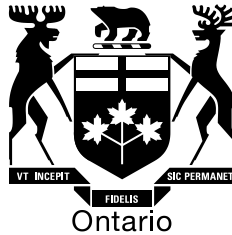


TRIBUNALS ONTARIO



**RULES OF
PRACTICE AND PROCEDURE
of the
Assessment Review Board**

(made under section 25.1 of the Statutory Powers Procedure Act)

Effective April 1, 2021

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PART 1 – GENERAL

Application of Rules

1. These Rules apply to all proceedings before the Assessment Review Board. These Rules come into force and effect on April 1, 2021.

Definitions

2. These definitions apply to these Rules unless the context requires otherwise:

“adjudicative record” includes:

1. An application or other document by which a proceeding before the Board is commenced.
2. A notice of a hearing.
3. A written submission filed with the Board in respect of a proceeding before the Board.
4. A document that has been admitted as evidence at a hearing or otherwise relied upon by the Board in making a decision or an order.
5. A transcript of oral evidence given at a hearing.
6. A decision or an order made by the Board and any reasons for the decision or order.
7. A docket or schedule of Board hearings.
8. A register of Board proceedings.

“affidavit” means a written statement made under oath or affirmation that is confined to facts or other evidence the person could give if testifying as a witness before the Board;

“appeal” means any appeal, application or complaint made to the Board;

“appellant” means a person who makes an appeal to the Board;

“Board” means the Assessment Review Board;

“Board Member” means a member of the Board;

“discovery” includes the disclosure of documents, oral or written examinations of a person outside of a hearing, and inspection of a thing or property;

“document” means data and information recorded or stored by any means, including in electronic form;

“electronic hearing” means a hearing held by telephone conference or some other form of electronic technology allowing persons to hear one another;

“expert report” means a report prepared pursuant to Rule 50;

“hearing event” means a procedure held by the Board at any stage of a proceeding, and includes a hearing, settlement conference and motion hearing,

whether these are held in the form of an in-person hearing, electronic hearing, or written hearing;

“holiday” means a Saturday or Sunday or other days that the Board offices are closed, such as the statutory holidays of New Year’s Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Remembrance Day, Christmas Day, Boxing Day, and any special holiday proclaimed by the Governor General or the Lieutenant Governor in Council. Where New Year’s Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is a holiday; where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays, and where Christmas Day falls on a Friday, the following Monday is a holiday;

“motion” means a hearing event, at any stage of the proceeding, in which a person requests that the Board make a decision or issue an order;

“MPAC” means the Municipal Property Assessment Corporation;

“participant” means a person who has been added by the Board to a proceeding on terms more limited than a party;

“party” means a person entitled by law to be a party, and a person added by the Board to a proceeding as a party;

“person” includes a corporation;

“proceeding” means an appeal before the Board, including all hearing events related to that appeal;

“representative” means a person authorized under the *Law Society Act* or its By-Laws to represent a person in a proceeding before the Board;

“witness statement” means a written outline of the evidence a person is likely to provide at a hearing event, including a list of all documents that person will rely upon; and

“written hearing” means a hearing event by means of the exchange of documents whether in written form or by electronic means.

Interpretation of Rules and Powers of the Board

3. These Rules shall be liberally interpreted to ensure the just, most expeditious and least expensive determination of every proceeding.

Proportionality

4. These Rules shall be applied in a manner proportionate to the importance and complexity of the issues in a proceeding and with a view to resolving appeals within the assessment cycle.

Issues Not Addressed in these Rules

5. Where these rules are silent on any issue, the Board may make whatever procedural orders or directions are required to effectively resolve an appeal or adjudicate a proceeding.

Technical Objections

6. Substantial compliance with the requirements of these Rules is sufficient.

Failure to Comply with Rules and Orders

7. The Board will determine the appropriate consequences of non-compliance with these Rules.

Communication with the Board

8. All communication to or from the Board in relation to any proceeding must be copied to, or made in the presence of, all other parties to the proceeding.

Notices in Writing

9. Any notices required by these Rules, or by an order of the Board, must be given in writing unless directed otherwise.

Language of Proceedings

10. The Board may conduct proceedings in English, in French, or bilingually in accordance with Tribunals Ontario's *French Language Services Policy*.

Time

11. In the computation of time under these Rules or an order of the Board:
 - (a) a day means a calendar day;
 - (b) when the time for doing anything under these Rules falls on a holiday, the time is extended to include the next day the Board is open for business;
 - (c) when there is reference to two events, the time between the two events is counted by excluding the first day and including the last day;
 - (d) in a period of seven days or less, holidays shall not be counted; and
 - (e) service or filing after 5:00 PM, or on a holiday, is deemed to be made on the next day that is not a holiday.

PART 2- PARTIES AND REPRESENTATIVES

Appearance in Person or by Authorized Representative

12. In any proceeding:
 - (a) a party or participant may appear in person or by representative;
 - (b) a representative who is not licensed by the Law Society of Ontario must provide the Board with written confirmation of their authority to provide legal services; and
 - (c) a party or participant must notify the Board, by way of email or written confirmation, and all parties and participants to the proceeding, of any changes in representation, including how to serve the representative with documents.

Removal of Representative

13. A representative of any party or participant may only be removed as representative if:
 - (a) a party or participant notifies the Board and all other parties and participants to the proceeding, of any change in representation, including how to serve the new representative; or
 - (b) the Board removes the representative by order.

