

GUIDEBOOKS FOR REPRESENTING YOURSELF IN THE SUPERIOR COURT OF JUSTICE:



A Guide to Judicial Review

CONTENTS:

1. Introduction
2. What is judicial review?
3. Time limits for applying for judicial review
4. The *Judicial Review Procedure Act*
5. The standard of judicial review
6. Preparing an application for judicial review

Law Help Ontario is a self-help centre for low income, unrepresented litigants appearing before the Superior Court of Ontario (limited civil matters – no family law). Visit us in Toronto at:

393 University Avenue, Ground Floor, Toronto
Monday to Friday, 9:30 am to 4:00 pm

Walk-in centre only. No appointments. We do not guarantee assistance to all applicants. You must meet our eligibility requirements.

A Guide to Judicial Review

Where you can get help with your case

Information If You Represent Yourself

Law Help Ontario is a project of Pro Bono Law Ontario that provides pro bono legal services to people who cannot afford to hire a lawyer and are unrepresented in a legal matter. The project is currently piloting two self-help centres in courthouses in the Toronto area. In the future, centres may be launched in other locations across Ontario. The Law Help Ontario web site provides online resources relating to pro bono legal services.

If you live in the Toronto area, have a civil matter and are unrepresented because you cannot afford a lawyer, visit us at our centre in Superior Court or Small Claims Court. You may be eligible for free (pro bono) legal advice.

Get legal help in person on a civil case such as:

- starting or defending a civil action in Superior Court
- motions in Superior Court
- appeals (merit assessment only)

We CANNOT help you at the centre with: family law matters, criminal cases, human rights, landlord and tenant matters etc. Please refer to our online resources for information that might be available in these areas.

If you are located in other areas of the province or need help in another area of the law, check out our online resources at [lawhelpontario.org](http://www.lawhelpontario.org).

Rules of Civil Procedure

The *Rules of Civil Procedure* describe how litigation is handled in the Superior Court of Justice. The rules will guide you through every step of your case and set time limits for when certain steps must be done. To view the *Rules of Civil Procedure*, go to <http://www.canlii.org/on/laws/regu/1990r.194/index.html>

Forms

Official court forms must be used when you bring a dispute to court and you must format your forms in accordance with the formatting requirements of the *Rules of Civil Procedure* (e.g. Rule 4.01) before filing them with the court. Visit www.lawhelpontario.org for help with forms.

This guidebook provides general information about civil, non-family claims in the Superior Court of Justice of Ontario. It does not explain the law. Court staff (and this guidebook) can only give you legal information, not legal advice. They can help you file documents or swear your affidavits, but they cannot tell you whether you should do something. Legal advice must come from a lawyer.

Before proceeding with a case in the Superior Court of Justice on your own, consider talking to a lawyer to help you understand the law and the procedures that might apply to your case.

If you do not have a lawyer, you will have to prepare your case and do the legal research to represent yourself. You will have to do all the things a lawyer would do and it will not be easy.

You will need to learn about:

- the court system;
- the law that relates to your case;
- what you and the other side need to prove; and
- the possible legal arguments for your case.

You will also need to know about the court rules and forms that must be used in your case. If you do not understand these things, you might miss something (e.g. a deadline) and hurt your case. You might be ordered to pay some or all of the costs of the other party.

A Guide to Judicial Review

1. Introduction

This guidebook gives you a general introduction to judicial reviews. In an application for judicial review, the Superior Court of Justice (Divisional Court) is typically asked to set aside or vary a decision or order of a government body, such as an administrative tribunal.

A judicial review is a complex legal process. To apply for judicial review, you will need to do more research on the law, the *Rules of Civil Procedure* (Rules) and the legislation that applies to your specific case. You should also think about talking to a lawyer about whether judicial review is appropriate for your case and your chances of success if you proceed.

Several statutes (or *Acts*) and regulations set out the procedure to be followed in bringing an application for judicial review. Procedural requirements are set out primarily under Rule 38 and Rule 68 (under the Rules) and the *Judicial Review Procedure Act*. If you are thinking of applying for a judicial review, you should read Rule 38, Rule 68 and the *Judicial Review Procedure Act*.

