

TOWN AND COUNTRY PLANNING ACT 1976
(Act 172)

APPEAL BOARD RULES (STATE OF JOHOR) 2004

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Citation.
2. Interpretation.

PART II

REGISTRAR AND APPEAL RECORD

3. Registrar.
4. Time for filling appeal.
5. Filling of appeal.
6. Entry of particulars of appeal.
7. Preparation and delivery of statements, documents, *etc.*
8. Appeal record.

PART III

PROCEEDINGS AND HEARINGS

9. Sitting of the Appeal Board.
10. Further and better particulars and amendments.
11. Procedure.
12. Non-appearance.
13. Withdrawal of Appeal.

PART IV

GENERAL

14. Summons to witnesses.

Rule

15. Official seal.
16. Extension of time.
17. Right to be represented.
18. Stay of execution.
19. Application of Subordinate Court Rules 1980.
20. Allowance.

SCHEDULE I

SCHEDULE II

SCHEDULE III

SCHEDULE IV

TOWN AND COUNTRY PLANNING ACT 1976
(Act 172)

APPEAL BOARD RULES (STATE OF JOHOR) 2004

In exercise of the powers conferred by subsection 36(15) of the Town and Country Planning Act 1976 [Act 172] the State Authority makes the following rules:

PART I

PRELIMINARY

- Citation* 1. These rules may be cited as the **Appeal Board Rules (State of Johor) 2004** and shall come into operation on the date it is published in the Gazette.
- Interpretation* 2. In these Rules, unless the context otherwise requires -
- “Act” means the Town and Country Planning Act 1976 [Act 172];
- “Appeal Board” means the Appeal Board constituted under section 36 of the Act;
- “appellant” means the person filing the notice of appeal pursuant to rule 4;
- “Chairman” means the Chairman of the Appeal Board appointed under section 36 of the Act;
- “Form” means a form set out in the Schedule to these Rules;
- “Registrar” means the Registrar of the Appeal Board appointed under rule 3; and
- “Solicitor” means an advocate and solicitor as defined by the Legal Profession Act 1976 [Act 166].

PART II

REGISTRAR AND APPEAL RECORD

- Registrar* 3. (1) a Registrar shall be appointed by the State Authority from amongst the Assistant Directors of the Department of the Town and Country Planning in the State.
- (2) The Registrar shall keep a Register of Appeals containing the particulars as set out in Schedule I.
- Time for filing appeal.* 4. An appeal to the Appeal Board pursuant to section 23, subsections 25(9), 30(2) and 30(7), section 35C, subsections 35D(3) and 35E(3) of the Act shall be filed within thirty days from the date of communication of the decision or order, as the case may be.

5. (1) An appeal shall be brought by filing in the office of the Registrar, a written notice of appeal in - *Filing of appeal*

- (a) Form A Schedule II, in respect of an appeal pursuant to section 23 of the Act;
- (b) Form B Schedule, in respect of an appeal pursuant to subsection 25(9), 30(7) or 35D(3) of the Act;
- (c) Form C Schedule II, in respect of an appeal pursuant to subsection 30(2) of the Act;
- (d) Form D Schedule II, in respect of an appeal pursuant to section 35C of the Act;
- (e) Form E Schedule II, in respect of an appeal pursuant to subsection 35E(3) of the Act.

(2) The fees to be paid under these Rules shall be as prescribed in Schedule III.

6. Upon filing of a notice of appeal, the Registrar shall -

Entry of particulars of appeal

- (a) enter the particulars of the appeal in the Register of Appeals and give a reference number for the entry;
- (b) within ten days serve a copy of the notice of appeal on the local planning authority from whose decision the appeal is brought against; and
- (c) where the appeal is brought pursuant to paragraph 23(1) (b) of the Act, who applied for the planning permission.

7. (1) Upon receiving the notice of appeal from the Registrar, the local planning authority shall prepare -

Preparation and delivery of statements, documents, etc.

- (a) a statement of the facts of the case and of the reasons or grounds for decision or orders; and
- (b) a list of all relevant documents and correspondences or any exhibits requested by the Registrar.

(2) The local planning authority shall within thirty days after receiving the notice of appeal, deliver to the Registrar, the documents set out in sub rule (1).

(3) If the local planning authority fails to deliver the documents mentioned in sub rule (1) within the period of thirty days or such extended period as may be permitted by the Registrar, the Board shall proceed with the hearing in any manner it deems fit.

(4) The Registrar shall determine the number of copies to be filed by the parties under this rule.