Representative as Advocate and Witness

14. A representative who is licensed by the Law Society of Ontario as a paralegal or lawyer may appear at a hearing event as both an advocate and a witness:
 - (a) in a summary proceeding before the Board; or
 - (b) in a general proceeding with leave of the Board.

Notices to Representative

15. Notice to a representative is deemed to be notice to the party or participant represented.

Adding Parties and Participants

16. Any person may seek an order from the Board, by motion, to be added to any proceeding either as a party or a participant.

PART 3 – COMMENCEMENT AND TERMINATION OF PROCEEDING

Form of Appeal

17. An appeal shall be commenced in the form specified by the Board and must:
 - (a) provide the appellant's name, telephone number and email address, street address and postal code;
 - (b) identify the property at issue by roll number;
 - (c) state the nature of the appeal and the grounds for it;
 - (d) include the appropriate fee;
 - (e) request a bilingual or French proceeding, if required;
 - (f) request accommodation of any *Human Rights Code* needs;
 - (g) be signed by the appellant or their representative or filed electronically;
 - (h) include a copy of the reconsideration decision, if applicable;
 - (i) include a confirmation of service of the appeal on the assessed person, if required; and
 - (j) be addressed to the Registrar and filed with the Board.

Disclosure of Email Address

18. All parties to a proceeding shall provide an email address to the Board for purpose of correspondence with the Board. The Board may direct a party to a proceeding to provide the Board with any email address in its possession for another party in the proceeding.

Special Legislation

19. In addition to the requirements set out in Rule 17, appeals made pursuant to the *Municipal Act, 2001*, *City of Toronto Act, 2006* and *Provincial Land Tax Act, 2006* must:
 - (a) be served on the opposing party;
 - (b) be accompanied by any required documents; and
 - (c) identify the legislative provision pursuant to which the appeal is filed.

Commencement of an Appeal

20. The Board may decline to process an appeal unless the following conditions are met:
 - (a) all required documents are complete;
 - (b) all required processing fees are paid; and
 - (c) documents are received before the expiry of the time period required in accordance with applicable legislation or these Rules.

Compliance with Requirements

21. If any of these requirements are not met, the Board will notify the party who filed the appeal and will set out the requirements to resume processing the appeal. Before declining to process an appeal, the Board shall give that party such time as the Board determines appropriate in the circumstances to comply with the requirements.

Service of Amended Appeals

22. A request to amend an appeal, including any attached documents, must be served on all other parties to the proceeding and filed with the Board.

Deemed Filing Date

23. If an appeal is amended within the time specified by the Board in accordance with a notice pursuant to Rule 21, it is deemed to have been properly filed on the day the appeal was first received by the Board.

Dismissal of a Proceeding

24. The Board may dismiss a proceeding without holding a hearing, or after a hearing, if:
 - (a) the Board is satisfied that it is without jurisdiction to hear the appeal;
 - (b) the Board is of the opinion that the proceeding is frivolous or vexatious, is commenced in bad faith or only for the purpose of delay;
 - (c) the Board is of the opinion that the reasons set out in the appeal do not disclose any apparent statutory ground on which the Board can make a decision;
 - (d) the appellant has not responded to a request by the Board for further information within the time specified by the Board;
 - (e) the appellant has not complied with the statutory requirements or these Rules; or
 - (f) the appellant has abandoned the appeal.

Notice before Dismissal

25. Before dismissing an appeal pursuant to Rule 24, the Board will provide the appellant with an opportunity to respond to the proposed dismissal within a specified time, except in the case of a dismissal pursuant to Rule 24(a) in which case all parties to the appeal will be given an opportunity to respond to the proposed dismissal within a specified time.

Request to file a Late Appeal

26. The Board may accept an appeal received after the time set in the *Assessment Act* only if the appellant satisfies the Board, by way of affidavit evidence, that:
- (a) the appeal was sent within the time set out in the *Assessment Act*; or
 - (b) the appellant is a person entitled to receive a notice of assessment who did not receive notice, and filed the appeal with the Board within 30 days of becoming aware of the assessment or classification that is the subject of the appeal.

Withdrawal of an Appeal

27. An appellant may withdraw an appeal unless:
- (a) another party has given notice pursuant to these Rules of its intention to request a higher assessment or higher tax rate property class; or
 - (b) a hearing has commenced.

Notice to Seek a Higher Assessment

28. A party is deemed to have given notice of its intention to seek a higher assessment or higher tax rate property class where:
- (a) the party has included its request in its Statement of Issues or Statement of Response; or
 - (b) the party delivers a separate written notice of its request, which is served on all parties and filed with the Board at any time prior to the due date in the Schedule of Events for serving its Statement of Issues or Response.

Motion to Withdraw

29. An appellant may, by motion, request an order of the Board granting leave to withdraw an appeal.

PART 4 – SERVICE AND FILING OF DOCUMENTS

Service of a Document

30. Documents must be served on any person in one of the following ways:
 - (a) email;
 - (b) personal delivery;
 - (c) regular or registered mail to the last known address of the person, or their representative;
 - (d) fax, but only if the document is less than 30 pages in length or with consent of the person being served;
 - (e) courier; or
 - (f) any other way agreed upon by the parties or directed by the Board.

