

Overview of the Assessment Cycle 2017-2020
Guide to the Rules of Practice and Procedure
Assessment Review Board
May 2017

May 15, 2017

Introduction – The Rules to Appeal Your Assessment Have Changed!

A new cycle for property assessments started on April 1, 2017. For the new cycle, there are also new rules that govern how appeals before the Assessment Review Board (the “Board”) will proceed. This is a brief overview of the new process your appeal will follow under the Board’s new *Rules of Practice and Procedure* (the “Rules”).

The purpose of this guide is to assist you in understanding how the process works, your obligations as a party before the Board, and what to expect in the appeal process. However, this guide is not a replacement of the Rules. If there is ever a conflict between this guide and the Rules, the Rules will always govern.

The Board’s new Rules can be found at: <http://elto.gov.on.ca/tribunals/arb/legislation-and-rules/>

The new Rules are written in a plain language style to make them easier to navigate and understand. We encourage you to consult the Rules to help you understand the Board’s process. This guide and our information sheets will also help you navigate the Board’s procedures.

What’s New:

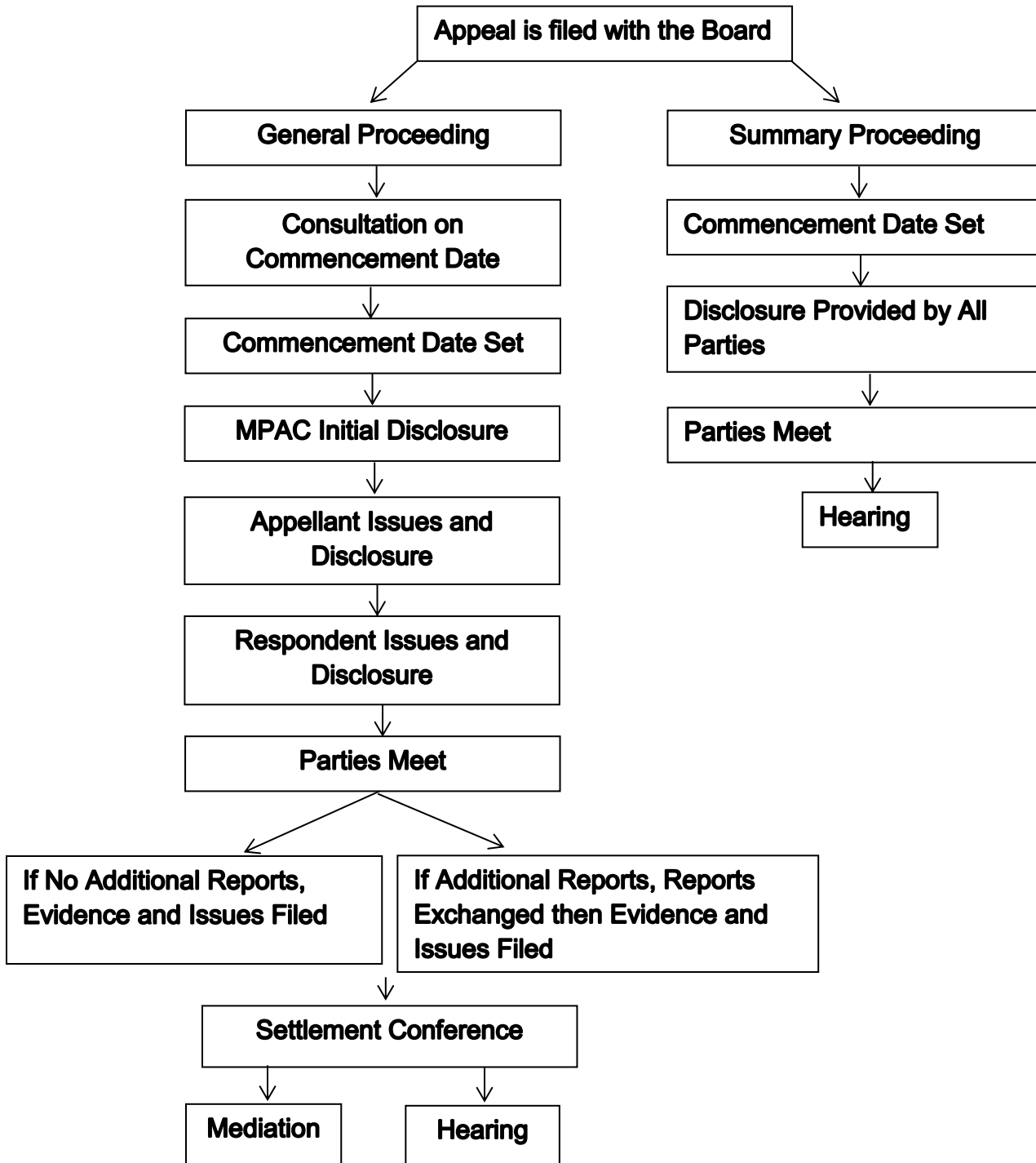
The process for appeals is different from the last cycle. Here are the highlights:

