask questions of the witness. (You also get to do this with witnesses called by the other party.) Sometimes cross-examination can be difficult to do. If you need time (i.e. a break) to prepare your questions, you should let the panel know.
9. **Keeping track of what's happening during the hearing.** It's not easy to be speaking, acting as a witness, answering questions, cross-examining other witnesses and listening to what another party is saying. If you can, have someone attend the hearing with you to sit beside you and take notes of what's happening. This will help you to keep track of what's going on and help you decide what points (i.e. in response to something someone has said) you want to bring up later in the hearing. *If you're having trouble keeping up, ask the panel for an explanation or a break so that you can collect your thoughts.*
10. **Hearing preparation checklist.**
 - Review the notice of appeal and any other relevant documents.
 - Review the results of the pre-hearing conference.
 - List what remedies you want from the FIRB.

- List the points you need to prove to win the appeal.
- Consider how you will prove each one.
- Gather the documents you need and organize them in logical order.
- Contact any witnesses you decide are necessary.
- Prepare questions for witnesses and review them together.
- Prepare a list of potential questions for cross-examination.
- On your hearing date, plan to arrive well ahead of the time you have been given, so that you will be relaxed and ready to begin.

11. **Hearings.** The FIRB has a separate handout describing the hearing process. The FIRB attempts to keep the proceedings as informal and relaxed as possible under the circumstances. There usually will be a court reporter present who will take down a complete record of the proceedings.