

ENVIRONMENT AND LAND 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, 2017

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RULES OF THE ASSESSMENT REVIEW BOARD

GENERAL

Application of Rules

1. The Rules apply to all proceedings before the Assessment Review Board.

Effective Date

2. These Rules come into force and effect on April 1, 2017.

Definitions

3. These definitions apply to these Rules unless the context requires otherwise,
 - “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;
 - “document” means written and visual material, and includes written, audio and images or images with sound including computer-generated images, photographs, maps, videos, plans, surveys, models and overlays;
 - “electronic hearing” means a hearing event held by teleconference, videoconference or some other form of electronic technology allowing all the parties and the Board to hear, or hear and see, one another or any witnesses throughout the hearing event;
 - “expert report” means a report prepared pursuant to Rule 50;
 - “file” means to send or deliver to the Registrar of the Board, and is effective when the material is actually received by the Board or is deemed to be so;
 - “hearing event” means a procedure held by the Board at any stage of a proceeding, and includes a hearing, settlement conference, motion, and mediation, 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, Civic Holiday, Labour Day,

Thanksgiving 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;

“mediation” means a discussion among the parties to a proceeding, with the assistance of a neutral third party, to express concerns and attempt to resolve the issues in dispute;

“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;

“practice direction” means a direction, notice, guide or similar publication for the purpose of governing, subject to these Rules, the practice for proceedings;

“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;

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

Interpretation

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

Proportionality

5. 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 four year cycle.

Issues Not Dealt With in these Rules

6. Where these Rules are silent on any issue the Board may make whatever procedural orders or directions are required to effectively and efficiently adjudicate a proceeding.

Technical Objections

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

Failure to Comply With Rules and Orders

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

Communication with the Board

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

Notices

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

Adding Parties and Participants

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

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 licenced by the Law Society of Upper Canada must provide the Board with written confirmation of their authority to provide legal services; and
 - (c) a party or participant must notify the Board, and all other parties and participants to the proceeding, of any changes in representation.

Removal of Representative

13. A representative of any party or participant may only be removed as representative if:
- (a) the party or participant issues a notice pursuant to Rule 12(c); or
 - (b) the Board removes the representative by order.

Advocate and Witness

14. A representative that is licenced with the Law Society of Upper Canada as a paralegal may appear at a hearing event as both an advocate and a witness:
- (a) in a proceeding that is a summary proceeding; or
 - (b) in a proceeding that is 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.

TIME

Time

16. 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.

Alteration of Time

17. Any time period set out in these Rules can be altered by the Board.

INITIATING PROCEEDINGS

Form of Appeal

18. An appeal may be commenced in the form specified by the Board and must:
- (a) be addressed to the Board Registrar;

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

Special Legislation

19. In addition to the requirements set out in Rule 18, 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.

SCREENING OF APPEALS

Administrative Screening

20. The Board will not process an appeal unless it complies with all statutory requirements and these Rules.

Notice Before Rejecting

21. Before rejecting an appeal for failure to comply with all statutory requirements and these Rules, the Board will:
- (a) notify the appellant; and
 - (b) provide the appellant with an opportunity to comply within a time specified by the Board.

Service of Amended Appeals

22. Any amended appeals, 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 and 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 Appeals

24. A Board Member may dismiss an appeal without holding a hearing event, or after a hearing event, 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; or
 - (e) the appellant has not complied with statutory requirements or these Rules.

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.

Late Appeals

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 mailed 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.

SERVICE

Form of Service

27. Documents must be served on any person in one of the following ways:
- (a) personal delivery;

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

Service on Corporations

28. Service on a corporation may be made, in accordance with Rule 27, on the registered office of the corporation.

Deemed Receipt

29. Where a document is served by a person, filed with the Board, or sent by the Board, receipt is deemed to have occurred when served or sent by:
- (a) personal delivery, when given to the party;
 - (b) regular mail, on the fifth day after the postmark date;
 - (c) fax, when the person sending the document receives a confirmation of successful transmission;
 - (d) courier or registered mail, on the confirmed delivery date; or
 - (e) email, on the day sent.

Deemed Receipt Exception

30. Rule 29 does not apply if the person for whom the document was intended establishes 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.

Proof of Service

31. When a document in a proceeding is served on a person, the party serving the document must file with the Board an affidavit of service in the form attached as Schedule E to these Rules.

TYPES OF PROCEEDING

Proceedings as General or Summary Proceeding

32. All proceedings are general proceedings, unless the Board specifies a proceeding as a summary proceeding.

Commencement Day

33. The Board will assign a day on which the schedule of events will commence for each proceeding.

Schedule of Events

34. The schedule of events for a proceeding is:
- (a) set out in Schedule A for all appeals processed as a general proceeding;
 - (b) set out in Schedule B for all appeals processed as a summary proceeding;
 - or
 - (c) as otherwise specified by the Board.