Several of the Rules, in addition to Rules 38 and 68, also apply to applications for judicial review. You will also need to be familiar with them. You can find all of the Rules under the *Rules of Civil Procedure* and relevant statutes at any courthouse library or through the e-laws website set out at the beginning of this guidebook. You should also read another guidebook in this series called *Starting a Civil Proceeding in the Superior Court of Justice*. However, you can find much of the information you need to carry on an application for judicial review in this guidebook.

In addition, a guide to the Ontario court system is available at www.ontariocourts.on.ca. You should review this website to understand Ontario's court system. The website may also provide you with some assistance on how to commence certain legal proceedings.

2. What is judicial review?

A judicial review is a legal procedure that takes the form of an application. Generally, the judicial review of decisions from provincial administrative tribunals takes place in the Superior Court of Justice (Divisional Court). In a judicial review, the court reviews a decision that has been made by an administrative tribunal or an administrative decision-maker.

The purpose of judicial review is to ensure that the administrative decision maker has complied with the law in reaching its decision. The *Judicial Review Procedure Act* provides that a court has the power to set aside a decision for an error of law, an absence of evidence or where the exercise of the power by the administrative decision-maker is unauthorized or invalid (see section 2 of the *Judicial Review Procedure Act*).

A judicial review is not a re-trial or a rehearing of your case. The court does not focus on

whether they would have made a different decision from the one made by the tribunal. In a judicial review, the court generally focuses on determining whether the tribunal had the authority to make a particular decision and whether the tribunal properly exercised that authority.

What is an administrative tribunal?

The government of Ontario creates tribunals to interpret and enforce certain laws. Tribunals are often specialized decision makers because their decisions concern a specific subject area (such as workers' compensation or residential landlord and tenant issues). They are often less formal than courts.

There are a great number of such tribunals (which are sometimes also called boards) and they make decisions in a wide variety of areas. For example, there is the:

- Human Rights Tribunal of Ontario (human rights disputes under the *Human Rights Code*);
- Landlord and Tenant Board (residential landlord and tenant disputes under the *Residential Tenancies Act, 2006*);
- Social Benefits Tribunal (disability income support under the *Ontario Disability Support Program Act, 1997* and basic income support under the *Ontario Works Act, 1997*);
- Workplace Safety and Insurance Board (workers' benefits under the *Workplace Safety and Insurance Act, 1997*); and
- Ontario Labour Relations Board (labour relations under the *Labour Relation Act, 1995* and employment standards under the *Employment Standards Act, 2000*).

It is important to note that some of the above statutes may provide a right of appeal to the Divisional Court or they may only provide for the possibility of an application for judicial review. This means that when you want to challenge a tribunal decision you must read the relevant statute very carefully to find out what procedure must be followed and what type of decision may be appealed. You can find all of Ontario's statutes at www.e-laws.on.ca.

For example, in applications under the *Residential Tenancies Act, 2006* there is a right of appeal. To start an appeal from the Landlord and Tenant Board you must serve and file a Notice of Appeal (Form 61A). For more information about how to appeal to the Divisional Court, see the series of guides to Divisional Court procedures available at court offices and the Ministry of the Attorney General website at www.attorneygeneral.jus.gov.on.ca. On the other hand, in applications under the *Labour Relations Act, 1995* there is no right of appeal, but there is an opportunity to bring an application for judicial review from a decision of the Ontario Labour Relations Board.

3. Time limits for applying for judicial review

In general, the time limits for court proceedings in Ontario are governed by the *Limitations Act, 2002*. However, the *Limitations Act, 2002* does not apply to judicial review proceedings under the *Judicial Review Procedure Act* and there is no specific time limit set out in the *Judicial*

Review Procedure Act. However, there may be time limitations fixed under another *Act* that apply to your specific case. You should not delay in filing your application. If you do, you may find that you have missed an important deadline.

Section 5 of the *Judicial Review Procedure Act* provides for the extension of time for bringing an application for judicial review under any *Act* if the court is satisfied that there are apparent grounds for relief and no “substantial prejudice or hardship” will result to anyone affected by the delay, unless the other *Act* precludes such an extension.

