

ENVIRONMENTAL LAW CENTRE



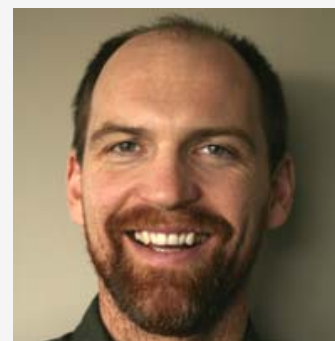
ELC Webinar

12:00pm, February 10, 2010

**Guide to Public Participation
in environmental decision-making**

Part IV:

Going to Court



Adam Driedzic

Staff Counsel

ENVIRONMENTAL LAW CENTRE



Since 1982

Registered Charity

Edmonton-based

Alberta-wide

Alberta **LAW**
FOUNDATION



Water

Land Use

Climate Change

Cumulative Effects

Info-Education

→ Public Participation ←



Guide to Public Participation in environmental decision-making

I: Alberta Environment

II: Environmental Appeals Board

III: Environmental Impact Assessments

IV: Court



Judicial Review

1. Superior Courts

2. Examination of government decision-making process

3. Common law principles

4. Institutional power struggle.



“Rule of Law”

Constitutional principle

1. Governed by laws not people
2. Claims against government go to Court.



ANCIENT

“Natural Justice”

