

 <p><b>Agricultural Land Commission</b></p>	<p><b>EXPERT OPINIONS IN AGRICULTURAL LAND COMMISSION MATTERS</b></p>	<p><b>POLICY P-11</b></p> <p>Adopted October 2020</p>
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## Overview

Expert opinion evidence is sometimes submitted in matters before the Agricultural Land Commission (the “Commission”). This policy is intended to provide some guidance on what is expected of an expert whose opinion is submitted as evidence before the Commission.

## Who Is An Expert?

An expert is an individual qualified by education, training and/or experience as an expert in the field or discipline in which they are giving their opinion.

## Agrologists

Often in an application, appeal or other matter before the Commission, the expert who submits an opinion is an agrologist. Additional detail about, and guidance pertaining to, opinions submitted by agrologists on the agricultural capability of a property are found in Policy P-10 (Criteria for Agricultural Capability Assessments).

## Expert’s Duty

An expert has a duty to assist the Commission with an objective expert opinion and is not to be an advocate for their client, employer or any participant.

## Expert Opinion in Writing

The opinion of an expert should be set out in writing. The opinion may be in the form of a formal report, such as an agricultural capability assessment report further addressed in Policy P-10 (Criteria for Agricultural Capability Assessments). However, even if the expert is not engaged to provide an agricultural capability assessment and the written opinion is not at the same level of formality, the guidance set out in the present policy (Expert Opinions in Agricultural Land Commission Matters) is applicable.

The written opinion should be submitted to the Commission together with the application, appeal or other matter in relation to which the written opinion was prepared or otherwise in accordance with a timeline acceptable to the Commission.

The written opinion should be signed and dated by the expert, and include:

- the expert’s name, address and area of expertise;
- the statement of qualifications described below under the heading “Expert Qualifications”;
- the nature of the opinion requested by the applicant/appellant/other party and the issues in the application, appeal or other matter to which the opinion relates;
- the expert’s opinion respecting those issues;
- the expert’s reasons for their opinion; and
- a statement of the matters and documents on which the opinion is based.

## **Expert Qualifications**

The qualifications of the expert should be set out in writing in the expert's written opinion. The statement of qualifications should address why the individual who prepared the written opinion is qualified by education, training and/or experience to provide the opinion.

## **Receipt and Weight of the Evidence**

The Commission will consider whether the evidence provided to it is admissible (that is, whether it should be taken into account at all on the merits of the matter before the Commission) and, if so, what weight should be given to the evidence. It may consider factors such as whether the person whose opinion is put forward is qualified by education, training and/or experience to give the opinion and whether or the extent to which the person who prepared the opinion complies with the "Expert's Duty" noted above or is willing or able to do so. In some circumstances, if the Commission considers that the person who prepared the opinion is not qualified to do so on that topic and/or that the opinion is not objective, it may still receive the evidence that is provided but consider those issues in determining the appropriate weight to be given to it.

See also the last paragraph below under the heading "Experts Who Belong to Professional Bodies".

## **Experts Who Belong to Professional Bodies**

The above guidance is additional to any professional obligations that an expert may have in their field, including codes of ethics that may apply to that expert.

For example, the following sections of the Code of Ethics governing members of the BC Institute of Agrologists are relevant and important in work that they may perform in matters before the Commission:

1) Section 1

"In discharging their responsibilities to the public, members must:

- (f) ensure that they distinguish between facts, assumptions and opinions in the preparation of reports or other materials; and
- (g) ensure that they clearly state that a report or other materials constitutes an opinion and identifies the limitations within which the opinion is provided.

2) Section 2

"In discharging their responsibilities to the public, members must:

- (f) decline any retainers, employment or assignments that would give rise to a conflict of interest.

3) Section 3

"In discharging their responsibilities as expert witnesses before courts and tribunals, members must:

- (e) ensure that they provide an objective expert opinion and not an opinion that advocates for their client or employer or a particular partisan position."

The Commission is a "tribunal" under the *Administrative Tribunals Act*.

BC Institute of Agrologist members should be aware that, all else being equal, written opinions that, in the opinion of the Commission, are not compliant with the Code of Ethics will not be given the same weight as written opinions that are compliant with the Code of Ethics. Further, on occasion, such factors may cause the Commission not to consider the evidence on the merits of the matter before it. This may adversely affect the application, appeal or other matter for which the written opinion has been prepared.

**RELATED POLICIES:**

ALC POLICY P-10: Criteria for Agricultural Capability Assessments