- All appeals will be processed as either summary or general proceedings. The Board will advise you of the type of proceeding your appeal will follow once the appeal has been reviewed. In general, residential appeals are summary proceedings while all other types of appeal are general proceedings.
- The Board will assign a “commencement date” for your appeal, which is the date that the clock starts ticking to take steps on the appeal. In general proceedings, the commencement date will be set in consultation with the stakeholders.

However, if parties fail to provide commencement dates, the Board will set the commencement date as it sees fit. Each step, with timelines, is outlined in the schedule of events appended to the Rules. There is a different schedule of events for summary and general proceedings. Only in exceptional circumstances will an adjournment be granted once the appeal has commenced under the schedule of events.

- Each property will have its unique assigned schedule of events. All appeals under one property will follow the same schedule of events. Deemed appeals will be added to the schedule of events for the original appeal. All of the appeals related to a property will follow the same schedule of events.
- One of the most important points in the schedule of events is the new requirement that, for each appeal, the parties must meet, without the Board present, to determine if they can resolve the appeal among themselves.
- If the parties cannot resolve the appeal, the Notice of Mandatory Meeting Form must be sent to the Board. In summary proceedings a hearing before the Board is then scheduled. In general proceedings a Settlement Conference is scheduled with the Board. If the matter is not resolved at the Settlement Conference, an appeal in general proceedings will then proceed to a mediation or a hearing.
- Hearings for summary proceedings will be conducted as electronic hearings unless the Board otherwise directs, or parties indicate.

How the Process Works in a Nutshell



Understanding the Process in More Detail

Summary and General Appeals

Under the new Rules, all appeals will be categorized either as summary proceedings or general proceedings. Summary proceedings follow a quicker, simpler process. The appeals that will be placed into the summary proceeding will be determined by the Board. In most cases, residential properties, tax appeals where there are no assessment appeals on the same property, and appeals that have no current cycle appeal, will be categorized as summary proceedings. All other appeals will be processed as general proceedings.

For more information on the assignment of appeals, see our information sheet on [General and Summary Proceedings](#).

Commencement Date

The commencement date is the day from which all due dates in the schedule of events, attached to the Rules, are calculated. The Board staggers the commencement dates of the appeals in order to manage its large caseload. A stakeholder committee helps the Board determine how best to set the commencement dates for general proceedings.

There are no required steps on any appeal until the commencement date. Starting on the commencement date for your appeal, the work on the appeal must begin. Once that work begins the time continues to pass. The due dates in the schedule of events do not change, even if there are motions to the Board, other steps are added, or the parties notify the Board the matter is resolved without executing minutes of settlement.

Any appeals in the summary proceeding, the Board will be assigning a commencement date for your appeal within the first year of the assessment cycle, after April 1st, 2017. If you have a preferred commencement date, please let the Board know.

Summary Proceedings

Disclosure and Exchange of Documents: If your appeal is a summary proceeding, you will have four weeks from the commencement date to get all of the evidence you wish to rely on to the other parties to the appeal. That will usually mean the Municipal Property Assessment Corporation (MPAC) and the municipality.

For more information on the parties to an appeal, see our information sheet on [Parties to an Appeal](#).

All relevant documents in your possession, control or power, other than privileged documents, must be provided to the other parties. This means that any document that you think is relevant to the issues in your appeal must be provided to the other parties. Providing a document is not an admission of relevance or admissibility. That means that the other parties cannot necessarily rely on a document you have provided at the hearing of the appeal. The Rules are intended to encourage the exchange of all documents at this early stage, because that might help to resolve the dispute.

The documents can be provided in either paper or electronic format to the other parties.

Mandatory Meeting among the Parties: Once you have provided your documents to the other parties, and received their documents, the Rules require that you arrange and hold a meeting with the other parties. That meeting must take place no more than 12 weeks after your commencement date. Make your best efforts to arrange a meeting as soon as possible after documents have been exchanged. That meeting is an opportunity to discuss the issues in the appeal and attempt to resolve some or all of the issues with the other parties.