*Appeal
record.*

8. (1) Upon receipt of the documents referred to in rule 7, the Registrar shall prepare sufficient copies of the appeal record consisting of the following;

- (a) the notice of appeal; and
- (b) the document referred to in rule 7.

(2) The Registrar shall serve on the appellant a notice in Form F Schedule II that the appeal record is ready and requiring the appellant to pay within fourteen days a sum sufficient to defray the costs of preparing the appeal record.

(3) If the appellant does not comply with sub rule (2), it shall be deemed that the appellant does not intend to proceed with his appeal.

(4) Upon payment of the sum mentioned in sub rule (2), the Registrar shall -

- (a) supply the appellant with a copy of the appeal record and sufficient additional of copies of the appeal record for service by the appellant on the other parties in the appeal; and
- (b) forward a copy each of the appeal record to the Chairman and the two members called upon by the Chairman to preside with him on the Appeal Board.

(5) The Appellant shall serve the appeal record to all the parties in the appeal at least seven clear days before the date of hearing as notified by the Registrar under rule 9.

PART III

PROCEEDINGS AND HEARING

*Sitting of
the Appeal
Board*

9. (1) The Appeal Board shall convene at such place as the Chairman may from time to time determine.

(2) The place where the Appeal Board is convened shall be deemed as an open court to which the public may have access.

(3) The Registrar, upon being directed by the Chairman shall serve the parties to the appeal a notice in Form G Schedule II notifying them of the date, time and place of hearing at least ten clear days before the hearing.

10. The Chairman may, at any time -

- (a) require the appellant, the local planning authority or any other parties in the appeal to, with in a specified time, furnish further and better particulars on any matter which appears necessary for the Appeal Board; and
- (b) allow any application by the parties in the appeal to amend any statement notice or document in the appeal record on such terms as he deems fit.

11. Subject to the provisions of the Act and these rules, the following procedure shall apply in relation to the hearing of an appeal by the Appeal Board. *Procedure*

- (a) unless the Chairman otherwise determines, the appellant shall begin and shall have the final right of reply and the other parties shall be heard in such order as the Chairman may determine;
- (b) the appellant, the local planning authority and any other parties to the appeal shall be entitled to call evidence and cross-examine any person giving evidence and may address the Appeal Board in respect to all matters raised in the proceedings;
- (c) evidence may be given orally or, if the parties to the appeal consent or the Chairman so orders, by affidavit, but the Chairman may at any stage of the proceedings order the personal attendance of any deponent for examination and cross-examination;
- (d) all evidence given shall be on oath unless directed otherwise by the Chairman. The oath or affirmation shall be administered by the Registrar or such other person as may be authorized by the Chairman;
- (e) provisions of law relating to evidence shall not apply to proceedings before the Appeal Board;
- (f) the Appeal Board may put any question to any witness and may compel him to produce any document that is within his power to produce;
- (g) any written statement or documentary evidence tendered shall be marked as exhibits and shall form part of the record of proceedings;
- (h) the Chairman shall take or cause to be taken notes of the evidence given and so far as appears necessary, the submissions made by the parties;
- (i) at the conclusion of the hearing or such date as determined by the Chairman, the Chairman shall deliver the decision, order or award of the Appeal Board and the Chairman shall state the grounds for such decision, order or award.
- (j) The Registrar shall subsequently serve a copy of the decision or award of the Appeal Board to every party involved in the appeal, as prescribed in Form H Schedule II;
- (k) The Chairman may from time to time adjourn the proceedings and may impose such terms as he deems fit upon doing so.

*Non-
appearance*

12. (1) The Appeal Board may dismiss the appeal at the time of the sitting if -
- (a) neither the appellant nor the local planning authority appears; or
 - (b) the appellant does not appeal.
- (2) Where at the time of the sitting, the appellant appears but the local planning authority or any other party to the Appeal does not, the appeal Board may hear and determine the appeal in their absence.
- (3) Where the appeal has been dismissed or determined under sub rule (1) or (2), the party who was absent may, within ten days of the order of dismissal or determination, apply in writing to the Appeal Board to set aside the said order of dismissal or determination.
- (4) If the Appeal Board is satisfied that there are sufficient grounds for the absence, it may set aside the order of dismissal or determination and thereupon set a new date for the full hearing of the appeal.

