Quasi-Judicial Boards and Commissions

Should the People Decide?
What we will cover today:

• What is a quasi-judicial body
• Subject matter areas for quasi-judicial bodies
• Why your municipality may want to establish a quasi-judicial body
• Pitfalls of using quasi-judicial bodies
• Vetting volunteer applicants
• Municipal staff support for quasi-judicial bodies
• Hearing logistics
• Open Meetings Act considerations
About Us

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Quasi-Judicial

**QUASI–JUDICIAL**

1: having a partly judicial character by possession of the right to hold hearings on and conduct investigations into disputed claims and alleged infractions of rules and regulations and to make decisions in the general manner of courts *quasi–judicial* bodies

2: essentially judicial in character but not within the judicial power or function especially as constitutionally defined *quasi–judicial* review

Quasi-Judicial

- A group of volunteer or paid officials appointed by the legislature to aid in the administration of municipal laws.
- Members often include residents and local business owners.
- Members may, but do not have to, have subject matter expertise.
- Primary functions include:
  - Holding hearings on contested cases.
  - Issuing decisions on contested cases.
  - Advising the legislature on policy matters, suggesting new legislation, and commenting on proposed legislation.
Are Quasi-Judicial Body Decisions “Official”? 

Quasi-judicial bodies make findings of fact and apply the pertinent municipal law to those facts to reach a conclusion, just as a court would do.

• Decisions are legally binding on the parties unless one of the parties files a court appeal.

• Courts must accept the quasi-judicial body’s findings of fact, as long as the record before the body includes evidence to support the findings (even if the court would have made a different finding).

• Courts must give deference to the body’s interpretation of the municipal law it administers.
COMMON SUBJECT MATTER AREAS

LANDLORD-TENANT
COMMON SUBJECT MATTER AREAS

HISTORIC PRESERVATION
COMMON SUBJECT MATTER AREAS

ETHICS
COMMON SUBJECT MATTER AREAS

NOISE CONTROL
COMMON SUBJECT MATTER AREAS

TREE PRESERVATION
COMMON SUBJECT MATTER AREAS

PERSONNEL
APPEALS BOARD
COMMON SUBJECT MATTER AREAS

SIGN REVIEW
Why Establish Quasi-Judicial Bodies

Benefits to Constituents

- Faster than court
- Less expensive than court (typically no filing fee or service of process)
- Less intimidating than court
- Easier to get by without an attorney.
- Evening hearings.
Why Establish Quasi-Judicial Bodies

Benefits to Municipalities

- Boards develop expertise regarding the municipal law they administer.
- Consistent interpretation and application of the law.
- Residents and business owners have a chance to be heard.
- Provides a face to municipal government.
- Insulates the process from political considerations.
- Provides opportunities for citizen engagement.
- Volunteers may eventually run for office.
Disadvantages of Using Quasi-Judicial Bodies

Burden of Keeping Administrative Bodies Staffed
- Once a board is incorporated into a legislative scheme, it must be staffed and ready to hear cases.
- Qualified volunteers must be recruited and appointed.

Boards Require Administrative Support
- Volunteers cannot be relied upon to handle the administrative burden of collecting documentary evidence for the hearing, scheduling the hearings, or providing notices to the parties.
Disadvantages to Using Quasi-Judicial Bodies

Boards Require Legal Support
• Board hearings, while less formal than court hearings, must be conducted so as to provide due process for the parties.
• Boards interpret and apply municipal laws. Their decisions must apply the law correctly, or they will undermine the policies established by the legislature.
• Attorneys are expensive (although municipalities must consider the legal costs associated with comparable decisions rendered by municipal staff or the courts.)
VETTING APPLICANTS

Important Qualities

• Integrity
• Ability to work with others
• Availability for evening meetings and hearings
• Subject matter expertise*
• Reliability.

* Desirable, but not necessary.
VETTING APPLICANTS

Strategies for Avoiding Problem Volunteers

• Make direct appeals to people you know.
• Consult with municipal staff to see if they have had any interactions with applicants.
• Google them.
• Request references.
STAFF SUPPORT

• Receiving complaints
• Mediation
• Providing guidance to parties
• Collecting documents from parties
• Correspondence with parties
• Scheduling hearings
• Sending notices
• Preparing hearing exhibits
• Explaining the law to the board
• Assistance with conducting hearings
• Drafting written decisions
• Defense of Board decisions upon judicial review
HEARING LOGISTICS
HEARING LOGISTICS

- Must be recorded (audio only is okay).
- Board Members should sit in a row, with an attorney by their side.
- Seating space at a table for the parties and their attorneys.
- The Board and the parties should have table space to spread out their documents.
- Extra seating for witnesses and the public.
- Room should be reserved for sufficient time for hearing and deliberation.
- The presiding board member should read an introduction that explains how the hearing will be conducted.
Municipal boards are “public bodies” subject to the Maryland Open Meetings Act.

BUT

Quasi-judicial functions are not subject to the Open Meetings Act

UNLESS

The quasi-judicial body is considering granting a license or permit or deciding a land-use matter.
Hearings Generally

Typically, hearings are open to the public while a board receives testimony, documents, and argument from the parties.

The Board then adjourns to deliberate about the case in private.

The notice and minute-taking requirements of the Act do not apply to a quasi-judicial hearing.
OPEN MEETINGS ACT
CONSIDERATIONS

Permit, License, and Land Use
Hearings

• Hearings and deliberation must be conducted in open session.

• Notice of such hearings must be provided to the public.

• Minutes must be recorded and adopted.
• Sample enabling statute
• Sample member appointment ordinance
• Sample hearing introduction
• Sample Opinion and Order
• Open Meeting Act information sheet