If you wish to apply for judicial review, you should consult a lawyer as soon as you receive the decision from a tribunal or decision maker. A lawyer can help you decide whether you have a good case for judicial review and can advise you about what time limit may apply to your application.

Procedural Time Limits

There are many procedural time limits that will affect your case, which are set out in the Rules and, in particular, in Rules 38 and 68. These time limits exist to make sure that cases proceed in a timely way. Failure to comply with the procedural time limitations can result in costs or judgment being ordered against you. For just about every step in an application for judicial review there is a time limit. For example, an applicant is required to deliver his or her application record and factum to the court within thirty (30) days after the tribunal’s record of proceeding is filed with the court [see Rule 68.04(1)(a)].

The rules addressing dismissal of applications for delay are set out in Rule 68.06. An application can be dismissed by the court registrar or by a motion brought by a respondent to the application. In the case of a dismissal by the registrar, if the applicant has not delivered an application record and factum and filed a certificate of perfection within one year after the application was commenced, the registrar may serve notice on the applicant that the application will be dismissed for delay unless the applicant cures the default. Where an applicant fails to cure the default within ten days after service of the registrar’s notice, the registrar shall make an order dismissing the application for delay (Form 68C), with costs. Form 68C is attached to the end of this guidebook.

You should review Rule 68 and the other relevant rules in their entirety to ensure compliance with the relevant procedural time limits. You may also wish to consult a lawyer to assist you in understanding the relevant procedural time limits for your application.

4. The *Judicial Review Procedure Act*

The *Judicial Review Procedure Act* sets out the procedure for judicial review of provincial administrative or tribunal decisions. You can find the *Judicial Review Procedure Act* at www.e-laws.gov.on.ca.

The procedure for reviewing decisions of federal tribunals is set out in federal legislation called the *Federal Courts Act* and in the Federal Court Rules. A decision of the Immigration and

Refugee Board dismissing a claim for refugee status is an example of a federal tribunal decision. This guidebook does not provide information about judicial reviews of federal tribunal decisions.

Who can apply for judicial review?

In most judicial review applications, there is no dispute as to the right of the applicant to bring the application for judicial review, as the applicant is the only person or the main person affected by the decision subject to judicial review. In some circumstances, however, someone other than the most affected person by the decision seeks judicial review. This may arise, for example, where the tribunal's decision affects a range of interests in various ways.

In order to seek judicial review of the decision in this circumstance, the person seeking to challenge the decision may be required to acquire "standing". Standing refers to "[t]he test of a person's entitlement or status to bring an application for judicial review and to obtain a remedy from the court."¹

Generally, in order to have standing to apply for a judicial review, a person must either be a party to the proceedings being reviewed, or must be affected as "an 'aggrieved person', an 'affected person' or someone who is 'exceptionally prejudiced.'"² A person whose interest is too remote to be affected by the tribunal's decision does not have standing.

When will the court allow an application for judicial review?

In general, the court will only intervene in the administrative process in limited circumstances. The courts recognize that tribunals have specialized knowledge and experience in their particular subject areas and, because of that the courts will not usually easily interfere with a tribunal's decision.

A court will not allow a judicial review to correct a technical error made by the tribunal if it does not find that no substantial wrong or miscarriage of justice has occurred. The court will intervene if it finds that the tribunal did not give you a fair hearing. It will also intervene if it finds that the tribunal had no authority to deal with the subject matter of your case.

Judicial review is available notwithstanding any right of appeal, but ordinarily the court will require an applicant to have exhausted their rights of appeal before granting a judicial review. In addition, many tribunals have internal appeals tribunals or review tribunals that you may have to apply to before bringing any application for judicial review. For example, under the *Workplace Safety and Insurance Act, 1997*, a decision of the Workplace Safety and Insurance Board may be appealed to the Workplace Safety and Insurance Appeals Tribunal. On an appeal, the Appeals Tribunal may confirm, vary or reverse the decision of the Board.

¹ David J. Mullan, *Administrative Law* (Toronto: Irwin Law, 2000) at p. 547.

² Brown & Evans, *Judicial Review of Administrative Action in Canada*, (looseleaf) (Toronto: Canvasback Publications, 1998) at p. 4-18.

