



Assessment Review Board

Practice Direction

Mediation

Effective April 1, 2017

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.