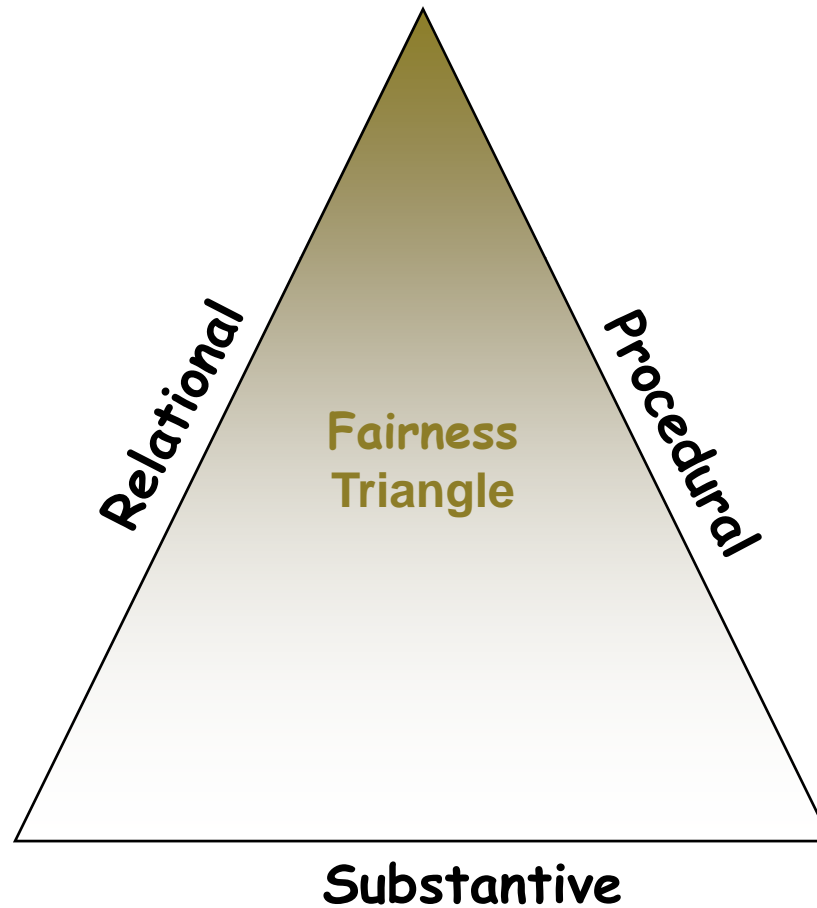
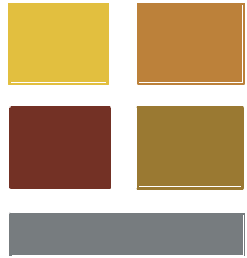


The Fairness Triangle



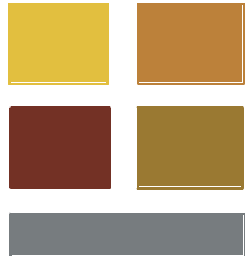


Fairness Triangle

Procedural fairness relates to how decisions are made - the steps to be followed before, during and after decisions are made;

Substantive fairness relates to the fairness of the decision itself; and

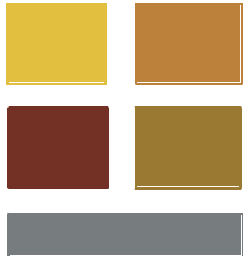
Relational fairness relates to how people are treated during the decision making process and how they feel about the process and the outcome.



Procedural Fairness

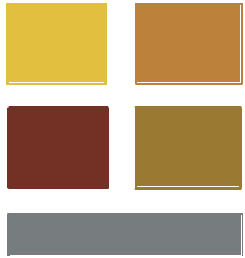
At minimum, procedural fairness requires that:

- The person who will be affected by a decision is given advance notice that a decision will be made.
- The person affected by a decision is given the information that will be considered when a decision is made.
- The person affected by a decision is given a meaningful opportunity to state or present his or her case.
- The person affected by a decision is given an opportunity to respond to any information that might be contrary to his or her position when a decision is being made.



Procedural Fairness Continued

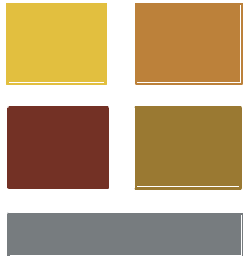
- The decision-maker be thorough and thoughtfully review all the information provided by the person affected by a decision.
- The decision-maker be impartial, (unbiased and without a personal interest in the outcome of the decision).
- The decision-maker gives meaningful reasons for the decision that are understandable to the people affected.