Summary Proceeding Hearing Events

35. All hearing events in summary proceedings will be electronic hearings, unless the Board directs otherwise.

DOCUMENTS

Electronic Filing

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

Documents to be Filed

37. On or before the filing deadline set out in the schedule of events for a proceeding, each party must file all materials that they intend to rely on at a hearing event, including:
- (a) all evidence, including expert reports;
 - (b) statements of issues and responses; and
 - (c) witness statements.

Statement of Issues and Responses

38. Statements of issues and responses must contain:
- (1) If the issue is current value:
 - (a) the current value requested and how it is calculated;
 - (b) a full statement of every issue that the party intends to raise, including identification of comparable property to be referred to, if any;
 - (c) a list of all facts, legal grounds and documents that the party relies on in support of its position.
 - (2) If the issue is the equity of the assessment pursuant to section 44(3)(b) of the *Assessment Act*.

- (a) the assessment requested;
 - (b) identification of the vicinity claimed by the party;
 - (c) identification of similar lands in the vicinity to be relied on by the party;
 - (d) how the party proposes to calculate the adjustment for equity; and
 - (e) a list of all facts, legal grounds and documents that the party relies on in support of its position.
- (3) If the issue is the classification of the property:
- (a) the classification requested;
 - (b) a full statement of the grounds to support that classification; and
 - (c) a list of all facts, legal grounds and documents that the party relies on in support of its position.
- (4) If the issue is the cancellation, reduction or refund of taxes pursuant to the Board's authority under the *Municipal Act, Municipal Act, 2001, City of Toronto Act, 2006*, or *Provincial Land Tax Act, 2006*:
- (a) the amount of taxes that have been paid or are owing;
 - (b) the proposed amount of the refund or reduction;
 - (c) a full statement of the grounds to support the cancellation, reduction or refund of taxes; and
 - (d) a list of all facts, legal grounds and documents that the party relies in support of its position.
- (5) If the issue is the reversal of the burden of proof by application of section 40(18) of the *Assessment Act*:
- (a) the basis on which the requirements of that section are met; and
 - (b) a list of all facts, legal grounds and documents that the party relies on in support of its position.
- (6) If the issue is issue estoppel or *res judicata*:
- (a) the basis on which the requirements of that legal doctrine are met; and
 - (b) a list of all facts, legal grounds and documents that the party relies on in support of its position.
- (7) If the issue is a higher assessment than that returned by the MPAC;
- (a) the basis on which a higher assessment is sought; and
 - (b) a list of all facts, legal grounds and documents that the party relies on in support of its position.

Deemed Consent

39. A party that does not serve a statement of response in a general proceeding on or before the day set out in the schedule of events is deemed not to oppose any future settlement in that proceeding.

Special Notices

40. A party to a summary proceeding must give notice to the Board, and all other parties to a summary proceeding, within 30 days of the day set in Rule 33 as the start of a proceeding, that the party intends to raise with the Board:
- (a) a change in property classification that would result in higher taxation;
 - (b) a higher assessment than that returned by the MPAC;
 - (c) an application to invoke section 40(18) of the *Assessment Act*; or
 - (d) the doctrine of issue estoppel.

Amendment of Documents

41. Statements of issues or responses cannot be amended after the filing date set out in the schedule of events unless all parties consent, or as provided in these Rules, unless the Board directs otherwise.

Examination of Board Documents

42. A person may examine and make copies of any document filed with the Board, except documents filed with the Board for the purposes of a settlement conference or mediation, unless prohibited by law or prohibited by these Rules.

Confidential Documents

43. The Board may order that any document filed with an appeal or at a hearing event be treated as confidential, be sealed, and not form part of the public record.

Return of Exhibits

44. Original exhibits will not be returned to the parties, other than in exceptional circumstances.

DISCLOSURE

Disclosure

45. All parties must provide a copy, in paper or electronic form, of all relevant documents in their possession, control or power to all other parties in the proceeding, except for privileged documents.

No Admission

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

Board Order for Discovery

47. A party may seek an order from the Board, by motion, ordering:
- (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, including inspections of property.

No New Documents

48. A document, including an expert report, will only be admitted into evidence at a hearing event if it has been disclosed, 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 issue and response which have been served, 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

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, 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 summoned witness 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.

SETTLEMENT CONFERENCES

Settlement Conference by Electronic Hearing

56. Every settlement conference will be an electronic hearing, unless the Board directs otherwise.

Parties Must Appear

57. Notwithstanding Rule 12(a), parties, or a person with authority to settle on the parties' behalf, and their representatives must appear at a settlement conference, unless:

- (a) the party is deemed not to oppose any settlement pursuant to Rule 39; or
- (b) the Board directs otherwise.