5. The standard of judicial review

The “standard of review” is an important, but very complicated legal concept in judicial review applications. The standard of review refers to the degree of scrutiny a court will apply in reviewing an administrative decision. The reviewing court is guided by the standard to determine whether the administrative decision maker or tribunal made a type of error that warrants court intervention. In general, a court will defer to the tribunal’s decision only where it is of the view that the tribunal has some highly specialized expertise in an area that the court does not. The Ontario Labour Relations Board is an example of a tribunal that the court considers to have a great deal of expertise.

It is important to know what standard of review applies so that you can properly argue your case in the Superior Court. You must review the statute that governs your particular legal issue. It is also a good idea to consult with a lawyer to understand what standard of review applies in your case.

The leading decision on the standard of review from the Supreme Court of Canada is *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, which explains the two standards of review, correctness and reasonableness, the purpose of the standard of review and how to properly apply it to different types of tribunals and different types of tribunal decisions.

6. Preparing an application for judicial review

It is a good idea to talk to a lawyer if you are thinking about applying for a judicial review or wondering whether you have a good chance of making a successful application. If you decide to apply for judicial review, you should immediately collect and organize all your documents from the tribunal proceedings. Write down all the information you remember from the tribunal proceedings. You should have the tribunal’s decision in writing. If not, you should make a request to the relevant tribunal as soon as possible.

The documents you prepare and file in the court registry tell the court and the other parties to your application about:

- the facts or evidence on which you intend to rely;
- the grounds for the application; and
- the precise relief claimed.

In most cases, applications for judicial review in the Divisional Court are heard and determined by three judges sitting together. However, a proceeding in the Divisional Court, such as a judicial review application, may be heard and determined by one judge where it is a matter that the Chief Justice of the Superior Court of Justice (or a judge designated by the Chief Justice) is satisfied from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

An application for judicial review may also be made to a judge of the Superior Court of Justice where it appears to the judge that the case is one of urgency and that the delay required for an

application to the Divisional Court is likely to involve a failure of justice. Leave (or permission) of the judge is required in these types of circumstances.

The documents you will need to complete in support of your application for judicial review are described below. There are three main stages to the judicial review application process: a) commencing the application; b) “perfecting” the application and c) attending at court for your hearing.

Note: The sections below provide direction on the process for an application for judicial review to the Divisional Court (as opposed to those occasions where the application is being made to a judge of the Superior Court of Justice).

Commencing Your Application

An application for judicial review to the Divisional Court under the *Judicial Review Procedure Act* must be commenced by Notice of Application (Form 68A under the Rules). The application is served on all of the respondents, including the Attorney General for Ontario. Rules 16 and 17 establish the rules for service in Ontario and outside Ontario.

When you have your Notice of Application issued at the court registry, you will have to pay the applicable filing fees. You will need to bring with you the filing fee when you go to the court office. For a current list of fees, go to www.e-laws.gov.on.ca and then:

- Choose your language and click on “Search or Browse Current Consolidate Law.”
- Click on “A” and then click on the plus sign to the left of “Administration of Justice Act.”
- Click on “Superior Court of Justice and Court of Appeal – Fees.”

For more information on fees, please see the guidebook called *Starting a Civil Proceeding in the Superior Court*.

You should contact the court registry to confirm the current fees. If you are not able to afford court fees, you may be eligible to have fees waived. Ask the registry staff for instructions on how to apply to the court to have the fee waived. For more information on fee waiver, go to www.attorneygeneral.jus.gov.on.ca and then:

- Click on your preferred language,
- Click on “Court Services.”
- Scroll down to “Court Fees” and click on “A Guide to Fee Waiver Requests.”

Once you have paid the filing fees (or received a fee waiver certificate), the registry will issue your application for judicial review by:

- opening a file;
- giving your case a file number (this is the permanent identification number for your case); and
- stamping and returning copies of the application to you.

1. The notice of application

If you are the person applying for a judicial review, you are called the applicant and must get a Notice of Application to the Divisional Court for Judicial Review (Form 68A) issued by the court in order to start the proceeding. Issuance occurs through the registrar's act of dating, signing and sealing the document. Form 68A is attached to the end of this guidebook.