Service on Corporations

31. Service on a corporation may be made, in accordance with Rule 30, on the registered office of the corporation.

Deemed Receipt of Service

32. Where a document is served and filed with the Board, or sent by the Board, receipt is deemed to have occurred when served or sent by:
 - (a) email, on the day sent, or if sent after 5:00 PM, service will deemed to have occurred on the next day that is not a holiday;
 - (b) personal delivery, when given to the party;
 - (c) regular mail, on the fifth day after the postmark date, not including holidays; or
 - (d) courier or registered mail, when the person sending the document receives a confirmation of delivery.

Deemed Receipt of Notice

33. A party is deemed to receive any notice that is sent by the Board to the most recent mail or email address which has been provided to the Board for either the party or the party's representative.

Deemed Receipt Exception

34. Rule 33 does not apply if the person for whom the document was intended establishes, by filing affidavit evidence, that through absence, accident, illness, or other cause beyond that person's control, the document was not received until a later date or not at all.

Documents to be Filed

35. On or before the filing deadline set out in the Schedule of Events for a proceeding, each party must file with the Board all documents that they intend to rely on at a hearing event, including, where applicable:
- (a) all evidence, including expert reports;
 - (b) statements of issues and responses; and
 - (c) witness statements.

Electronic Filing

36. All documents filed with the Board must be filed electronically, unless the Board directs otherwise.

PART 5 – TYPE OF PROCEEDING AND SCHEDULING OF EVENTS

General or Summary Proceeding

37. The Board will designate whether an appeal will be heard by general proceeding or summary proceeding.

Commencement Day

38. The Board will assign a day on which the Schedule of Events will commence for each proceeding.

Schedule of Events

39. For all appeals filed for the 2021 taxation year and subsequent taxation years, the Schedule of Events for a proceeding is:
- (a) set out in Schedule A for all appeals designated as a general proceeding;
 - (b) set out in Schedule B for all appeals designated as a summary proceeding; or
 - (c) as otherwise specified by the Board.

Extension of Schedule of Events Due Dates

40. After the Commencement Day set out in Rule 39 as the start of a proceeding, the Board will not alter any due date set out in the Schedule of Events other than in exceptional circumstances.

Obtaining Additional Expert Reports

41. In order to obtain additional expert reports after the due date for completing the Mandatory Meeting as set out in the Schedule of Events for General Proceedings, the parties must first provide the Board with an Acknowledgement of Expert Duty (attached as Schedule C to these Rules) signed by each expert.

Extension of Due Dates for Obtaining Additional Expert Reports

42. Where a party requests an extension of the due dates set out in the Schedule of Events for General Proceedings for serving additional expert reports, the request must be filed with the Board no more than 10 days after the due date in the Schedule of Events for completing the mandatory settlement meeting. The request must include:
- (a) the date proposed by the party for serving the additional reports;
 - (b) whether any of the other parties oppose the request; and
 - (c) submissions explaining why the reports cannot be completed and served sooner than the proposed date.

PART 6 – ISSUES AND RESPONSES

Statements of Issues and Responses

43. Statements of Issues and Responses must contain:
- (a) If the issue is current value:
 - i. the current value requested and how it is calculated;
 - ii. a full statement of every issue that the party intends to raise, including identification of comparable property(ies) to be referred to, if any; and
 - iii. a list of all facts, legal grounds and documents that the party relies on in support of its position.
 - (b) If the issue is the equity of the assessment pursuant to section 44(3)(b) of the *Assessment Act*:
 - i. the assessment requested;
 - ii. identification of the vicinity claimed by the party;
 - iii. identification of similar lands in the vicinity to be relied on by the party;
 - iv. how the party proposes to calculate the adjustment for equity; and
 - v. a list of all facts, legal grounds and documents that the party relies on in support of its position.
 - (c) If the issue is the classification of the property:
 - i. the classification requested;
 - ii. a full statement of the grounds to support that classification; and
 - iii. a list of all facts, legal grounds and documents that the party relies on in support of its position.
 - (d) If the issue is the cancellation, reduction or refund of taxes pursuant to the Board's authority under the *Municipal Act, 2001*, *City of Toronto Act, 2006*, or *Provincial Land Tax Act, 2006*:
 - i. the amount of taxes that have been paid or are owing;
 - ii. the proposed amount of the refund or reduction;
 - iii. a full statement of the grounds to support the cancellation, reduction or refund of taxes; and
 - iv. a full list of all facts, legal grounds and documents that the party relies upon in support of its position.
 - (e) If the issue is the reversal of the burden of proof by application of section 40(18) of the *Assessment Act*:
 - i. the basis on which the requirements of that section are met; and
 - ii. a list of all facts, legal grounds and documents that the party relies on in support of its position.

- (f) If the issue is issue estoppel or res judicata:
 - i. the basis on which the requirements of that legal doctrine are met; and
 - ii. a list of all facts, legal grounds and documents that the party relies on in support of its position.
- (g) If the issue is higher assessment:
 - i. the basis on which a higher assessment is sought; and
 - ii. a list of all facts, legal grounds and documents that the party relies on in support of its position.

Amendment of Statements of Issues and Responses

- 44. Statements of Issues or Responses cannot be amended after the due dates for amending these documents set out in the Schedule of Events unless all parties consent, or the Board directs otherwise.

PART 7 – EVIDENCE, WITNESSES AND EXPERTS

Disclosure

45. All parties must serve an electronic copy of all relevant documents in their possession, control, or power to all other parties in the proceeding, except for privileged documents, or documents that cannot be disclosed by law.