Substantive Fairness

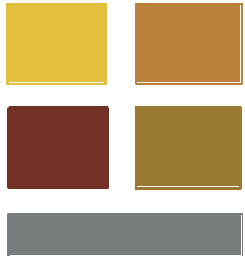
- The decision cannot require anyone to do something that is illegal or not authorized by law.
- The person making the decision must have the authority under law to make the decision.

For example, if a municipality decided to have its bylaw enforcement officers issue "tickets" for Highway Traffic Act offences, they would not be enforcing by-laws; they would be enforcing provincial statute law. That would be acting without authority.



Substantive Fairness Continued

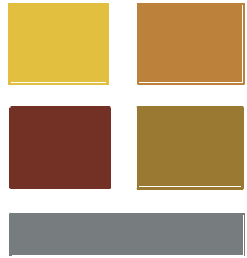
- The decision must be reasonable, and the reasoning behind the decision must be understandable to the people affected.
- The decision cannot discriminate against the person affected, on any of the prohibited grounds listed in the Manitoba Human Rights Code or the Charter of Rights and Freedoms: for example, marital status, race, religion, sexual orientation, disability.



Substantive Fairness Continued

- The decision cannot be unreasonable, meaning that the decision should avoid creating unnecessary obstacles for the person affected.

For example, requiring a property owner whose property has been deemed "unsightly" to clean up their property within 24 hours would unnecessarily impose a condition that may be unrealistic or impossible to meet.

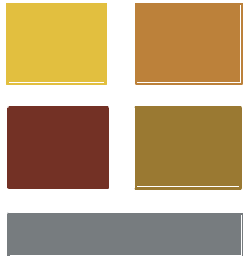


Relational Fairness

The "soft" side of fairness

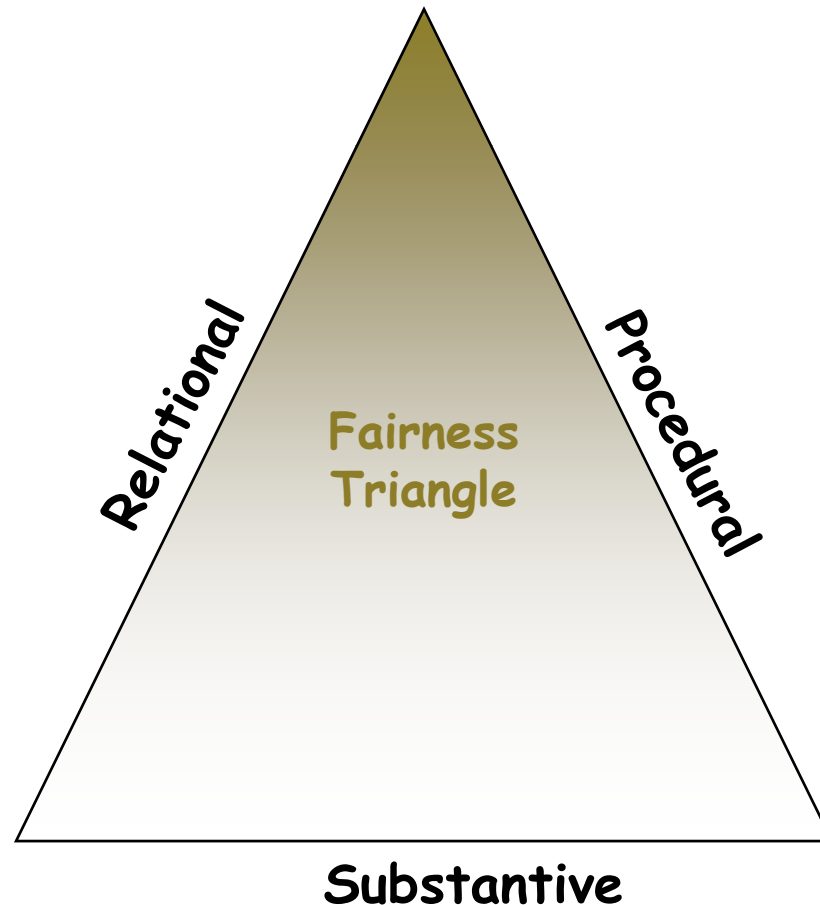
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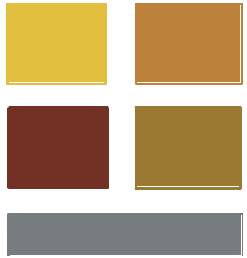
- taking the time to listen;
- being approachable;
- respecting confidentiality;
- being forthright;
- not misleading people about what you can or cannot do; and
- apologizing if you make a mistake.