What happens if you settle: If you resolve all of the issues in the appeal at the meeting, MPAC will notify the Board by sending the [Notice of Mandatory Meeting Form](#). Written minutes of settlement must be prepared by MPAC within 60 days of when the Board is notified. All other parties execute those minutes of settlement within 90 days of when the Board was notified of the settlement. Once the fully executed minutes are filed with the Board, the Board will issue a decision in accordance with those minutes of settlement.

The Board can issue a decision if the minutes of settlement are signed by all parties but one, the time for executing the minutes has passed, and a party has asked the Board to issue a decision in accordance with the minutes of settlement. This is intended to avoid delays in finalizing appeals where there has been an agreement but one party has not promptly completed the minutes of settlement.

Where a Hearing is Required: If the issues in your appeal are not resolved after a meeting with the other parties, MPAC must advise the Board that a hearing is required in the Notice of Mandatory Meeting Form. The Board must be advised of this no more than 13 weeks after your commencement date. That notice must advise the Board if more than two hours is required for your hearing.

No more than 14 weeks after your commencement date you must file with the Board all of the evidence you want to rely on at the hearing. That evidence must be sent electronically to the Board's registrar at arb.registrar@ontario.ca.

At your hearing you will only be able to rely on the evidence you filed before the day 14 weeks after your commencement date. The hearing will be scheduled for two hours, unless the Board has been notified that more time will be required.

Hearings for appeals processed as summary proceedings are held by telephone or videoconference, which the Rules refer to as electronic hearings. You will get a notice of hearing from the Board on when the hearing will be held and if it will be by telephone or videoconference.

If an electronic hearing is likely to cause a party significant prejudice, the Board can order that the hearing be held in person. In making that decision the Board must consider the cost of the hearing, the fairness and accessibility issues, the suitability of the issues for an electronic hearing, if credibility will be an issue, and the integrity of the Board's process.

If you wish to request an in-person hearing, you must do so within 10 days of receiving the notice of the electronic hearing. The Board will advise you as soon as possible if a request for an in-person hearing in person is granted.

The date for your hearing, whether by electronic hearing or in-person, is fixed. You can request a new date, but the Board will only grant adjournments in exceptional circumstances. To request a new date you must file the [Expedited Board Directions Form](#) with the Board setting out why an adjournment is needed, how you tried to avoid the need for the adjournment, if the other parties agree with your request for an adjournment, and any inconvenience to anyone else from the adjournment.

If the Board requires more information on the adjournment the adjournment request may be scheduled as a motion. For information on [motions](#) see our information sheet.

Adjournments: When considering an adjournment request the Board must consider the fairness of the request, the impact on the parties, the integrity of the Board's process, why the adjournment is required, if the request was made in a timely manner, the parties positions, and the public interest. The Board will advise if an adjournment request is granted or denied as soon as possible. Please submit your motions for adjournments as soon as possible using the [Expedited Board Directions Form](#).

For more information on adjournments, see our [information sheet](#).

The Hearing Process: Your hearing will be held before a Member of the Board, either by telephone or by videoconference. For more information on hearing formats, see our information sheet on [Alternative Hearings](#).

MPAC will present their evidence first. You will then have the opportunity to ask MPAC any questions that you think will raise issues the Board should be aware of. The Member may then have some questions for MPAC. That will end the evidence for MPAC.

You will then have the opportunity to present your evidence to the Board. MPAC will then get the opportunity to ask you questions. The Member may also have some questions. That will end your evidence.

MPAC will then summarize their case for the Member. This is their opportunity to try to convince the Member that the evidence provided to the Board supports their position. Once they are done summarizing their case, you will be given the opportunity to summarize your case.

At the end of the hearing, the Member will advise you if they can give an oral decision that day, and may take a short break to review the evidence and provide that decision. The Member may, however, advise you that they need more time to consider the matter. That is, the Member may reserve their decision and provide their decision, and reasons for their decision, in writing at a later date.

General Proceedings

All major procedural steps for general proceedings are set out in the schedule of events. If you have appeals that you believe would be best heard together, see our Practice Direction on [Combined Proceedings](#).

Disclosure and Exchange of Documents: Within four weeks of the commencement day, MPAC must provide initial disclosure to the other parties. If there is information that the other parties feel that MPAC should be providing, they must request that disclosure from MPAC.