No Admission

46. The disclosure of a document is not an admission of its relevance or admissibility.

Order for Discovery

47. A party may seek an order from the Board, by motion, for:
- (a) the oral examination or cross-examination of any person;
 - (b) the written examination or cross-examination of any person; or
 - (c) any other method of discovery.

No New Documents

48. A document, including an expert report, may only be admitted into evidence at a hearing event if it has been served on all other parties and filed with the Board, in accordance with these Rules, unless the Board determines that there are exceptional circumstances.

No New Issues

49. An issue can only be raised at a hearing event if it has been set out in the Statements of Issues and Response which have been served on all other parties and filed with the Board in accordance with these Rules, unless the Board determines that there are exceptional circumstances.

Expert Reports

50. An expert report shall contain the following information:
- (a) the expert's name, address and area of expertise;
 - (b) the expert's qualifications, employment, and educational experiences in his or her area of expertise;
 - (c) the instructions provided to the expert in relation to the proceeding;
 - (d) the nature of the opinion being sought and each issue in the proceeding to which the opinion relates;
 - (e) the expert's opinion respecting each issue and, where there is a range of opinions given, a summary of the range and the reasons for the expert's own opinion within that range;

- (f) the expert's reasons for his or her opinion, including:
 - i. a description of the factual assumptions on which the opinion is based;
 - ii. a description of any research conducted by the expert that led him or her to form the opinion; and
 - iii. a list of every document, if any, relied on by the expert in forming the opinion; and
- (g) an Acknowledgement of Expert's Duty, signed by the expert, in the form attached as Schedule C to these Rules.

SUMMONS TO WITNESS

Summons Form

51. A party may request that the Board summon a person to a hearing event in the form attached as Schedule D to these Rules within, setting out:
- (a) the name of the witness and his or her address for service;
 - (b) why the summons is required;
 - (c) a brief summary of the evidence to be given by the witness;
 - (d) an explanation of why the evidence of the witness would be relevant and necessary; and
 - (e) details of any documents or things which the witness should be required to bring to the hearing event.

Summons Issuance

52. When a party has requested a summons pursuant to Rule 51, or on its own initiative, the Board may:
- (a) issue the summons;
 - (b) refuse to issue the summons; or
 - (c) refer the matter to the hearing event in the proceeding.

Service of Summons

53. A summons must be served personally by the party requesting the summons at least 10 days before the hearing event at which the person is summoned to appear.

Witness Fees

54. A party serving a summons must pay the same fees or allowances as the person would be paid if attending before the Superior Court of Justice (Ontario), calculated in accordance with Tariff A of the *Rules of Civil Procedure*.

Objection to Summons

55. The Board may cancel or vary a summons if it is satisfied that:
- (a) the evidence sought from the witness is not relevant or necessary;
 - (b) the evidence is protected by privilege; or
 - (c) the witness is not able to supply the evidence sought.

PART 8 – SETTLEMENT CONFERENCES

Attendance at Settlement Conference

56. A party or a person with authority to settle on a party's behalf, any expert witnesses that would be called at a hearing, and the party's representative must appear at a settlement conference unless:
- (a) the party is deemed not to oppose any settlement pursuant to Rule 60; or
 - (b) the Board directs otherwise.

Purpose of Settlement Conference

57. The following matters shall be considered at a settlement conference:
- (a) settlement of any or all of the issues in the proceeding;
 - (b) simplification of any or all of the issues;
 - (c) admissions that may facilitate future hearing events;
 - (d) the estimated duration of the hearing;
 - (e) the number of witnesses, including proposed expert witnesses, that may be called by each party; and
 - (f) any other matter that may assist in the just, most expeditious and least expensive disposition of the proceeding.

Confidentiality of Settlement Discussions

58. Settlement discussions will be held in the absence of the public. All persons undertake to maintain confidentiality of all settlement discussions, and any documents provided solely for the purposes of settlement do not form part of the Board's public record.

Presiding Members

59. A Member who presides at or otherwise takes part in a settlement conference shall not participate as a Member of a panel at a subsequent hearing of the appeal except with the consent of the parties and the approval of the Board.

PART 9 – MINUTES OF SETTLEMENT

Deemed No Opposition to Settlement

60. A party that does not serve a Statement of Response on or before the day set out in the Schedule of Events is deemed not to oppose any future settlement in that proceeding.

Schedule for Completion of Minutes of Settlement

61. Within 97 days of any party notifying the Board that the appeals have been resolved, Minutes of Settlement must be prepared, executed, served on all parties and filed with the Board as follows:
- (a) MPAC, or the municipality, if MPAC is not a party to the appeal, must draft the Minutes of Settlement and serve them on all other parties within 60 days of any party advising the Board that the appeal has been resolved;
 - (b) any other party who is required to execute the Minutes of Settlement must execute and return them to MPAC, or the municipality as the case may be, within 90 days of advising the Board that the appeal has been resolved; and
 - (c) any party may file the fully executed Minutes of Settlement with the Board within 7 days of receipt of the fully executed Minutes of Settlement.

Filing of Minutes of Settlement

62. Minutes of Settlement do not require the signature of parties who have been deemed by the Board not to oppose a settlement of a proceeding.

Required Signatures

63. The Board may issue a decision in accordance with Minutes of Settlement that have not been signed by all required parties where:
- (a) a party has filed the Minutes of Settlement with the Board and requests that the Board issue the decision; and
 - (b) the due date set for filing executed Minutes of Settlement has passed.