Matters Considered

58. 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 or a mediation;
- (d) the estimated duration of the hearing;
- (e) the number of witnesses, including proposed expert witnesses, that may be called by each party;
- (f) mediation; and
- (g) any other matter that may assist in the just, most expeditious and least expensive disposition of the proceeding.

Confidentiality

59. By participating in a settlement conference, all persons undertake to maintain confidentiality and non-disclosure in respect of the settlement conference.

Presiding Member

60. A Board Member may only conduct a settlement conference and preside at the main hearing in a proceeding with the written consent of the parties.

MOTIONS

Notice of Motion

61. A party bringing a motion shall deliver notice of the motion setting out:
- (a) the decision or order that the party is requesting from the Board;
 - (b) the grounds to be argued;
 - (c) the facts relied upon in support of the motion; and
 - (d) any request to have the motion heard in a format other than writing, and the reasons for the request.

Response to Notice of Motion

62. A party responding to a motion must file with the Board, and serve on all other parties to the proceeding, its response to the motion, including all of the matters set out in Rule 61.

Reply to Response to Notice of Motion

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

Evidence in Motions

64. Evidence in a motion must be by affidavit, and transcripts of any cross examination on those affidavits, unless the Board directs otherwise.

Motions in Writing

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

Time for Filing

66. The parties to a motion may:
- (a) advise the Board of dates for the filing and service of motion materials, if all parties consent; or
 - (b) seek dates for the filing and service of motion materials from the Board.

Additional Information

67. The Board may request to hear oral submissions from the parties, in person or by electronic hearing, on any issue raised in a motion.

Motions at Hearings

68. A motion may be made at an oral hearing event only if permitted by the Board.

MINUTES OF SETTLEMENT

Schedule for Completion of Minutes of Settlement

69. Minutes of settlement must be completed as follows, unless the Board directs otherwise:
- (a) MPAC, or the municipality, if MPAC is not a party to the appeal, must draft the written minutes of settlement within 60 days of advising the Board that the appeal has been resolved;
 - (b) all other parties must execute the minutes of settlement, 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) MPAC, or the municipality, as the case may be, must file the fully executed minutes of settlement with the Board within 7 days of receipt of the fully executed minutes of settlement.

Decision to Issue

70. The Board may issue a decision in accordance with minutes of settlement that are not fully executed if:
- (a) the minutes of settlement are executed by all parties but one;
 - (b) the time set in Rule 69 for executing minutes has passed; and
 - (c) a party has requested that the Board issue the decision.

Contents of Minutes of Settlement

71. 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.

WITHDRAWALS OF APPEALS

Withdrawal of Appeal

72. An appellant may withdraw an appeal, with notice to the other parties to the appeal and the Board, 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 event has commenced.

Motion to Withdraw

73. An appellant may seek an order from the Board, by motion, to withdraw an appeal that is prohibited by Rule 72 and the Board may:
- (a) grant the request to withdraw, with or without conditions; or
 - (b) refuse the request to withdraw and
 - i. proceed immediately to hear the appeal, or
 - ii. adjourn the proceeding.

LANGUAGE OF PROCEEDINGS

Use of English, French and Sign Language

74. The Board may conduct proceedings in English, in French, or bilingually in accordance with ELTO's French Language Services Policy, or where requested, with sign language interpretation.

Where French or Sign Language is Used

75. A party who wishes a proceeding to be conducted wholly or partly in French or requiring sign language interpretation must notify the Registrar at least 25 days before the hearing event.

Where Interpreter is Required

76. A French-English interpreter will be provided by the Board during a proceeding to interpret for a person who does not understand the other language. A sign language interpreter will be provided by the Board where required.

Documents in English or French

77. The Board will not translate documents provided by a person, but may order that the documents be translated if it considers it necessary for the fair determination of the matter.

COMBINING PROCEEDINGS

Combining Hearings or Hearing Matters Together

78. 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 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

79. 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 proceeding.

Effect of Hearing Matters Together

80. 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

81. 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.

ADJOURNMENTS

Dates Fixed

82. After the day set in Rule 33 as the start of a proceeding the Board will not alter any timeline set out in the schedule of events, other than in exceptional circumstances.

Motion for Adjournment

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

Factors to Consider

84. Before granting any adjournment, the Board must consider:
- (a) the interests of the parties in a full and fair proceeding;
 - (b) the impact of the adjournment on parties and other persons;
 - (c) the integrity of the Board's process, including the Board's ability to efficiently resolve all appeals filed with the Board within the current four year cycle;
 - (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 practice directions issued by the Board.

