



Here's what you need to know about how cases are scheduled at the Ontario Municipal Board

Most OMB cases follow a straightforward path to final resolution that includes a decision and order of the Board. Once received, the case is reviewed to ensure that all information has been received and that the case meets the requirements to be appealed to the Board. The case is then scheduled, heard, and a decision and order issued and the file closed.

Some cases may require additional interventions by the OMB either based on the OMB's own assessment or upon the request of one or more parties. OMB staff review the material received and may also contact parties to seek or confirm information. This information can assist in determining what interventions may be required and what initial case management approach or "**stream**" a case should follow.

Streams for Scheduling

- Direct to Hearing
- Motion Before a Hearing
- Prehearing Conference
- Mediation Assessment and Mediation
- Hearing After Motion, Mediation or Prehearing

How is the Stream Determined?

Some of the factors that are considered as part of the assessment may include such things as:

- The number of appellants and parties involved a case
- The number and type of issues identified in the appeals
- Complexity of the issues, facts and evidence that may be presented
- Complexity of the documents that may be considered
- Legislative and any regulatory provisions that apply to the case
- Degree of broader community interest
- Likely number of witnesses and/or expert witnesses
- Number of procedural steps that may be needed to focus the issues and expedite resolution
- Likelihood of settlement
- Estimated duration of the hearing and
- Parties' preference for a particular stream

Hearing Stream Descriptions

A case may move through one stream only, or may proceed through a number of streams before the final decision and order of the OMB is made. Provisions of relevant legislation and the OMB's Rules of Practice and Procedure may also govern or impact cases as they proceed through a particular stream.

Direct to Hearing

Most cases before the Board proceed directly to hearing. Some of the characteristics of a case may be:

- No preliminary matters need to be determined by an adjudicator before the hearing
- Issues in dispute are generally clear
- Limited number of witnesses expected to be called
- Estimated duration of the hearing is generally less than five days

Motion before a Hearing

Some cases may present an issue that requires that the OMB decide on that issue before proceeding further. . Parties may also ask that the OMB set a date to consider a motion from a party asking the OMB to make a determination or issue an order that a party believes should be determined before the case should proceed to a hearing. There are times when a party has a right to bring a motion because the legislation specifically permits it, while at other times a party would ask that the OMB consider hearing a motion under the general authority provided to the OMB through its Rules of Practice and Procedure.

Examples of Motions before the Hearing:

- A request for an Order dismissing the appeal without holding a full public hearing.
- A request that the Board determine that an appellant does not meet the prerequisites to appeal.
- A request for an Order directing a party to provide certain documents or answer certain questions.
- A request that the OMB determine that it has jurisdiction or does not have jurisdiction to consider a matter.

Determinations of the OMB on these motions may result in the case not proceeding, or in other circumstances allow the hearing to proceed without delay as preliminary matters have been determined.

Prehearing Conference

The OMB may hold a prehearing conference when a case has:

- Multiple appellants and parties
- Many issues or complex issues
- Parties who intend to have a number of expert witnesses give evidence
- There are procedural matters in dispute, or
- A hearing estimate of more than one week

A prehearing will:

- Identify issues, parties and participants

- Hear and determine any preliminary motions
- Organize complicated matters
- Explore if a case can be heard in different phases (similar matters or issues heard together)
- Determine what documents should be exchanged
- Organize and set timelines for preparation for subsequent prehearings or the hearing
- Determine procedures before and during the hearing
- Set future hearing dates

In some cases a matter may be settled or finalized at a prehearing conference and not have to proceed further. The OMB may also issue a procedural order following the prehearing that will set future dates and direct that parties and participants fulfill certain obligations in advance of the hearing such as: the filing of a list of the witnesses a party plans to have at the hearing and the exchange of any reports prepared by the expert witnesses who will give evidence at the hearing.

Mediation Assessment and Mediation

Mediation at the OMB is not mandatory. Mediation may be considered to deal with all or some of the issues in a case. Mediation may be considered:

- When all parties indicate that they would be ready, willing, and motivated to mediate either before a hearing date is set or at some time leading up to a hearing date
- When the Board identifies issues within one case that may be resolved by mediation involving some or all of the parties, or
- Where at a prehearing, the parties or some of the parties request mediation and/or the OMB Member is of the opinion that mediation may be of assistance
- Where it is clear that mediation may be an appropriate problem-solving process

All requests for mediation undergo a Mediation Assessment conducted by an OMB Member to ensure that the case or issues are appropriate for mediation and the parties are prepared to fully participate in the process. The OMB Member may direct that a mediation be scheduled, or may direct that the matter proceed through the hearing process.

Mediation may result in full, partial or no settlement of the issues. Where full settlement is reached the case will not have to proceed to a full hearing. If partial settlement is reached the mediation may have the result of shortening the hearing and bringing more focus to the issues that remain.

Hearing following Motion, Mediation or Prehearing

The hearing is the final stage in the process. The parties will make their cases to the OMB and call their witnesses, and any participants will make their submissions, each to support the decision they would like the OMB to make on the case. Hearings may last for a few days or may last for a number of weeks or months. Longer hearings generally relate to multi-party cases with many or complex issues to be determined.

In some cases, parties may reach a settlement between the time the OMB held a motion, prehearing, or mediation and may advise the OMB that the appeals are being withdrawn, or present a settlement for the consideration of the OMB.

Where can I get more information?

For further information please refer to the **OMB's Rules of Practice and Procedure**. They are available at www.elto.gov.on.ca or by calling (416) 212-6349 or toll free 1-866-448-2248.

For more information on party and participant status please read the information sheet "**Here's what you need to know about participating in a Hearing.**"

You may wish to speak to the Citizen Liaison Office by calling (416) 212-6349 or toll free 1-866-448-2248.

Please Note

The information contained in this information sheet is not intended as a substitute for legal or other advice, and in providing this information, the Ontario Municipal Board (OMB) assumes no responsibility for any errors or omissions in this information sheet, and shall not be liable for any reliance placed on the information in this information sheet. Additional information, including the OMB's Rules of Practice and Procedure, is available at www.elto.gov.on.ca, or by calling (416) 212-6349 or toll free 1-866-448-2248.



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