Judicial rules

1. Consider both sides
2. Cannot judge own cause

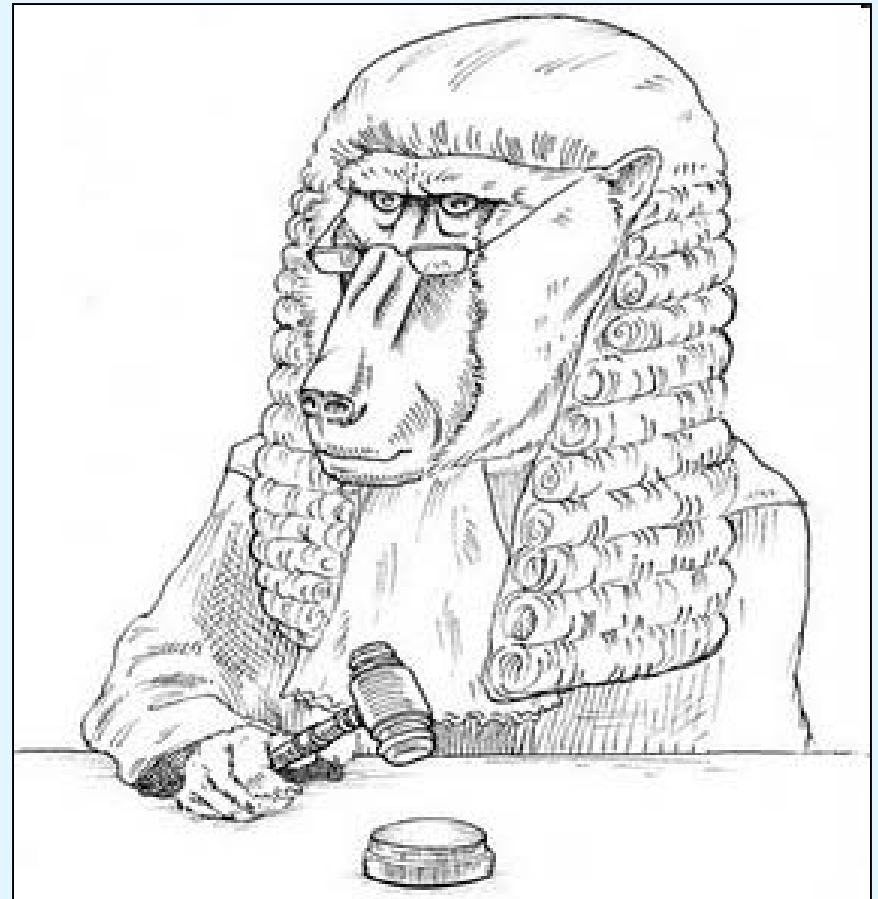


MODERN

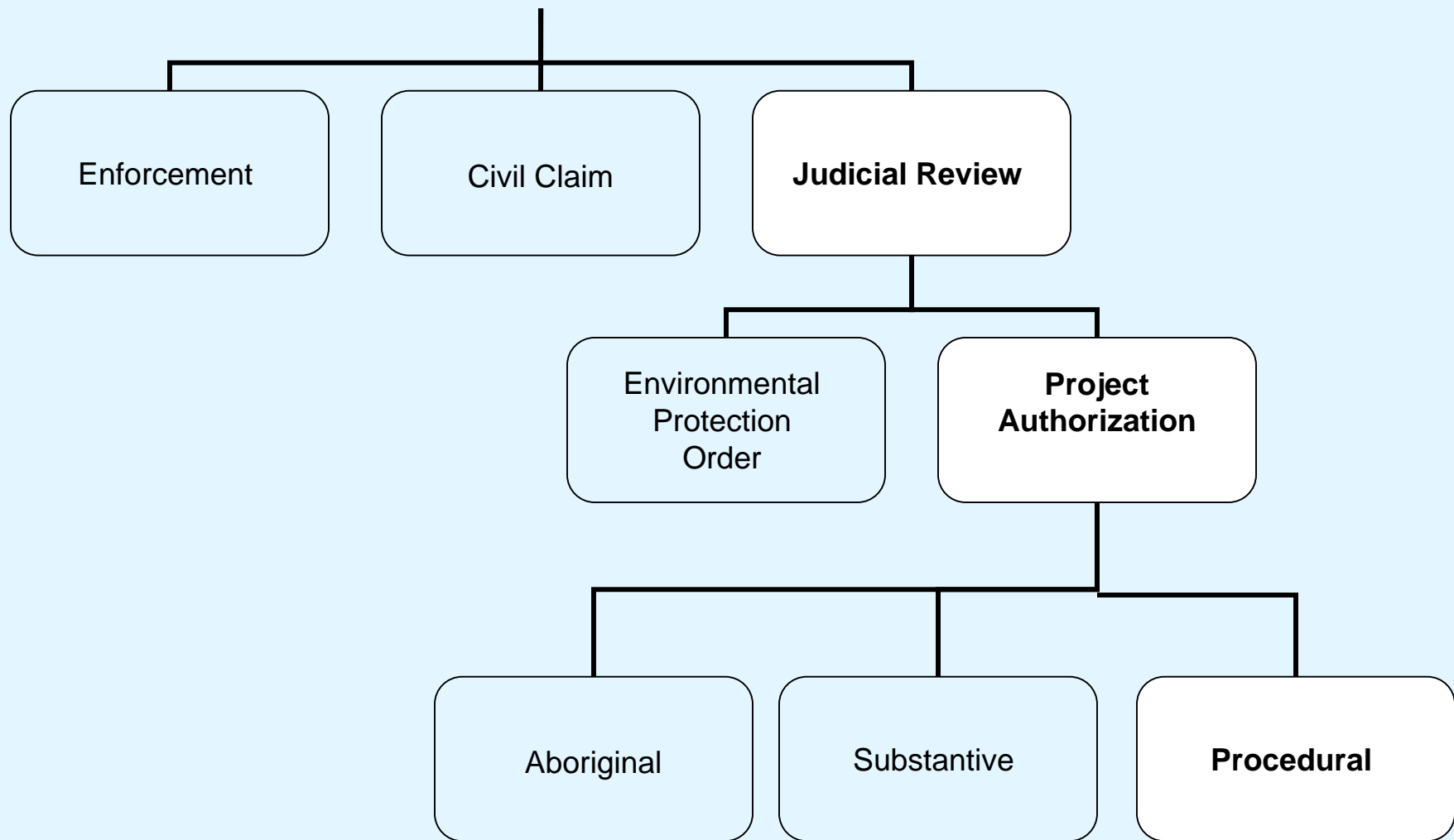
“Fairness”

Administrative rules

1. Right to be heard
2. Impartial hearing



Alberta Environment goes to Court . . .



Decision of Director / EAB / Minister

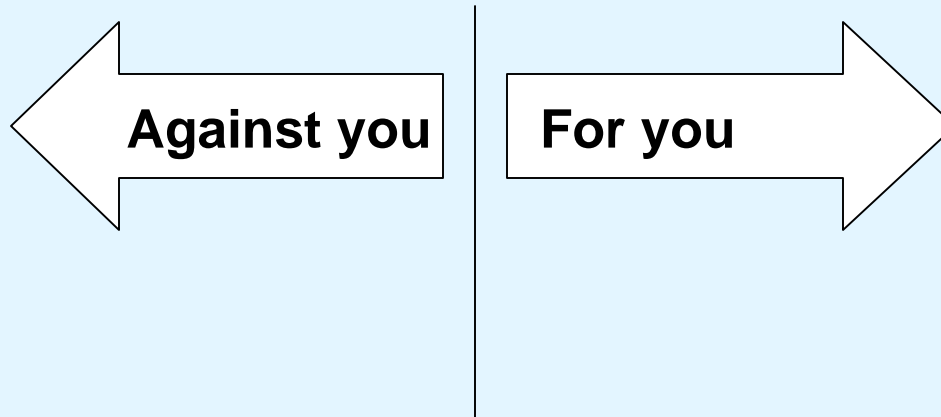
6 month
Limitation
period



1. Jurisdiction ?
2. Discretion?
3. Fairness ?

Judicial Review

1. Application
2. Hearing
3. Decision



Decision of Director / EAB / Minister

6 month
Limitation
period

1. **Jurisdiction ?**
2. **Discretion?**
3. **Fairness ?**

REVIEWABLE?