*Withdrawal
of Appeal.*

13. (1) An appellant may at anytime before his appeal is heard file at the office of the Registrar and at the same serve on the parties to the appeal a notice of discontinuance as specified in Form 1 of Schedule II, to the effect that he does not intend to further proceed with the appeal.
- (2) Upon filing of the notice of discontinuance, the appeal shall be deemed to have been dismissed by the Appeal Board.

PART IV

GENERAL

*Summons
to
witnesses.*

14. (1) The Appeal Board may on application from any party, issue summons to any witness to testify or produce any document or statement before it.
- (2) Every summons to a witness to attend or produce document or statement at the proceedings of the Appeal Board shall be in Form J Schedule II and shall be served on him personally.
- (3) Every summons to produce documents to the Appeal Board shall be in Form K Schedule II and shall be served on the person summoned personally.
- (4) Expenses for the attendance of any witness shall be borne by the party who applied for the issue of the summons. Such expenses shall include allowing for food, mileage, lodging and loss of daily income.

15. (1) The Appeal Board shall have an official seal which shall be kept in the custody of the Registrar. *Official seal.*

(2) Every summon, notice, award, order, decision or any other document issued, made or given by the Appeal Board shall be signed by the Chairman and sealed with the official seal of the Appeal Board.

16. The time appointed by or under these Rules for the doing of any act may, on application to the Appeal Board, be extended on such terms and conditions as the justice of the case may require. *Extension of time.*

17. In any appeal, the local planning authority may be represented by any or its officers duly appointed or by a solicitor or any other person duly authorized by it; and any other person may appeal on his own behalf or be represented by a solicitor or any other person allowed by the Appeal Board. *Right to be represented.*

18. The filing of a notice of appeal shall not operate as a stay of execution, but the Appeal Board may on application and where sufficient cause is shown, grant a stay of execution on such terms as it thinks fit. *Stay of execution.*

19. Where it is not provided for otherwise by the Act or these Rules -

(a) the Appeal Board may regulate its proceedings having regard to the Subordinate Court Rule 1980; and

Application of Subordinate Court Rules 1980.

(b) forms which are in use in the subordinate courts may be used with modifications in proceedings before the Appeal Board.

20. For the purposes of subsection 36(16) of the Act, allowances for the Chairman, Deputy Chairman, Board Members and Registrar of the Appeal Board shall be as set out in Schedule IV. *Allowance.*

SCHEDULE I

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Sub rule 3(2)

REGISTER OF APPEALS

(1) Reference Number	(2) Date Of issue	(3) Name of Appellant (name of solicitor, if any, and address for service)	(4) Name of Party/other Parties (name of solicitor, if any, and address for service)	(5) Brief Description Of appeal	(6) Brief Description Of Decision Of Local Planning Authority	(7) Date Of Hearing	(8) Members of the Panel	(9) Brief Description Of Decision, Orders, Award, <i>Etc</i> of Appeal Board	(10) Remarks	(11) Registrar's Signature

SCHEDULE II

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form A

Sub rule 5(1) (a)

NOTICE APPEAL AGAINST THE DECISION OF THE LOCAL PLANNING AUTHORITY

Appeal No:

The Register, Appeal Board

.....

*I/We

N.R.I.C. No.at address

do hereby appeal to the Appeal Board against the decision of the

.....of

(local planning authority)

.....made on*refusing

(date)

to grant planning permission/granting planning permission subject to conditions/in relation to my/ our objection.

*I am/We are the *registered proprietor/registered lessee/trustee/personal representative/agent of the registered proprietor/registered lessee of Lot No

District of

(local authority area)

Mukim of in the

The grounds of appeal are

.....

The names and address of parties to the appeal (other than the local planning authority) are –

1.

.....

2.

.....

3.

.....

All correspondences regarding to the appeal shall be addressed to *me/us at the address shown above to *my/our solicitor/agentat address

.....

A copy the decision of the local planning authority is attached herewith.

Date:

..... Signature of Appellant

* Delete whichever is not applicable.

SCHEDULE II

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form B

Sub rule 5(1) (b)

NOTICE OF APPEAL AGAINST THE AMOUNT OF REIMBURSEMENT/COMPENSATION OFFERED/AWARDED OR PAID

Appeal No:

The Register,
Appeal Board

.....
.....

*I/We

N.R.I.C. No.at address

do hereby appeal to the Appeal Board against the decision of the

.....of

(local planning authority)

.....made on

(date)

of the *reimbursement/compensation *offered/awarded/paid to me/us.

*I am/We are the *registered proprietor/registered lessee/trustee/personal representative/agent of the registered proprietor/registered lessee of Lot No

District of

Mukim of in the

(local authority area)

The grounds of appeal are

.....
.....