Failure to File Minutes of Settlement

64. Where executed Minutes of Settlement have not been filed with the Board by the required due date, the Board may dismiss the proceeding.

Contents of Minutes of Settlement

65. Minutes of Settlement filed with the Board must include the following information:
- (a) the names of the parties to the appeal and their legal representatives;
 - (b) the roll number;

- (c) the appeal number;
- (d) the municipal address;
- (e) the taxation year, including commencement dates for appeals of notices of assessment under sections 32, 33 or 34 of the *Assessment Act*;
- (f) the assessment for each roll number and taxation year;
- (g) if there is a supplementary assessment, the effective date, the total assessment and a summary of the property class change, and improvement increase;
- (h) the classification of the property;
- (i) the order sought from the Board; and
- (j) any other information specified by the Board.

PART 10 – MOTIONS

Notice of Motion

66. A party bringing a motion shall serve on all parties and file with the Board a completed Expedited Board Directions form attaching a notice of motion setting out:
- (a) the decision or order that the party is requesting from the Board;
 - (b) the grounds for the motion and the facts relied upon in support of the motion;
 - (c) whether the parties consent to the request; and
 - (d) any request to have the motion heard in a format other than in writing, and the reasons in support of the request.

Response

67. A party responding to a motion must serve its response on all other parties to the proceeding and file its response with the Board.

Reply

68. A party who filed a notice of a motion may serve on all other parties to the proceeding and file with the Board a reply to new issues raised in the responses to the notice of motion.

Evidence in Support of Motion

69. Evidence in support of a motion must be provided in an affidavit and include transcripts of any cross-examination on the affidavit, unless the Board directs otherwise.

Motions in Writing

70. Motions will be heard in writing unless the Board directs otherwise.

PART 11 – ADJOURNMENT OF HEARING EVENTS

Adjournment Request

71. Unless otherwise ordered by the Board, a request for an adjournment shall be served on all other parties and filed with the Board at least 10 days in advance of the scheduled date of the hearing event.

Motion for Adjournment

72. A party may bring a motion for an adjournment setting out:
- (a) the consent of the other parties, if applicable;
 - (b) a suggested date for the hearing event;
 - (c) detailed reasons for the request;
 - (d) evidence that the party made all reasonable efforts to avoid the adjournment; and
 - (e) whether the adjournment will cause any inconvenience to other persons.

Factors to Consider

73. Before granting any adjournment of a hearing event, the Board must consider:
- (a) the integrity of the Board's process, including the Board's ability to efficiently resolve all appeals filed with the Board within the assessment cycle;
 - (b) the interests of the parties in a full and fair proceeding;
 - (c) the impact of the adjournment on parties and other persons;
 - (d) the circumstances giving rise to the need for an adjournment;
 - (e) the timeliness of the request for the adjournment;
 - (f) the position of the other parties;
 - (g) the public interest in the delivery of the Board's services in a just, timely and cost-effective manner; and
 - (h) any other relevant factors.

PART 12 – FORMAT OF HEARINGS

Hearing Format

74. All hearing events will be electronic, unless the Board directs otherwise.

Electronic Hearings

75. The Board may hold a hearing event by electronic hearing for the determination of any issue in a proceeding, unless a party satisfies the Board that holding an electronic hearing is likely to cause the party significant prejudice.

Objection to the Electronic Format

76. A party who objects to an electronic hearing shall, no more than 10 days from the Board's issuance of the notice of the electronic hearing, file with the Board, and serve on all other parties to the proceeding, a written notice setting out the party's submissions why holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

Response to Notice of Objection

77. The Board may request a written response from other parties within 5 days of the objection.

Procedure When Objection

78. Upon receiving an objection to hold a hearing event by electronic hearing, the Board may:
- (a) convert the hearing event to a different format;
 - (b) continue with the electronic hearing, with or without conditions; or
 - (c) make any other order the Board considers appropriate.

WRITTEN HEARINGS

Hearing Events in Writing

79. The Board may conduct the whole or any part of a hearing event as a written hearing, unless a party satisfies the Board that there is good reason for not doing so.

Factors the Board May Consider

80. In deciding whether to hold a written hearing, the Board may consider any relevant factors, including:

- (a) the integrity of the Board's process, including the Board's ability to efficiently resolve all appeals filed with the Board within the current assessment cycle;
- (b) whether most of the issues are legal issues;
- (c) the fairness and accessibility to the parties and the Board;
- (d) the likelihood of the process being less costly, faster and more efficient;
- (e) the effect on public access to the Board's process;
- (f) whether facts and evidence may be agreed upon; and
- (g) whether oral testimony is likely to be necessary.

Objections

81. A party may file with the Board, and serve on all other parties, a written objection to the written hearing upon the notice of the written hearing.

Ruling on Objections

82. When an objection to a written hearing is raised, the Board may:
- (a) convert the hearing event to a different format;
 - (b) continue with the hearing, with or without conditions; or
 - (c) make any other order the Board considers appropriate.

Requirement for Affidavit Evidence

83. Evidence in a written hearing must be by affidavit, and any transcripts of any cross-examination on those affidavits.

COMBINING PROCEEDINGS

Combining Hearings or Hearing Matters Together

84. When the Board considers that two or more proceedings involve the same or similar questions of fact or law or policy the Board may:
- (a) with the consent of the parties, order that the proceedings, or any part of them, be combined or heard at the same time;
 - (b) order that the proceedings be heard one after the other; or
 - (c) stay or adjourn any proceeding until the determination of any other proceeding.