Judicial Review

1. **Application**
2. **Hearing**
3. **Decision**

Against you

For you

Decision of Director / EAB / Minister

6 month
Limitation
period

TIMING?

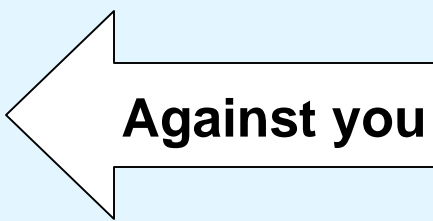


- 1. Jurisdiction ?
- 2. Discretion?
- 3. Fairness ?

REVIEWABLE?

Judicial Review

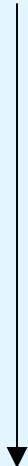
- 1. Application
- 2. Hearing
- 3. Decision



Decision of Director / EAB / Minister

6 month
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TIMING?



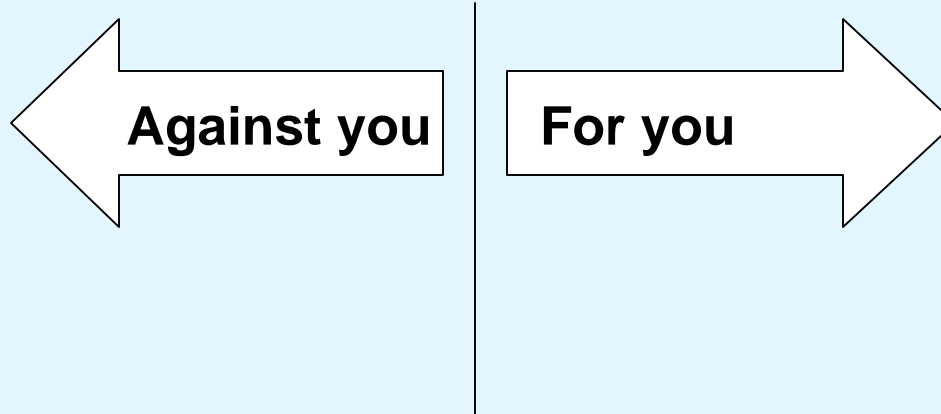
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REVIEWABLE?

Judicial Review

1. Application
2. Hearing
3. Decision

STANDING?



Decision of Director / EAB / Minister

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TIMING?

1. Jurisdiction ?
2. Discretion?
3. Fairness ?

REVIEWABLE?

Judicial Review

1. Application
2. Hearing
3. Decision

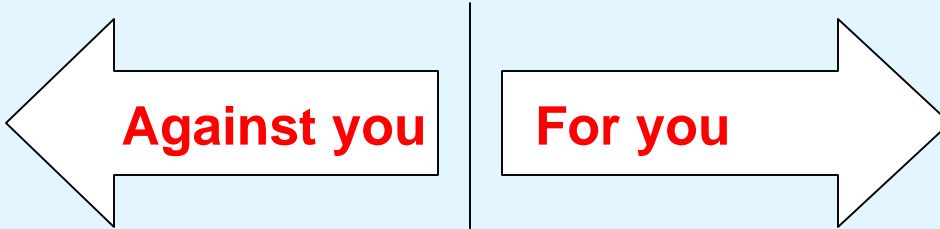
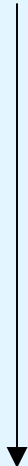
STANDING?

Against you

For you

COSTS?

COSTS?



Decision of Director / EAB / Minister

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TIMING?

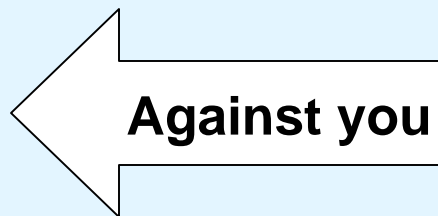
1. Jurisdiction ?
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3. Fairness ?

REVIEWABLE?

Judicial Review

1. Application
2. Hearing
3. Decision

STANDING?



COSTS?

COSTS?

REMEDY?

Remedies

Nullify the decision

Order action

Prohibit action

Declaration





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