Making the Fairness Triangle Work!

How do you apply these fairness concepts to decision making?





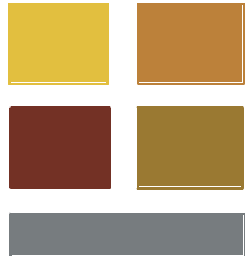
Making the Fairness Triangle Work!

You must understand the context in which you are making this decision. To do that ask yourself two key questions.

What do we have to do?

and

What do we have to know?



What Do We Have To Do?

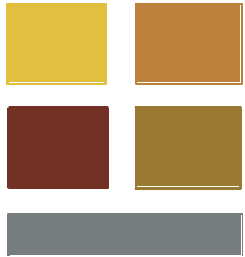
Question:

What is our job?" or "Why are we here?"

Answer:

We are here to...

- sit as a Board of Revision to hear property assessment appeals...
- conduct a public meeting to review the financial plan...
- hear an application for a variance under a zoning by-law plan...
- hear an appeal of a decision made by our planning district..."



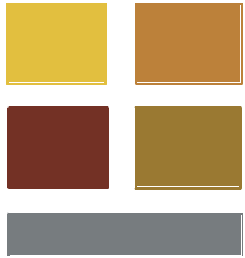
What Do We Have To Do?

Question:

What is our jurisdiction?

Answer:

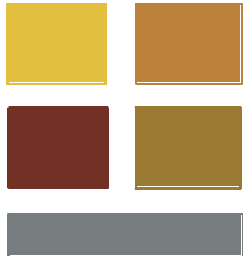
The provincial law, municipal by-law or resolution giving us the authority to take action or make a decision.



What Do We Have To Do?

The statute or by-law may set out specific information that must be considered and criteria that must be applied when making a decision.

For example: the criteria to be applied when deciding whether to vary the provisions of a zoning by-law, set out in section 97(1) of The Planning Act.

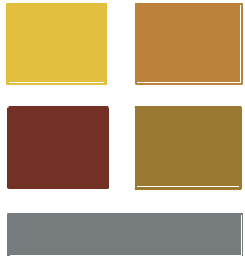


What Do We Have To Do?

Question:

What are the procedural requirements that must be followed in making decisions?

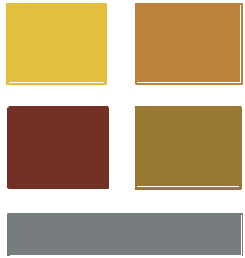
For example, the notice requirements set out in section 318 of The Municipal Act in respect of a hearing to consider a local improvement plan, addressing both the time required for notice and the content of the notice.



What Do We Have To Do?

As well, there may be other procedural requirements other than notice that you need to be aware of.

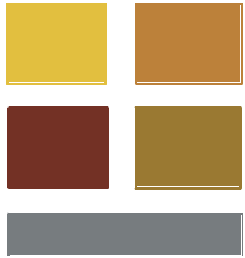
For example, the provision in section 290 of The Municipal Act requiring written Ministerial approval before closing a road.



What Do We Have To Do?

Question:

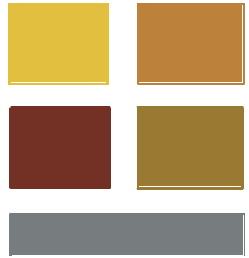
Is there a process required by provincial law or a municipal procedures by-law or another by-law? Is there an established practice?



What Do We Have To Do?

If we are making a decision based on information from the public, in what forum do we receive that information? Will we be:

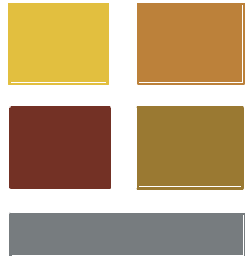
- Conducting a public meeting
- Receiving delegations as part of a regular council meeting
- Holding a hearing to consider an application
- Hearing an appeal of a decision already made



What Do We Have To Know?

When making a decision we need two kinds of information:

- An understanding of how our decision will affect people.
- Sound factual or scientific information (evidence) that is the basis for our decision.



Impact on the Public

Questions:

Why is this person here?

What do they want us to do?

Do we have the power to do it?

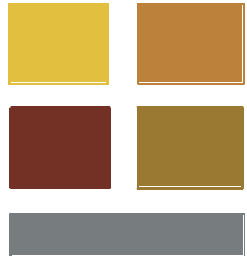
What are the person's concerns?

Are they misinformed?

Is this the time to provide more information?

What is the impact of the decision on the person?

Why are they complaining?



How Do We Make the Decision?

What Do We Have to Know?