Effect of Combined Proceedings

85. When two or more proceedings are combined:
- (a) statutory procedural requirements for any of the separate proceedings apply, where appropriate, to the combined proceeding;

- (b) parties to each of the separate proceedings are parties to the combined proceeding; and
- (c) evidence to be presented in each of the separate proceedings is evidence in the combined proceedings.

Effect of Hearing Matters Together

- 86. Where two or more proceedings are heard together, but not combined:
 - (a) statutory requirements for each proceeding apply only to that particular proceeding;
 - (b) parties to the proceeding are parties only to their proceeding; and
 - (c) evidence in the proceeding is evidence in each proceeding to which it could apply, unless the Board orders otherwise.

Separate Proceedings

- 87. The Board may separate proceedings heard together at any time when in its opinion the proceedings have become unduly complicated, delayed or repetitive, or a party is unduly prejudiced.

PART 13 – PUBLIC ACCESS TO HEARINGS AND DOCUMENTS

Hearings to be Public

88. All hearings will be open to the public except where the Board is of the opinion that:
- (a) matters involving public security may be disclosed; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature that the prejudice to a person outweighs the interest in a public hearing.

Confidential Documents

89. The Board, on its own motion, or on the application of:
- (a) a party to a proceeding to which the adjudicative record relates; or
 - (b) a person who would be affected by the disclosure of information contained in the adjudicative record or a portion of the adjudicative record, may order that the information be treated as confidential and that it not be disclosed to the public, if the Board determines that:
 - i. matters involving public security may be disclosed; or
 - ii. intimate financial or personal matters contained in the record are of such a nature that the public interest or the interest of a person served by avoiding disclosure outweighs the desirability of adhering to the principle that the record be available to the public.

Return of Exhibits

90. A document filed with the Board will not be returned to the party who filed it.

Authorization to Record Hearing Event

91. No person shall be permitted to make any audio or video recording of a hearing event unless a request is submitted to the Board in advance. In considering such a request, the Board must:
- (a) be satisfied that the proceedings will not be disturbed or disrupted;
 - (b) be satisfied that no person taking part in the hearing event will be subject to any undue discomfort;
 - (c) consider any public interest in having proceedings accessible to all those affected or interested; and
 - (d) determine any other issues that the Board considers appropriate.

Conditions of Approval

92. The Board may approve any audio or video recording on conditions, and the following conditions are deemed to apply to any approval:

- (a) only equipment which does not produce a distracting noise or light may be used;
- (b) the recording will only occur at the times permitted by the Board; and
- (c) for an in-person hearing, the equipment must be placed in one location approved by the Board.

Withdrawal of Approval

93. The Board may withdraw its approval of any audio or video recording, or vary the conditions permitting such recording if:
- (a) any of the conditions are breached; or
 - (b) the Board is of the opinion that it cannot conduct a full and fair hearing event due to the audio or video recording.

Qualified Verbatim Reports

94. A party may arrange for the attendance of a qualified verbatim reporter at a hearing event, at his or her own expense.

Transcripts by a Party

95. A party may only rely on a transcript or partial transcript of a hearing event if it provides a copy of that transcript to the Board and all other parties.

Transcripts by the Board

96. The Board may, at its own expense and with notice to the parties, order a transcript or partial transcript from a qualified verbatim reporter.

PART 14 – BOARD DECISIONS

Requesting Written Reasons

97. A party may request written reasons:
- (a) at the conclusion of the hearing; or
 - (b) in writing, no more than 14 days after the end of the hearing.

Decisions Effective on Issuance

98. Written decisions are effective on the day they are issued, unless the Board directs otherwise.

Correcting Minor Errors

99. The Board may, on its own initiative or at the request of a party, correct a technical or typographical error, error in calculation or similar minor error made in a decision or order, and may clarify a misstatement, ambiguity or another similar problem.

Deemed Request for Review

100. If a party requests a correction or clarification that, in the Board's opinion, is a request for a substantive change in the decision or order of the Board, or will cause prejudice to any party, the Board may deem that the request is a request for review.

PART 15 – REVIEW OF A BOARD DECISION OR ORDER

Request for Review

101. A party may request a review of any final decision or order of the Board by filing a request in writing no more than 30 days after the decision was issued, which shall include:
- (a) the written reasons for the decision, as set out in Rule 97;
 - (b) the reasons for the request, addressing the factors set out in Rule 102;
 - (c) notice of any appeals or applications for judicial review that have been filed in relation to the decision;
 - (d) proof of service on all other parties to the proceeding;
 - (e) the remedy or relief sought; and
 - (f) the fee specified by the Board.

Grounds for Review

102. A request for review will not be granted unless the Board is satisfied that:
- (a) the Board acted outside its jurisdiction or violated the rules of natural justice or procedural fairness;
 - (b) the Board made a significant error of law or fact such that the Board would likely have reached a different decision;
 - (c) the Board heard false or misleading evidence from a party or witness, which was discovered only after the hearing and would have affected the result; or
 - (d) there is new evidence that could not have reasonably been obtained earlier and have affected the result.

Review Order

103. Upon considering a request for review, or on its own initiative, the Board may:
- (a) dismiss the request; or
 - (b) after providing all parties an opportunity to make submissions:
 - i. confirm, vary, or cancel the decision; or
 - ii. order a rehearing on all or part of the matter.