Powers of the Board upon Adjournment Request

85. When an adjournment is granted the Board may impose any conditions it considers appropriate.

MEDIATION

Mediation

86. The Board may direct the parties to take part in mediation either of its own accord or at the request of the parties at any time after an appeal is filed.

Authority to Bind

87. A party, or a person with authority to settle on the party's behalf, must be present at the mediation, unless the Board directs otherwise.

Confidentiality

88. By participating in mediation, all persons undertake to maintain confidentiality and non-disclosure in respect of the mediation.

Mediator and Adjudicator

89. A Board Member may only conduct a mediation and preside at the main hearing in a proceeding with the written consent of the parties.

ELECTRONIC HEARINGS

Hearing Events by Teleconference or Videoconference

90. 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

91. 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

92. The Board may request a written response from other parties within a specified time.

Procedure When Objection

93. 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.

Factors the Board May Consider

94. The Board may consider any relevant factors in deciding to hold a hearing event as an electronic hearing, including:
- (a) the likelihood of the process being less costly, faster and more efficient;
 - (b) whether it is a fair and accessible process for the parties;
 - (c) whether the evidence or legal issues are suitable for an electronic hearing;

- (d) whether credibility may be an issue and the extent to which facts are in dispute; and
- (e) the integrity of the Board's process, including the Board's ability to efficiently resolve all appeals filed with the Board within the current four year cycle.

Directions for the Electronic Hearing

95. The Board may direct the arrangements for the electronic hearing or designate an approved location for videoconference to protect the integrity of the hearing process, including the security and confidentiality of evidence.

WRITTEN HEARINGS FOR EVENTS OTHER THAN MOTIONS

Hearing Events in Writing

96. 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 Board May Consider

97. In deciding whether to hold a written hearing, the Board may consider any relevant factors, including:
- (a) the fairness and accessibility to the parties and the Board;
 - (b) the likelihood of the process being less costly, faster and more efficient;
 - (c) the effect on public access to the Board's process;
 - (d) whether facts and evidence may be agreed upon;
 - (e) whether most of the issues are legal issues;
 - (f) the integrity of the Board's process, including the Board's ability to efficiently resolve all appeals filed with the Board within the current four year cycle;
 - (g) whether credibility may be an issue; and
 - (h) whether oral testimony is likely to be necessary.

Objections

98. A party may file with the Board, and serve on all other parties, a written objection to the written hearing no more than 10 days from notice of the written hearing.

Ruling on Objections

99. 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 written hearing, with or without conditions, or
- (c) make any other order the Board considers appropriate.

Time for Written Material

100. Written material for all written hearings must be served on the other parties to the proceeding and filed with the Board:
- (a) by the appellant, no more than 30 days from the notice of the written hearing;
 - (b) by all other parties, no more than 20 days from the day on which the appellant or moving party's written submissions are served; and
 - (c) by the appellant, only in reply to new issues raised, no more than 10 days from the day on which the written submissions of the other parties are served.

Contents of Written Materials

101. Written materials must include:
- (a) the reasons for the appeal and the order requested;
 - (b) the facts relied on;
 - (c) the evidence supporting the facts, in affidavit form, and transcripts of any cross examination on those affidavits; and
 - (d) any law relied on.

Requirement for Affidavit Evidence

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

CONDUCT OF PROCEEDINGS

Hearings to be Public

103. All hearing events, other than a settlement conference or mediation, 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.

Non-Attendance

104. If a party fails to appear at a hearing event, the Board may proceed with the hearing event, or take any other steps that it deems appropriate.

No Re-opening Without Leave

105. Once a hearing event has commenced, no party who has been absent, or otherwise has not taken part in that hearing event, is entitled to have any part of the event re-opened or recommenced without leave of the Board.

Authorization to Record Hearing Event

106. All photographic, audio or video recordings of a hearing event must be approved by the Board, which must consider:

- (a) whether the proceedings will be disturbed or disrupted;
- (b) any undue discomfort for any person taking part in the hearing event; and
- (c) any public interest in having proceedings accessible to all those affected or interested.

Conditions of Approval

107. The Board may approve any photographic, 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 equipment must be placed in one location approved by the Board;
- (c) a person recording shall not move about the hearing room during the hearing event; and
- (d) the recording will only occur at the times permitted by the Board.

Withdrawal of Approval

108. The Board may withdraw its approval of any photographic, audio or video recording, or vary the conditions on 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 photographic, audio or video recording.

Qualified Verbatim Reporters

109. 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

110. 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

111. The Board may, at its own expense and with notice to the parties, order a transcript or partial transcript from a qualified verbatim reporter without furnishing a copy of the transcript to the parties.