Questions:

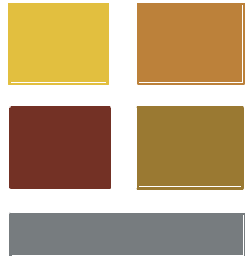
What do we have to consider in making this decision?

Are we hearing all sides of an argument?

Is there someone we are not hearing from who will be affected by this decision?

Are we basing our decision on fact and law or on feelings and opinions?

Do we have all of the relevant facts?



How Do We Make the Decision?

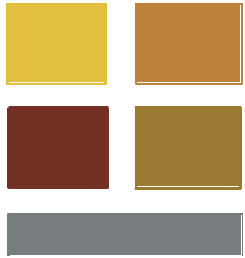
What Do We Have to Know?

Have submissions raised more questions than they have answered?

Is there further information that needs to be clarified or obtained?

How do we conduct that further inquiry?

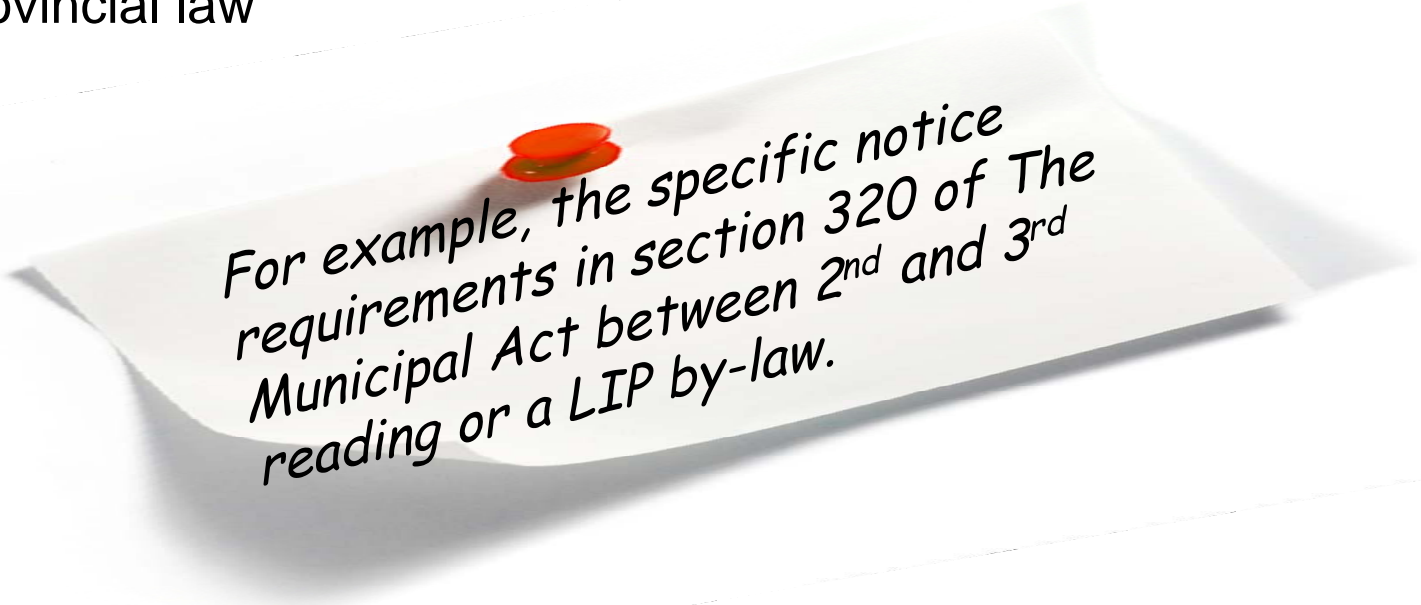
How do we deal with further information you obtained?



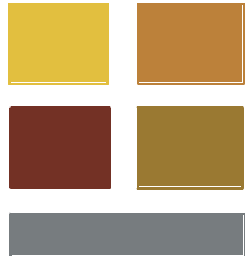
Issuing the Decision

Consider legal requirements

- Procedures by-law
- Provincial law



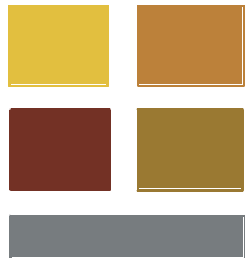
For example, the specific notice requirements in section 320 of The Municipal Act between 2nd and 3rd reading or a LIP by-law.



Getting Full Value For Our Decisions

Seize the opportunity to

- Communicate with the public
- Explain the reasons
- Prevent unnecessary complaints



Questions?



Manitoba  Ombudsman