Request to Reinstate an Appeal

104. A party to a former proceeding may seek an order from the Board to reinstate an appeal by filing an affidavit with the Board, copied to all parties, no more than 30 days after the appeal was dismissed or withdrawn by the Board, setting out that:
- (a) the appeal was withdrawn, removed or dismissed in error;
 - (b) a party failed to appear at a hearing event through no fault of their own; or
 - (c) natural justice or procedural fairness require that the appeal be reinstated.

Reinstatement Order

105. Upon considering a request for reinstatement, the Board may reinstate the appeal, with or without conditions.

PART 16 - COSTS

Board May Order Costs

106. Where a party requests that another party pay costs, the Board shall not grant the request unless the conduct or course of conduct of the other party has been unreasonable, frivolous or vexatious, or the other party has acted in bad faith.

Timing of Costs Request

107. A request for costs shall be made to the Board in writing and shall be served on all parties within 30 days of the issuance of the decision or order for which costs are requested.

Content of Submissions

108. A submission on costs shall set out the reasons for the request, the particulars of the party's conduct that are alleged to be unreasonable, frivolous, vexatious or in bad faith, and the particulars of amounts requested.

SCHEDULE A – Schedule of Events for General Proceedings

The following Schedules of Events are part of the Rules of Practice and Procedure. Parties are required to adhere to the Schedule of Events applicable to their proceeding. Failure to do so, in addition to any failure to comply with any orders or directions of the Board, may result in a party being unable to rely on documents at a hearing or dismissal of a proceeding.

Weeks following Commencement Day	Event	Time period to complete event
Commencement Day	MPAC provides initial disclosure to all other parties.	N/A
Weeks 1 to 8	Each Appellant serves its disclosure and Statement of Issues on all other parties.	8 weeks
Weeks 9 to 10	Each party who responds to the Appellant(s) to advise if an inspection or any additional disclosure is requested.	2 weeks
Weeks 11 to 12	Where an inspection or additional disclosure is required, these are to be completed.	2 weeks
Weeks 13 to 20	Each party who responds to the Appellant(s) is to serve its Statement of Response and any additional supporting disclosure.	8 weeks
Weeks 21 to 22	Each Appellant to advise if any additional disclosure is requested.	2 weeks
Weeks 23 to 24	Where additional disclosure is required it is to be served on the Appellant.	2 weeks
Weeks 25 to 28	Each Appellant to serve its Statement of Reply and any additional disclosure on all other parties. <u>Full disclosure by all parties shall be completed by this due date.</u>	4 weeks
Weeks 29 to 36	All parties are required to schedule and complete a mandatory settlement meeting to attempt to resolve the appeal among	8 weeks

Weeks following Commencement Day	Event	Time period to complete event
	<p>themselves. MPAC shall then deliver to the Board a completed Notice of Mandatory Meeting Form, which includes the following information:</p> <p><u>Where the appeal proceeding is resolved:</u></p> <ul style="list-style-type: none"> confirm that the appeal is being withdrawn or will be resolved through minutes of settlement. <p><u>Where the appeal proceeding is not resolved and additional expert reports are required:</u></p> <ul style="list-style-type: none"> identify each of the parties who will obtain an additional expert report(s) <u>and, no later than 10 days from the due date for filing the Mandatory Meeting Form</u>, each party shall file with the Board an Acknowledgement of Expert Duty signed by each of their experts; and indicate whether the parties request that the Board conduct a Settlement Conference before they proceed to obtain the additional expert reports. <p><u>Where the appeal proceeding is not resolved and additional expert reports are not required:</u></p> <ul style="list-style-type: none"> indicate that each party has confirmed that it will not obtain any additional expert reports, in which case the Board will proceed to schedule a Settlement Conference. 	

Weeks following Commencement Day	Event	Time period to complete event
Weeks 37 to 40	<p><i>If the appeal is not resolved, and none of the parties will obtain an additional expert report, each party shall file with the Board:</i></p> <ul style="list-style-type: none"> • its Statement of Issues, Statement of Response, and Reply (as the case may be); • all documentary evidence, witness statements and expert reports on which the party intends to rely if the matter proceeds to a hearing; and • its Settlement Conference Brief. 	4 weeks
Weeks 37 to 42	<p><i>If the appeal is not resolved, and any of the parties intend to obtain an additional expert report(s):</i></p> <p>Each party is to serve on all other parties its additional expert report(s).</p>	6 weeks
Weeks 43 to 45	<p>Each party is to serve any supplementary report(s) by its expert(s) in reply to any additional expert reports served by other parties, as well as any amendment to the party's Statement of Issues or Statement of Response, to address any additional evidence or new issues raised in the expert's reports.</p>	3 weeks
Weeks 46 to 49	<p>Each party shall file with the Board:</p> <ul style="list-style-type: none"> • its Statement of Issues, Statement of Response, and Reply (as the case may be); • all documentary evidence, witness statements and expert reports on which the party intends to rely if the matter proceeds to a hearing; and • its Settlement Conference Brief. 	4 weeks

Weeks following Commencement Day	Event	Time period to complete event
<p>Where required, the Board schedules and conducts a Settlement Conference. If the appeals are not resolved the Board will then schedule and conduct a hearing.</p> <p>Where the Board has scheduled a hearing, the Board will then conduct the hearing and issue a decision.</p>		

SCHEDULE B – Schedule of Events for Summary Proceedings

The following Schedules of Events are part of the Rules of Practice and Procedure. Parties are required to adhere to the Schedule of Events applicable to their proceeding. Failure to do so, in addition to any failure to comply with any orders or directions of the Board, may result in a party being unable to rely on documents at a hearing, or dismissal of a proceeding.