In practice, the administrative decision-maker or tribunal whose decision is subject to judicial review is called the respondent. All other parties who appeared before the tribunal are also called respondents. For example, if you are asking for judicial review of an arbitrator's decision under the *Worker's Compensation Act*, you will have to serve copies of your documents on the arbitrator, and on the Attorney General for Ontario (see section 9(4) of the *Judicial Review Procedure Act*).

The Notice of Application to the Divisional Court for Judicial Review must state that the application is to be heard on a date to be fixed by the registrar at the place of hearing (the place is where the Divisional Court is sitting). You will also have to serve and file an application record and a factum, and book of authorities.

2. The evidence to be used on an application

In general, the Divisional Court is to review the tribunal's decision based only on the record that was before the tribunal. Affidavit evidence is generally not admissible on a judicial review application but there are some limited circumstances where affidavit evidence may be admissible.

The law on the use of affidavits on applications for judicial review is complicated and you should consult a lawyer who may help you decide whether your application is one in which affidavit evidence may be appropriate. The rest of this section provides general information about affidavits in the event you may be able to submit an affidavit in support of your application for judicial review.

An affidavit is a statement of facts within the personal knowledge or your sworn evidence (i.e., evidence that what you have sworn is true) in writing. Your affidavit is a very important document and must be carefully prepared. It is a serious offence to swear an affidavit that contains information you know is false.

Generally, your affidavit should only contain information (i.e., evidence) that the tribunal considered when it made its decision. You cannot include evidence that the tribunal did not see or hear, such as new information that you have discovered since your tribunal hearing.

Remember that your affidavit is not an argument. (You will present your argument in a separate document called a factum which is discussed later in this guidebook). Your affidavit sets out the relevant facts and explains what happened in the tribunal hearing.

.Attach to your affidavit any important documents you refer to in the affidavit or that are relevant to your case. The documents have to be numbered and are called exhibits. For more information about affidavits, see the guidebook called *Preparing Your Affidavit*, available at www.lawhelpontario.org.

“Perfecting” Your Application

To “perfect” the application, you must file with the court registrar all the documents necessary for the hearing of the application (this includes the application record and factum), along with proof of service of those documents. Remember that the Attorney General of Ontario must be served with the documents. The Book of Authorities may be served and filed after your application is perfected.

1. The application record

The applicant must also serve and file an application record. Rule 68.04(2) sets out the contents for the application record. The application record must contain,

- a table of contents,
- a copy of the Notice of Application,
- a copy of the reasons of the court or tribunal whose decision is to be reviewed, with a further typed or printed copy if the reasons are handwritten,
- a copy of all affidavits and other materials served by any party for use on the application,
- a list of all relevant transcripts of evidence, and
- a copy of any other material in the court file that is necessary for the hearing of the application.

You should review rule 68.04(2) in full to ensure that your application record is complete.

2. The applicant’s factum

As the applicant, you must also serve and file a factum. A factum is a concise statement of the law and argument that you intend to present at the hearing of your application. Rule 68.04(3) sets out the contents of the factum. The factum must include the following:

- Part 1: A statement identifying the applicant, as well as the court or tribunal whose decision is to be reviewed and stating the result in that court or tribunal.
- Part 2: A concise summary of the facts relevant to the issues on the application, with specific reference to the evidence.
- Part 3: A statement of each issue raised, immediately followed by a concise statement of the law and authorities relating to that issue;
- Part 4: A statement of the order that the court will be asked to make, including any order for costs.
- Schedule A: List of authorities referred to.
- Schedule B: Text of all relevant provisions of statutes, regulations and by-laws.

Generally, your factum can only contain information (i.e., evidence) that the tribunal considered when it made its decision. You cannot include evidence that the tribunal did not see or hear, such as new information called “fresh evidence” that you have discovered since your tribunal hearing. A separate process is applicable if you seek to introduce fresh evidence in the application for judicial review. You should speak to a lawyer for advice regarding the procedure applied when seeking to introduce fresh evidence.