BOARD DECISIONS AND WRITTEN REASONS

Request Required

112. A party who desires written reasons for a Board decision must 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.

Issuing Decisions

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

Correcting Minor Errors

114. 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 other similar problem.

Processing Request as a Review Request

115. 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 request to be a request for review pursuant to Rule 120.

COSTS

Board May Order Costs

116. The Board may order costs against any party that has acted unreasonably, frivolously, is vexatious, or in bad faith, on its own initiative or at the request of any party.

Timing of Costs Request

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

Response to Costs Request

118. A party that opposes an award of costs shall file an objection to the request for costs within 30 days of service of the request.

Content of Submissions

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

REVIEW OF A BOARD DECISION OR ORDER

Request for Review

120. A party may request a review of any final decision of the Board, other than a decision pursuant to Rule 122, by filing a request in writing no more than 30 days after the decision was issued, including:

- (a) a copy of the decision to be reviewed;
- (b) the written reasons for the decision, as set out in Rule 112;
- (c) the reasons for the request, addressing the factors set out in Rule 121;
- (d) notice of any appeals or applications for judicial review that have been filed in relation to the decision;
- (e) proof of service on all other parties to the proceeding;
- (f) the remedy or relief sought; and
- (g) the fee specified by the Board.

Grounds for Review

121. 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;
- (d) there is new evidence that could not have reasonably been obtained earlier and would have affected the result; or
- (e) any of the situations in Rule 122 exist.

Reinstatement by Request for Review

122. Notwithstanding Rule 120, 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.

Review Order

123. Upon consideration of a request for review, or on its own initiative, the Board may:

- (a) dismiss the request;
- (b) reinstate the appeal, with or without conditions; or
- (c) after providing all parties an opportunity to make submissions,
 - i. confirm, vary, or cancel the decision,
 - ii. order a rehearing on all or part of the matter, or
 - iii. order a motion to decide the review.

SCHEDULE A – Schedule of Events for General Proceedings

Weeks following Commencement Day	Event	Time period to complete event
Weeks 1 to 4	MPAC provides initial disclosure to all other parties	4 weeks
Week 5	All other parties must request any additional disclosure from MPAC	1 week
Week 6	MPAC to advise other parties if it disputes a request for disclosure	1 week
Weeks 7 to 9	Motion for Disclosure completed (if required); MPAC provides any additional required disclosure	3 weeks
Weeks 10 to 21	Each Appellant provides its disclosure and Statement of Issues to all other parties	12 weeks
Weeks 22 to 24	Each party who responds to the Appellant(s) to advise if an inspection or any additional disclosure is requested	3 weeks
Weeks 25 to 29	Any objection regarding a request for an inspection or a request for additional disclosure is to be resolved by motion.	5 weeks
Weeks 30 to 34	Where an inspection or additional disclosure is required, these are to be completed.	5 weeks
Weeks 35 to 46	Each party who responds to the Appellant(s) is to provide its Statement of Response and any additional supporting disclosure.	12 weeks
Weeks 47 to 50	Each Appellant to provide its statement of reply and any additional disclosure to support of its reply to all other parties	4 weeks

Weeks following Commencement Day	Event	Time period to complete event
Weeks 51 to 62	<p>All parties are required to schedule and complete a mandatory settlement meeting to attempt to resolve the appeal among themselves.</p> <p><i>If the appeal is resolved</i>, MPAC (or the Municipality, if MPAC is not a party to the appeal), must, on behalf of all parties, also:</p> <ol 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</i>, MPAC (or the Municipality, if MPAC is not a party to the appeal), on behalf of all parties, must also:</p> <ol style="list-style-type: none"> i. advise the Board in writing that the appeal has not been resolved, and ii. advise the Board whether any of the parties intend to obtain any additional expert reports before the Board schedules a settlement conference or mediation; 	12 weeks
Weeks 63 to 66	<p><i>If the appeal is not resolved</i>, and none of the parties intend to obtain any additional expert reports, each party shall file with the Board:</p> <ul style="list-style-type: none"> • its SOI, SOR, and Reply (as the 	4 weeks