Weeks following Commencement Day	Event	Time period to complete event
Commencement Date	Each Appellant serves a Statement of Issues, which is a description, in writing, of the issues in dispute in the appeal, as well as all supporting documents on all other parties.	N/A
Weeks 1 to 2	<p>Each party who responds to the Appellant(s) serves a Statement of Response, which is a description, in writing, of the issues in dispute in the appeal, as well as all supporting documents on all other parties.</p> <p>If the issue is:</p> <ul style="list-style-type: none"> (a) a request for a change in property classification that would result in higher taxation; (b) a request for a higher assessment than that returned by MPAC; (c) an application to invoke section 40(18) of the <i>Assessment Act</i>; or (d) an application to invoke the doctrine of issue estoppel or res judicata, <p>the responding party must also provide the grounds in support of the request or application, and a list of all facts, legal grounds and documents that the party relies on in support of its position.</p>	2 weeks

Weeks following Commencement Day	Event	Time period to complete event
Weeks 3 to 4	If required, each Appellant serves a written Reply to any new issues raised and provides additional supporting documents.	2 weeks
Weeks 5 to 12	<p>Parties to complete any required inspections and to schedule and complete a mandatory settlement meeting to attempt to resolve the appeal among themselves.</p> <p><i>If the appeal is resolved, MPAC (or the Municipality, if MPAC is not a party to the appeal), on behalf of all parties, must:</i></p> <ul style="list-style-type: none"> i. advise the Board in writing that the appeal is being withdrawn or will be resolved through minutes of settlement; and ii. advise the Board if the parties request an extension of the due date specified in the Board's Rules for filing minutes of settlement with the Board. <p><i>If the appeal is not resolved, MPAC (or the Municipality, if MPAC is not a party to the appeal), on behalf of all parties, must:</i></p> <ul style="list-style-type: none"> i. advise the Board in writing that the appeal has not been resolved, and request that the Board schedule a hearing of the appeal; and 	8 weeks

Weeks following Commencement Day	Event	Time period to complete event
	ii. advise the Board whether any of the parties requests a hearing in person, and/or that the hearing be scheduled for longer than 3 hours.	
Week 13 to 14	Where a hearing has been requested, the parties must file their Statements of Issues, Response and Reply with the Board, as well as all documents and any written submissions on which they will rely at the hearing.	2 weeks

A Hearing will be scheduled by the Board with notice to the parties.
The Board will then conduct the hearing and issue a decision.

SCHEDULE C – Acknowledgement of Expert Duty

Tribunals Ontario – Assessment Review Board

Website: www.tribunalsontario.ca/arb **E-mail:** ARB.Registrar@ontario.ca



Region Number:

Municipality:

Roll Number:

Property Location:

Appeal Numbers:

1. My name is.....(*name*)
 I live at the(*municipality*)
 in the.....(*county or region*)
 in the(*province*)
2. I have been engaged by or on behalf of.....(*name of party/parties*) to provide evidence in relation to the above-noted Board proceeding.
3. I confirm that I will provide my evidence in the form of a written report in electronic format, which I will deliver no later than two days prior to the relevant due dates for serving additional expert reports as set out in the Schedule of Events which has been assigned to this proceeding.
4. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
 - b. to provide opinion evidence that is related only to matters that are within my area of expertise;
 - c. to provide such additional assistance as the Board may reasonably require, to determine a matter in issue.
5. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date.....

Signature

SCHEDULE D – Summons to Witness

Tribunals Ontario – Assessment Review Board

ARB Summons Request Form



Website: www.tribunalsontario.ca/arb **E-mail:** ARB.Registrar@ontario.ca

Instructions:

- Send this completed form to the Board by email.
- You must serve a summons to a witness at least ten days before the time of attendance.
- Please ensure your summons request form is filed with the Board well in advance of the hearing so it can be processed and issued before the hearing.
- A form must be completed for each person you are requesting approval to summons.
- If your request is approved, you will be provided with a summons and instructions for service.
- Please refer to Rule 51-55 of the Board’s Rules of Practice and Procedure for more information.
- If the Board is not satisfied with the information provided, the summons may not be issued.

Part 1: Requestor Information

First Name: _____ Last Name: _____

Company Name or Association Name (if applicable)

Daytime Phone: _____ Alternate Phone: _____

Email Address: _____

Mailing Address: _____

Street Address Apt. Suite # City/Town

Province Country (if not Canada) Postal Code

Part 2: Appeal / Application Information

Roll Number: - - - -

19-digit number on Property Assessment Notice

Tax Year(s): _____ Appeal/Application No.(s): _____

Hearing No.: _____ Hearing Location: _____

Property Address: _____

Part 3: Witness Information

First Name: _____

Last Name: _____

Company Name or Association Name (if applicable) _____

Daytime Phone: _____ Alternate Phone: _____

Email Address: _____

Mailing Address: _____

Street Address

Apt. Suite # City/Town

Province

Country (if not Canada)

Postal Code

Part 4: Reasons for Requesting this Witness

(i.e. What relevant information will this witness provide at the hearing)

** Attach a separate sheet if more space is required.

Part 5: Signature and Date of Submission

Signature

Date Sent to the ARB

ARB Office Use Only:

Approved

Request further information

By: _____

By: _____

Date: _____

Date: _____