

TITLE 5. COMMUNITY AFFAIRS
CHAPTER 23A. CONSTRUCTION BOARDS OF APPEALS
SUBCHAPTER 2. BOARD PROCEDURES

N.J.A.C. 5:23A-2.1 (2012)

§ 5:23A-2.1 Hearing applications

(a) A person who is aggrieved by any ruling, action, notice, order or decision of a local enforcing agency that enforces either the State Uniform Construction Code or the Uniform Fire Code, including, without limitation, any refusal to grant an application or any failure or refusal to act upon an application, but not including any order requiring the taking of emergency measures pursuant to N.J.A.C. 5:23-2.32(b), may file an application for a hearing with the secretary of the construction board of appeals having jurisdiction.

1. Any such application shall be filed by the 15th day after receipt by the person of written notice of the ruling, action, order or notice complained of, or, in the case of inaction by a local enforcing agency, by the 15th day after the expiration of the period allowed for action by the local enforcing agency.

(b) In cases arising under P.L. 1995, c.54 or P.L. 1999, c.11, an applicant for approval who is aggrieved by any charge to an escrow account or a deposit by any municipal or municipal utilities authority or sewerage authority professional or consultant, or the cost of the installation of improvements estimated by the municipal or municipal utilities authority or sewerage authority engineer, may file an appeal with the county construction board of appeals.

1. Any such appeal shall be filed within 45 days from receipt of the informational copy of the professional's voucher or the notice from the municipal or municipal utilities authority or sewerage authority engineer, as the case may be; provided, however, that if the professional has not supplied an applicant with an informational copy of the voucher, any appeal shall be filed within 60 days of receipt of the municipal statement of activity against the deposit or escrow account.

2. An applicant may file an appeal regarding an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges; such charges need not be appealed individually.

(c) The appeal shall be in writing and shall briefly set forth the appellant's position. It shall include the name and address of the applicant, the address of the building or site in question, and the permit number (if applicable), and shall reference the specific provision(s) of a statute or rule upon which the applicant is relying and set forth the extent and nature of the applicant's reliance

upon such provision(s). The applicant may append to the written application any data or information that he or she may deem appropriate. In the case of an appeal arising under P.L. 1999, c.11, the applicant shall include a statement specifically outlining the dates, time and personnel in dispute.

1. Upon receipt of a copy of the application for a hearing, the enforcing agency (or, in the case of an appeal under P.L. 1995, c.54 or P.L. 1999, c.11, the municipality, the municipal utilities authority or sewerage authority, the approving authority and/or professional) shall provide the construction board of appeals with a copy of the full record of the application below, including a detailed explanation of the reasons for denial of the applicant's request.

(d) Simultaneously with the filing of any application for a hearing, the person filing the application shall provide a copy thereof to the local enforcing agency or, in the case of an appeal under P.L. 1995, c.54 or P.L. 1999, c.11, to the municipality or municipal utilities authority or sewerage authority, the approving authority and any professional whose charge is the subject of the appeal. Proof of compliance with this requirement shall be filed with the board secretary. Such proof may be in the form of a certified mail receipt, a signed receipt for personal delivery or a sworn statement.

(e) The application shall be accompanied by a fee in the sum of \$ 50.00, or such other fee not exceeding \$ 100.00 as may be established by the county or municipal governing body having jurisdiction over the board or by interlocal agreement, as the case may be. An application shall not be considered complete unless accompanied by the fee; provided, however, that the fee shall be waived where the application is based upon the failure of an enforcing agency to act within a required time frame.