All correspondences regarding to the appeal shall be addressed to *me/us at the address shown above to *my/our solicitor/agentat address

.....

A copy the offer of reimbursement/compensation by the local planning authority is attached herewith.

Date:

.....
Signature of Appellant

* Delete whichever is not applicable.

SCHEDULE II

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form C

Sub rule 5(1) (c)

NOTICE OF APPEAL AGAINST REQUISITION NOTICE

Appeal No:

The Register,
Appeal Board
.....
.....

*I/We

N.R.I.C. No.at address

do hereby appeal to the Appeal Board against the requisition notice served on *me/us on.

(date)

by.....

(local planning authority)

*I am/We are the *registered proprietor/registered lessee/trustee/personal representative/agent of the registered proprietor/
registered lessee of Lot No

District of

Mukim of in the

(local authority area)

*I / We appeal against the following requirements of the requisition notice

.....
.....
.....

The grounds of appeal are

.....
.....

All correspondences regarding to the appeal shall be addressed to *me/us at the address shown above to *my/our
solicitor/agentat address

.....

A copy of requisition notice is attached herewith.

Date:

.....
Signature of Appellant

* Delete whichever is not applicable.

SCHEDULE II

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form D

Sub rule 5(1) (d)

NOTICE OF APPEAL AGAINST THREE PRESERVATION ORDER UNDER SECTION 35c OF THE ACT

Appeal No:

The Register,
Appeal Board

.....
.....

*I/We

N.R.I.C. No.at address

Do hereby appeal to the Appeal Board against the decision of the

.....of

(local planning authority)

on.....in respect of:

(date)

- * (a) a tree preservation order;
- * (b) provision under a tree preservation order;
- * (c) * (i) the refusal of a written permission; or
 - * (ii) the imposition of condition on a grant of a written permission under paragraph 35A(2)(b) of the Act;
- * (d) an order to plant or replace a tree under paragraph 35A(2)(b) of the Act.

*I am/We are the *registered proprietor/registered lessee/trustee/personal representative/agent of the registered proprietor/registered lessee of Lot No

District of

Mukim of in the

(local authority area)

The grounds of appeal are

.....
.....

All correspondences regarding to the appeal shall be addressed to *me/us at the address shown above to *my/our solicitor/agentat address

.....

A copy of the order is attached herewith.

Date:

.....
Signature of Appellant

* Delete whichever is not applicable.

SCHEDULE II

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form E

Sub rule 5(1) (e)

NOTICE OF APPEAL AGAINST THREE PRESERVATION ORDER UNDER SECTION 35E(3) OF THE ACT

Appeal No:

The Register,
Appeal Board
.....
.....

*I/We

N.R.I.C. No.at address

Do hereby appeal to the Appeal Board against the decision of the

.....of

(local planning authority)

on.....in respect of:

(date)

- * (a) rejection of application to set aside the requirement of the replacement of trees under subsection 35E(1) of the Act;
* (b) an order given under paragraphs 35E(1) (a) or (b) of the Act;
* (c) term or condition imposed under paragraph 35E(1) (d) of the Act; and
* (d) refusal to extend time under paragraph 35E(2) of the Act.

*I am/We are the *registered proprietor/registered lessee/trustee/personal representative/agent of the registered proprietor/registered lessee of Lot No

District of

Mukim of in the

(local authority area)

The grounds of appeal are

All correspondences regarding to the appeal shall be addressed to *me/us at the address shown above to *my/our solicitor/agentat address

A copy of the order is attached herewith.

Date:

Signature of Appellant

* Delete whichever is not applicable.

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form F

Sub rule 8(2)

NOTICE THAT APPEAL RECORD IS READY

Appeal No:

To:

.....
.....
.....
.....

TAKE NOTICE that appeal record in the above mentioned proceedings is ready and that as regards the costs of preparing such records a sum of RMit due from you.

TAKE NOTICE that if you fail to pay the above mentioned sum within fourteen days from the date of this notice, it shall be deemed that you do not wish to proceed with this appeal.

Date:

SEAL

.....
Registrar
Appeal Board

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form G

Sub rule 9(3)

NOTICE OF HEARING OFT APPEAL

Appeal No:

To:

.....
.....
.....
.....

TAKE NOTICE that the will hear at O'clock in the morning/afternoon on theday of20.....