Weeks following Commencement Day	Event	Time period to complete event
	<p>case may be);</p> <ul style="list-style-type: none"> • all documentary evidence, witness statements and expert reports on which the party intends to rely if the matter proceeds to mediation or a hearing; and • its Settlement Conference Brief. • On the consent the parties, the parties may submit a request in writing to the Board to conduct a mediation before the Settlement Conference. If the appeal is not resolved at the mediation, the mediator will then immediately proceed to conduct the Settlement Conference. 	
Weeks 63 to 78	<p><i>If the appeal is not resolved, and any of the parties intend to obtain any additional expert reports:</i></p> <ol style="list-style-type: none"> 1. Each Appellant must serve on all other parties any expert reports on which the Appellant intends to rely at the hearing, as well as any amendment to the Appellant's Statement of Issues to address any additional evidence or issues raised in an expert's report; 	16 weeks
Weeks 79 to 94	<ol style="list-style-type: none"> 2. Each Responding Party must then serve on all other parties any expert reports on which the Responding Party intends to rely at the hearing, as well as any amendment to the Responding Party's Statement of Response to address any additional evidence or issues raised in an 	16 weeks

Weeks following Commencement Day	Event	Time period to complete event
Weeks 95 to 100	<p>expert's report;</p> <p>3. Each Appellant must then provide any supplementary reports by its experts in reply to any expert reports served by a Responding Party.</p>	6 weeks
Weeks 101 to 104	<p>4. If, after the completion of the additional exchange of expert reports, the Parties are still unable to resolve the appeal, each party shall file with the Board:</p> <ul style="list-style-type: none"> i. its amended SOI, SOR, and Reply (as the case may be); ii. all documentary evidence, witness statements and expert reports on which the party intends to rely if the matter proceeds to mediation or a hearing; and iii. its Settlement Conference Brief. iv. On the consent the parties, the parties may submit a request in writing to the Board to conduct a mediation before the Settlement Conference. If the appeal is not resolved at the mediation, the mediator will then immediately proceed to conduct the Settlement Conference. 	4 weeks

Where required, the Board schedules and conducts a Settlement Conference. The Board will then:

- i. Provide directions to schedule and conduct a mediation if mediation has not already occurred; or
- ii. Provide directions to schedule and conduct a hearing.

Where the Board has scheduled a hearing, the Board will then conduct the hearing and issue a decision.

SCHEDULE B – Schedule of Events for Summary Proceedings

Weeks following Commencement Day	Event	Time period to complete event
Weeks 1 to 4	The parties to complete exchange of disclosure.	4 weeks
Weeks 5 to 12	<p>Parties to schedule and complete a mandatory settlement meeting to attempt to resolve the appeal among themselves.</p> <p><i>If the appeal is resolved</i>, MPAC (or the Municipality, if MPAC is not a party to the appeal), on behalf of all parties, must:</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</i>, MPAC (or the Municipality, if MPAC is not a party to the appeal), on behalf of all parties, must:</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 ii. advise the Board whether any of the parties requests a hearing in person, and/or that the hearing be 	8 weeks

Weeks following Commencement Day	Event	Time period to complete event
	scheduled for longer than 2 hours.	
Week 13 to 14	Where a hearing has been requested, the parties must file with the Board all documents and any written submissions on which they will rely at the hearing.	2 weeks

A Hearing (if requested) 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



**Assessment Review Board
Acknowledgement of Expert's Duty**

Hearing Number:

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 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; and
 - c. to provide such additional assistance as the Board may reasonably require, to determine a matter in issue.
4. 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



Environment and Land Tribunals Ontario

ARB Summons Request Form

Assessment Review Board, 655 Bay Street, Suite 1500, Toronto, Ontario M5G 1E5

Phone: (416) 212-6349 or 1-866-448-2248 **Fax:** (416) 314-3717 or 1-877-849-2066

Website: www.elto.gov.on.ca **E-mail:** assessment.review.board@ontario.ca

Instructions:

- Send this completed form to the Board by mail or fax.
- You must serve a summons to a witness at least five days before the time of attendance.
- Please ensure your summons request form is filed with Board well in advance of the hearing so it can be processed and issued before the hearing date
- 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 69 and 70 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 approved.

Part 1: Requester Information

First Name: _____ Last Name: _____

Company Name or Association Name (if applicable) _____

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax: _____ 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 Telephone #: _____ Alternate Telephone #: _____

Fax: _____ 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: _____ Date: _____

By: _____ Date: _____

SCHEDULE E – Affidavit of Service



Environment and Land Tribunals Ontario

ARB Property Assessment Appeal Form Instructions

Assessment Review Board, 655 Bay Street, Suite 1500, Toronto, Ontario M5G 1E5 **Phone:** (416) 212-6349
or 1-866-448-2248 **Fax:** (416) 314-3717 or 1-877-849-2066 **Website:** www.elto.gov.on.ca **E-mail:**
assessment.review.board@ontario.ca

AFFIDAVIT OF SERVICE

ARB Roll No: _____

I, _____ of the _____
(full name and title) (city, town and county, region)

MAKE OATH AND SAY (or AFFIRM AND SAY) THAT:

The hearing for the appeals _____ is taking
place on (appeal numbers)

_____ at _____
(day, month, year) (place, address)

I provided _____ to _____ on
(name of document(s)) (full name of person receiving notice)

_____ by: _____
(day, month, year)

Check the correct one(s), fill in necessary info, and attach any supporting documents.