Within six weeks of the commencement date, MPAC must advise the other parties if it disputes the request for additional disclosure or not. Before nine weeks after the

commencement date any motion on disclosure must be resolved and MPAC must have provided the required disclosure.

An appellant must provide both its disclosure and a statement of issues to the other parties to the appeal before 21 weeks after the commencement date. The other parties must let the appellant know if additional disclosure, or an inspection of the property, is required before 24 weeks after the commencement date. Before 29 weeks after the commencement date any dispute over disclosure or inspection must be resolved either by consent or by motion. By 34 weeks after the commencement date the required disclosure must be provided by the appellants and all inspections must be completed.

The responding parties, including MPAC, the municipality, and any other appellants, must provide both its disclosure and a statement of response to the other parties to the appeal before 46 weeks after the commencement date. Before 50 weeks after the commencement date the appellant must provide any reply statement and the disclosure to support that reply.

Mandatory Private Meeting: The parties must schedule and hold a meeting between all the parties to the appeal before 62 weeks after the commencement date. This is your opportunity to discuss the issues in the appeal and attempt to come to some agreement. At this meeting you should also determine if any parties will require additional expert reports to be prepared for the appeal. After the meeting, MPAC must file the Mandatory Meeting Form with the Board.

Filing of Evidence: If no additional expert reports are required, each party must file with the Board a number of documents before 66 weeks after the commencement date. The statements of issue, response or reply must be filed. All evidence that a party intends to rely on at the hearing of the appeal must be filed. Witness statements must be filed, which are short descriptions of what each witness at the hearing is likely to say. All expert reports must be filed. The parties must also file a settlement conference brief.

If the parties intend to file additional expert reports after their meeting a different timeline ensues. Before 78 weeks after the commencement date, the appellant must serve the additional expert reports and, if required, an amended statement of issues, on all other parties. Before 94 weeks after the commencement date, the responding parties must serve any additional expert reports and, if required, an amended statement of response, on all other parties. The appellants will then have until 100 weeks after the commencement date to serve any reply expert reports.

At the end of this additional expert report exchange, each party must file with the Board a number of documents before 104 weeks after the commencement date. The statements of issue, response or reply must be filed. All evidence that a party intends to rely on at the hearing of the appeal must be filed. Witness statements must be filed, which are short descriptions of what each witness at the hearing is likely to say. All expert reports must be filed. The parties must also file a settlement conference brief.

Settlement Conference: A settlement conference brief is a document setting out the issues in dispute, each party's position on those issues, and the reasons for the party's position. This brief is for a settlement conference, which will be your first appearance before the Board. A settlement conference is a confidential meeting with a Board Member, in which the Board will discuss the best way to address the remaining issues in the appeal. The Member may offer some opinions, or simply canvass whether the issues are amenable to mediation or if a hearing is required. At the end of the settlement conference, the Member will advise the parties of the next event, which will either be a mediation or a full hearing.

Mediation: Mediation is an attempt by a Board Member to facilitate a resolution of the issues between the parties. The parties can advise the Board if they have a preference of which Member mediates a particular dispute. Mediation is confidential and the Board employs a number of mediation models. Like a settlement conference, a written brief must be submitted before a mediation. A mediation brief is a document setting out the issues in dispute, each party's position on those issues, and the reasons for the party's position. Parties may use their settlement conference brief as a mediation brief. Each party must file a mediation brief at least two weeks before a scheduled mediation.

For more information on mediation, see our information sheet on [Mediation](#) and the [Mediation Practice Direction](#).

Motions: There will be situations in which a motion must be brought before the Board. Issues requiring a motion can include a request for documents from other parties, adjournment requests, and legal issues such as issue estoppel. The Board has established a flexible triage system for motions. This is reflected in the Board's [Expedited Board Directions form](#), which is available on the Board's website.

The Expedited Board Directions form should be completed and copied on all other parties to the appeal when it is sent to the Board. The form is an attempt to capture the essence of the dispute for an initial review. The Duty Vice Chair will review these requests and provide instructions to the parties, including both procedural and substantive responses. That is, the Duty Vice Chair may set filing deadlines for motion

material and assign the matter to a Member. The Duty Vice Chair may also dispose of the motion, if the matter is straightforward and amenable to such an expedited process. In this way minor disputes can be promptly addressed, and appropriate filing and procedural direction can be provided on more complex matters.

For information on how a motion will proceed, if the Duty Vice Chair determines it is required, see our information sheets on [Motions](#) and [Affidavits](#).