3. The transcript of evidence

A transcript is the typed version of the oral proceedings of the tribunal in the matter you are applying to have judicially reviewed. Depending on the tribunal that you appeared before, there may or may not be a recording of the proceeding. Also, while some tribunals do make recordings of the proceedings they may not actually type the transcript and you may have to get this done by a professional transcription service.

If you intend to refer to a transcript of evidence at the hearing, you must file three copies of the transcript with the application record and factum [see Rule 68.05(9)].

4. Serving your application

Once the court issues your Notice of Application for Judicial Review (Form 68A), you must serve the respondents with a copy of the document that was issued by the court staff. Remember that the Attorney General of Ontario must also be served. You must serve your Notice of Application at least ten days before the hearing date if you are serving the respondent in Ontario. If you are serving the respondent outside Ontario, you must do so at least 20 days before the hearing date. The Notice of Application for Judicial Review should be filed in the court office with proof of service at least four days before the hearing date.

An application for judicial review is not an originating process under the Rules and therefore does not need to be served by personal service or an alternative to personal service [see Rule 1.03(1)]. For more information about service of documents, please see the guidebook called *Starting a Civil Proceeding in Superior Court* and the Tip Sheet called *How Do I Issue, Serve and File My Documents?* available at www.lawhelpontario.org.

Serving the Tribunal

As a general rule, a tribunal has lawyers who will accept service on behalf of the tribunal. This means that you do not usually have to effect personal service on the tribunal. In some circumstances, it may be necessary to serve the tribunal by personal service. If this is the case then Rule 16.02(1)(d) would apply, which provides that you may leave a copy of the document with a member or officer of the tribunal (referred to in the Rule as a Board or Commission).

Serving the Attorney General of Ontario

You can serve court documents on the Attorney General of Ontario by leaving a copy with a lawyer in the Crown Law Office (Civil Law) of the Ministry of the Attorney General. At the

time of the writing of this guidebook (i.e., January 2009) the Crown Law Office (Civil Law) is located at 720 Bay Street, 8th Floor, Toronto, Ontario M5G 2K1.

Serving Other Interested Parties

Other interested parties may have to be served, such as government agencies, individuals, and corporations. There are special rules about how to serve specific parties. Once again, for more information about serving documents, see the guidebook called *Starting a Civil Proceeding in Supreme Superior Court* and the Tip Sheet called *How Do I Issue, Serve and File My Documents?* both of which are available at www.lawhelpontario.org.

5. The certificate of perfection

The Certificate of Perfection is a document that verifies to the court that you are ready to proceed to a hearing of your application for judicial review. The applicant must file the Certificate with the application record stating that all the material required to be filed for the hearing of the application has been filed and setting out the name, address, telephone number of all persons, if acting in person and all lawyers, if the person or party is represented by a lawyer [see Rule 68.05(1)].

6. The book of authorities

You will also need to prepare a Book of Authorities that contains copies of the cases and authorities you have referred to in your factum. You should have a lawyer help you prepare your factum, and identify the cases, statutes and other authorities that are relevant to your case.

You should serve each respondent with a copy of the Book of Authorities and file three (3) copies with the court, if the application is before a panel of three judges. You should also have a copy for yourself.

Going to Court for Your Hearing

Once the Certificate of Perfection has been filed, the court registrar will place the application on a list for hearing and give notice of that hearing to all parties listed (Form 68B). Form 68B is attached to the end of this guidebook

In many court locations, you will need to estimate how long you think your case will take. This depends on how complex your case is and how many respondents are involved. Consult with the other parties or their lawyer(s) to estimate the time required and to find out what dates are convenient for them. Remember that your time estimate must include the time required for both you and the respondents.

In some other court locations, the court staff itself may be responsible for making the estimate for length of time for the hearing of the application. To be sure, you should check with your local court registry office to find out what practice is followed in your jurisdiction.

1. What to bring to court

You should bring your copy of the Notice of Application as well as copies of your book of authorities, application record and factum. You may wish to check with the court a few days before the hearing to ensure that they have all of the materials in the files and the right number of copies.

2. Your presentation in court

For more information about going to court, see the guidebook called *Overview of the Superior Court of Justice Civil Process* available at www.lawhelpontario.org. It tells you about court etiquette and other useful information.