Mail or courier on _____
(day, month, year)

Fax or email at _____ on _____
(fax number or email address) (day, month, year)

Personal service on _____
(day, month, year)

Another means of service as directed by the Board. Service of notice of the hearing in this matter is
in accordance with the instructions given by the Board in its letter dated, _____
(day, month, year)

Please ensure that notice has been given to: present parties, any appellant, objector and/or person who requested, in
writing, that he/she receive notice (as well as any persons within an area defined by the Board in its instructions for service
as being entitled to notice).

Fill out below if you are the person swearing to this affidavit.

I, in good faith and in support of _____ have sworn to this
affidavit. (the matter and/or legislation)

Sworn before me in the _____ on _____
(city/town and region/municipality/county) (day, month, year)

Signature of Person affirming Affidavit

Commissioner for Taking Affidavits

Practice Direction - Mediation

Mediation for appeals is strongly encouraged by the Assessment Review Board (Board). The Board is committed to delivering modern, fair, accessible, effective and timely dispute resolution in order to avoid or narrow the scope of issues for a hearing. Where the parties are willing, successful mediation can lead to better results and reduce costs for all of the parties but it requires a commitment from all parties to prepare thoroughly, ensure that all relevant information is available and that their representatives have the authority to bind them.

The mediation process – as set out below – is integrated into the current appeal process and Rules 86 – 89 of the Board’s *Rules of Practice and Procedure*. All mediations and any agreements reached must reflect the purpose and objectives expressed in the applicable legislation. This Practice Direction has been developed to communicate the Board’s expectations of the parties where a Board Member has been appointed as a mediator.

When Available

Mediation is strongly encouraged in cases involving high value non-residential properties. It may be available for other types of appeals as well. Requests for mediation may be made in advance of any hearing event by writing to the Registrar or may be made directly to a presiding Member at a Settlement Conference.

The parties to an appeal, or group of appeals in respect of a property, may request that the Board conduct a mediation prior to the scheduling of the Settlement Conference. Where the Board grants the request for mediation, the due dates for completion of the procedural steps under the Schedule of Events will continue to apply, unless otherwise amended by direction of the Board.

Where the mediation does not result in a resolution of all the issues, the Board Member conducting the mediation may then give directions for the hearing.

Appointment of Mediator

Where the parties have agreed upon the choice of a specific Board Member (or a list of preferred mediators) as a mediator and that has been communicated to the Registrar, the Board shall make an effort to accommodate that request. However, the appointment of the mediator is ultimately the decision of the Board.

Mediation Model

The Board uses a range of mediation models to facilitate a settlement or to reduce the number and complexity of issues at a hearing.

Preparation

The mediation brief should include a concise statement of factual and legal issues in dispute and briefly set out the positions and interests of the party.

In order to participate in mediation, parties must have authority to bind. Where a matter requires the approval of a municipal body, the parties should discuss the anticipated process and time frame in advance of the mediation.

At least two weeks prior to the commencement of the mediation each party is required to serve on all other parties, and file with the Board, a brief outlining:

- the issues in dispute;
- the party's position on each issue; and
- an explanation of the reasons why the parties have adopted different positions on the issue.

A settlement conference brief may also serve as a mediation brief.

Confidentiality of Discussions and Documents

By participating in the mediation, all parties undertake to maintain confidentiality and non-disclosure in respect of mediation. All documents created solely for the mediation or any statements made for the purpose of resolving the dispute in mediation and any offer to settle shall be without prejudice and confidential, and cannot be introduced into evidence in the same or other proceeding without both the consent of the party who created the document or made the statement or offer and with the approval of the Board.

Agreements

Agreements reached by the parties will be promptly put in writing and signed by, or on behalf of, the parties. The Board Member conducting the mediation will assist the parties where implementation of a settlement requires further involvement of the Board and will schedule a hearing event as required.

Practice Direction – Appeals Management

The Board receives a high volume of appeals at the beginning of the first year of the cycle, making it difficult for the parties to complete the procedural steps for each appeal at the same time. To address this resource constraint, the Board will assign a Commencement Day for each appeal, and will evenly distribute these Commencement Days over the four-year assessment cycle.

In assigning a Commencement Day for an appeal, the Board will consider each party's preferences, and encourages the parties to work together collaboratively in identifying a mutually agreeable Commencement Day for each appeal. The Board will attempt to accommodate the parties' proposals for assigning Commencement Days, but ultimately the Board will make the final determination. Once appeals have been assigned a Commencement Day, the Board will continuously monitor the parties' progress in complying with the Schedule of Events for each appeal, in order to ensure that appeals are completed on time.

