

Introduction

Serving on a municipal board of appeals is one of the most difficult jobs that a citizen can volunteer to do. The appeals board must decide legal questions in accordance with local ordinances, State laws, and court cases. Often those decisions will seem harsh and contrary to “common sense,” both to board members and to the general public. This is particularly true when the board is asked to decide a request for a variance. However, the board is bound to follow the law until the law is changed. Explaining this to citizens seeking help from the board probably is one of the board’s most unpleasant tasks.

This manual has been prepared in an effort to lay out some of the basic legal information which every appeals board member should know in order to feel confident in performing the board’s duties. We want to stress that it is a general discussion, however. While it will apply in most municipalities, a particular town or city may have an ordinance or charter provision which imposes different or additional rules or requirements for the board to follow. This manual is not intended to be a substitute for seeking legal advice from the municipality’s private attorney or from the attorneys in MMA’s Legal Services Department about how a specific State law, court decision or local ordinance applies to the facts of a particular case which the board must decide.

Any person using this manual should always check the exact section numbers and provisions of any statutes, ordinances, or codes mentioned in the manual’s text, sample forms or other material. The references included in the manual are intended to provide general guidance to the reader rather than to serve as a substitute for reading the actual law. In this way, a person using these materials can be sure that an applicable law or regulation has not been amended.

The primary author of the various editions of this manual is Rebecca Warren Seel, Esq. Many thanks to Patti Soule and Carol Weigelt for their patience, hard work, and dedication in typing, proofing, and formatting this edition.

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Terms and Abbreviations Used in This Manual

M.R.S.A. means the Maine Revised Statutes Annotated. An example of a reference to the Maine Statutes would be 30-A M.R.S.A. § 2691. The number “30-A” refers to Title 30-A. The number “§ 2691” refers to section 2691 of Title 30-A.

A.2d or **Me.** refers to the series of Maine Supreme Judicial Court or Law Court cases reported for this State and court region. “A.2d” means the Atlantic region reports, 2nd series. “Me.” means the Maine reports. An example of a case cite is “111 Me. 119, 88 A.398 (1913).” The numbers “111” and “88” refer to the volumes of the Maine and Atlantic region court reports. The numbers “119” and “398” refer to the pages of those volumes on which the case begins. The number “1913” indicates the date of the court’s decision.

Maine Rules of Civil Procedure means the rules governing non-criminal cases brought before the Superior Court. The rules cover such matters as who may be named as parties to a court action, the information which must be contained in a complaint, the issues which must be raised, time limits for filing certain court documents, and others.

Et seq. means “and following sections.”

Legislative body means the town meeting or the town or city council.

Municipal officers means the selectpeople or the town or city councilors.

Tort means an injury to a person or a person’s property which is the result of an action which is not a criminal act and which is not based on a contractual relationship.

Damages means money which must be paid to a person as compensation for personal injury or property loss.

Note: Copies of the Maine statutes may be available at the town office or city hall. The statutes, court cases, and court rules of procedure also are available at the State Law Library, University of Maine law school library and possibly at the county courthouse. They are also available on the Internet. The website address for the Maine statutes is: www.mainelegislature.org/legis/statutes. To access Maine Supreme Court cases from 1997 to the present, go to: www.courts.state.me.us. Some Superior Court cases are available at: <http://webapp.usm.maine.edu/SuperiorCourt/>.