TAKE NOTICE that if you do not attend before the Appeal at the date, time and place above-mentioned, such order or decision may be made and proceedings may be conducted as the Appeal Board nay consider just and expedient.

Date:

SEAL

.....
Registrar
Appeal Board

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form H

Sub rule 8(2)

DECISION OF APPEAL BOARD

Appeal No:

To:

.....
.....
.....
.....

TAKE NOTICE that onthe Appeal Board has heard the
appeal filed byar address
(date)

.....
(appellant)

Decision by the Appeal Board is as follows:

IT IS HEREBY ORDERED THAT

.....
(state the Appeal Board decision and itemize)

Date:

SEAL

.....
Registrar
Appeal Board

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form I

Sub rule 13(1)

NOTICE OF DISCONTINUANCE

Appeal No:

To:

Registrar,
Appeal Board

TAKE NOTICE THAT
the Appellant in this action, hereby discontinue wholly/party of
this appeal. (Specify the part)

Date:

.....
Appeal land

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form J

Sub rule 14(2)

*SUMMONS TO A WITNESS TO ATTEND BEFORE
THE APPEAL BOARD*

Appeal No:

To:

.....
.....
.....

You are hereby summoned to appear before the Appeal Board ato'clock in the
.....morning/afternoon on theday of20
to give evidence on behalf ofand to remain presence during the hearing or until
you have the leave of the Appeal Board to depart.

You are required to bring with you the following documents:

.....
.....

Failure to comply with the summons render you liable to prosecution under section 174 of the Penal Code.

Date:

SEAL

.....
Registrar
Appeal Board

TOWN AND COUNTRY PLANNING ACT 1976

APPEAL BOARD RULES (STATE OF JOHOR) 2004

Form K

Sub rule 14(3)

SUMMONS TO PRODUCE DOCUMENTS

Appeal No:

To:

.....
.....
.....

You are hereby ordered to produce before, or deliver to, the Appeal Board at
.....at or beforeo'clock in the
.....morning/afternoon on theday of

20the following documents

Failure to comply with the summons will render you liable to prosecution under section 174 of the Penal Code.

Date:

SEAL

.....
 Registrar
 Appeal Board

SCHEDULE III
 TOWN AND COUNTRY PLANNING ACT 1976
 APPEAL BOARD RULES (STATE OF JOHOR) 2004
APPEALS FEES

<i>Types of Fees</i>	<i>Amount of Fees RM</i>
A. Fee upon filing of appeal under rule 5.	100.00
B. Service Fees	
1. Fees for the preparation of document for hearing under sub rule 8(2).	as specified by the Registrar for each appeal.
2. Fees for the issuance of notice under sub rule 8(3).	100.00 for each notice.
3. Fees for the issuance of summons to witness under sub rule 13(1).	100.00 for each notice.
4. Fees for the issuance of summons to produce documents under sub rule 13(2).	100.00 for each notice.
5. Fees for the supply of notes of evidence of proceedings of Appeal Board..	as specified by the Registrar 200.00
6. Fees for the preparation of document for orders of Appeal Board.	200.00 for each notice.

SCHEDULE IV

TOWN AND COUNTRY PLANNING ACT 1976
 APPEAL BOARD RULES (STATE OF JOHOR) 2004

Rule 20Subrule 3(2)

ALLOWANCES

A. CHAIRMAN/DEPUTY CHAIRMAN/APPEAL BOARD MEMBERS

<i>Type of Allowances</i>	<i>Chairman *</i>	<i>Board Members (Penal Members Involve In Hearing Only) RM</i>
1. Sitting allowance	500.00 for each sitting or part thereof	300.00 for every sitting or part thereof
2. Case allowance	300.00 for each case in the sitting	100.00 for each case in the sitting
3. Fixed clerical allowance	400.00 each case	Nil
4. Traveling/lodging allowance	According to his present public service grade or Grade 1 or whichever is higher	According to his present public service grade or Grade 1
5. Coat allowance	500.00 once for every two years	500.00 once for every two years

* Deputy Chairman who is carrying out the duty of a Chairman may claim for the Chairman's allowance.

B. REGISTRAR OF APPEAL BOARD

<i>Type of Allowances</i>	<i>Rate (RM)</i>
1. Case allowance	500.00/month for each case
2. Mileage allowance	According to his present public service grade or Grade 2 or whichever is higher
3. Coat allowance	500.00 once for every two years

Dated
 [JPBD(S) J1/39/0151 Jld.2 (40); PMNJ

Jurutulis Majlis Mesyuarat
 Kerajaan Johor