The purpose of this Practice Direction is to describe the measures to be implemented by the Board to ensure the success of this administrative process.

Complaints Representative

In consultation with the Municipal Property Assessment Corporation (MPAC), the appellant representative firms who file the majority of the appeals received by the Board, and Municipalities, each stakeholder group has agreed to appoint a person within their respective organizations, who will act as a Complaints Representative. Other parties who encounter difficulties in securing compliance with the applicable Schedule of Events for an appeal, may contact the Complaints Representative who will be responsible to address the complaint. The purpose of this process is to facilitate collaborative and timely resolution of all procedural issues among the parties themselves, wherever possible, failing which, a party may bring a motion to the Board for an order or for directions, so as to avoid any delay in complying with the applicable Schedule of Events.

Appeals Management Advisory Committee

To assist the Board in monitoring the timely completion of appeals, the Board has struck a permanent stakeholder consultation committee named the Appeals Management Advisory Committee (AMAC). Its terms of reference are:

- To assist the Board in developing and maintaining appropriate administrative policies, practices, and procedures in scheduling Commencement Days for appeals;
- To provide statistics or other information to assist the Board in monitoring the timely completion of appeals; and
- Other functions as the Associate Chair may direct.

AMAC will not participate in approving Commencement Days for specific appeals. This function remains solely within the purview of the Board.

Membership of AMAC will include:

- Three members from MPAC;
- One member from the Municipalities; and
- One member from the Appellants.

Practice Direction – Settlement Conference

The purpose of this Practice Direction is to describe the Settlement Conference process, and to outline how the parties are to participate in a Settlement Conference.

Procedure

Pursuant to Rules 56 through 61, a Settlement Conference is an appearance before the Board prior to the scheduling of a hearing, where the Presiding Board Member will meet with the parties to review the issues in dispute, in order to clarify and attempt to resolve some or all of the issues.

If there are unresolved issues, the Presiding Member will discuss with the parties whether mediation would assist them in resolving the appeal. At a Settlement Conference, the Presiding Member will focus primarily on the legal issues raised in the appeal. Mediation is beneficial, in that it affords the parties an opportunity to explore their underlying interests, which may be broader than the legal issues to be addressed in a hearing before the Board. As a Settlement Conference is a relatively brief appearance before the Board, mediation may also be beneficial where the parties require more time to negotiate, because:

- the issues or evidence are complex or voluminous;
- there are multiple parties to an appeal; or
- there are multiple appeals in respect of a property that are being heard at the same time.

Where mediation is not required, the Presiding Member will give procedural directions for the scheduling of the hearing, the exchange of witness statements, and any other directions to ensure the just, most expeditious and least expensive determination of every proceeding.

Where the parties agree that they wish to participate in the mediation, the Presiding Member will give directions to schedule the mediation and file any written mediation briefs in advance of the mediation. If a mediation does not result in a resolution of all the issues, the Board Member conducting the Mediation may then act as a Presiding Member to give procedural directions respecting the hearing of the outstanding issues.

Requirement to Serve and File a Settlement Conference Brief

Under the applicable Schedule of Events, before the Board will conduct a Settlement Conference, each party will be required to file its pleadings (Statement of Issues, Statement of Response, or Reply) and all documents on which the party intends to rely if the appeal proceeds to a hearing. For a settlement conference, each party is also required to serve on all other parties, and file with the Board, a brief outlining:

- the issues in dispute;
- the party's position on each issue; and
- an explanation of the reasons why the parties have adopted different positions on the issue.

For example, if the appeal is pursuant to s.40 of the *Assessment Act*, where the issue in dispute is the correct current value of the property under appeal, it is not sufficient for the parties to each simply state their conclusion as to what the current value should be. They also need to further clarify the specific issues to be addressed by the Board, by explaining precisely how their underlying assessments of property value differ, e.g. each party applied a different capitalization rate or fair market rent, or made different assumptions respecting functional or economic obsolescence, etc.

Where appropriate, a settlement conference brief may also serve as a mediation brief, if the appeal is referred to mediation.

Settlement Conference is a Confidential Hearing Event

The Settlement Conference is confidential. Pursuant to Rule 59, by participating in a settlement conference, all parties undertake to maintain confidentiality and non-disclosure in respect of the settlement conference. Pursuant to Rule 60, a Board Member who presides over a Settlement Conference will not be assigned as the adjudicator conducting the hearing of the appeal.

Pursuant to Rule 60, a Board Member who presides over a Settlement Conference will only be assigned to conduct a mediation, with the written consent of the parties.