You may find it useful to write out exactly what you are going to say to the court or make notes to remind yourself what you need to say. After your presentation, the respondents have their turn to present their side of the story. Take notes about what is said in case you disagree with what they say, but do not interrupt the respondents' presentation. The court will give you a brief time to reply to what the respondents have said.

3. The court's decision

The *Judicial Review Procedure Act* provides that a court may grant any of the relief that an applicant may request on an application for judicial review. In some cases, the court may set aside the decision of the tribunal and order it to hear your case again. However, it is important to note that, simply because you are successful in your judicial review application, it does not necessarily mean that you will succeed when the tribunal hears your case again.

The judge may make a decision at the end of the hearing or give the parties a written decision later. If the judge gives a written decision later, the court registry will phone you when the decision is ready to be picked up. If you are not successful in your judicial review hearing, you may be able to appeal the decision to the Ontario Court of Appeal by commencing an appeal within 30 days after the making of the order appealed from. It can be expensive to file an appeal, so it is a good idea to get some legal advice about your chances of success before making the decision about whether or not to appeal.

For more information about court processes, read the other guidebooks in this series by visiting www.lawhelpontario.org.

For the definitions of some of the terms used in this guidebook, see the guidebook called: “Common Superior Court of Justice Terms”

Your feedback is important to us.

Please tell us how we can help you better by taking a moment to comment on this Guidebook. Was this Guidebook helpful to you and why? What can we do to make this Guidebook better?

**Send your response to lho@pblo.org or
393 University Avenue, Suite 110, Toronto, Ontario M5E 1E6.**

**APPENDIX 1: NOTICE OF APPLICATION TO DIVISIONAL COURT
FOR JUDICIAL REVIEW (FORM 68A)**

[INSERT GENERAL HEADING]

(Court seal)

NOTICE OF APPLICATION TO DIVISIONAL COURT FOR JUDICIAL REVIEW

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION for judicial review will come on for a hearing before the Divisional Court on a date to be fixed by the registrar at the place of hearing requested by the applicant. The applicant requests that this application be heard at *(place where a Divisional Court sitting is scheduled)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the office of the Divisional Court within thirty days after service on you of the applicant's application record, or not later than 2 p.m. on the day before the hearing, whichever is earlier.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN TO IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date	Issued by Registrar Address of court office
TO <i>(Name and address of each respondent)</i>	
AND TO Attorney General of Ontario <i>(as required by subsection 9(4) of the Judicial Review Procedure Act)</i> Crown Law Office – Civil 720 Bay Street 8th Floor Toronto, Ontario M5G 2K1	

APPLICATION

1. The applicant makes application for: *(State here the precise relief claimed.)*
2. The grounds for the application are: *(Specify the grounds to be argued, including a reference to any statutory provision to be relied on.)*

(Where the Notice of Application is to be served outside Ontario without a court order, state the facts and the specific provisions of Rule 17 relied on in support of such service.)

3. The following documentary evidence will be used at the hearing of the application: *(List the affidavits or other documentary evidence to be relied on.)*

(Date)

(Name, address and telephone number of applicant's lawyer or applicant)

APPENDIX 2: NOTICE OF LISTING FOR HEARING (JUDICIAL REVIEW) (FORM 68B)

[INSERT GENERAL HEADING]

NOTICE OF LISTING FOR HEARING

THIS APPLICATION FOR JUDICIAL REVIEW HAS BEEN PERFECTED and has been listed for hearing at *(place)*. You may ascertain from my office the approximate date of hearing.

Date

Signed by

Registrar of the Divisional
Court

(Address of court office)

TO *(Name and address of every person listed in the certificate of perfection)*

APPENDIX 3: ORDER DISMISSING APPLICATION FOR JUDICIAL REVIEW (FORM 68C)

{INSERT GENERAL HEADING}

(Court seal)

ORDER DISMISSING APPLICATION FOR JUDICIAL REVIEW

The applicant has not *(give particulars of applicant's default under rule 68.06)* and has not cured the default, although given notice under rule 68.06 to do so.

1. IT IS ORDERED that this application be dismissed for delay, with costs.

Date

Signed by
Registrar of the Divisional
Court
(Address of court office)