

Assessment Review Board

RULES OF PRACTICE AND PROCEDURE

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

Effective April 1, 2007

INDEX

1. RULES

Application and Definitions (Rules 1 - 2)

Interpretation and Effect (Rules 3 - 7)

Representatives (Rules 8 - 10)

Time (Rules 11 - 14)

Initiating Proceedings (Rules 15 - 16)

Late Complaints (Rule 17)

Notice (Rules 18 - 19)

Documents, Exhibits, Filing, Service (Rules 20 - 29)

Discovery (Rule 30)

Motions (Rules 31 - 36)

Settlement Before Board Proceedings (Rules 37 - 38)

Compelling Attendance of Witness by Summons (Rules 39 - 40)

Language of Proceedings (Rules 41 - 44)

Notice of Higher Assessment (Rule 45)

Screening of Applications (Rules 46 - 53)

Streaming (Rules 54 - 59)

Adjournments (Rules 60 - 64)

Mediation (Rules 65 - 72)

Prehearing Conferences (Rules 73 - 86)

Methods of Holding Hearing Events (Rules 87 - 97)

Electronic Hearings (Rules 87 - 92)

Written Hearings (Rules 93 - 97)

Conduct of Proceedings (Rules 98 - 105)

Written Reasons for Decision (Rule 106)

Board Decisions (Rule 107)

Correcting Minor Errors (Rules 108 - 109)

Rehearing (Rule 110)

Review of a Board Decision/Order (Rules 111-117)

2. ATTACHMENTS TO RULES

COMPLAINT FORM

PROCEDURAL ORDER

NOTICE OF MOTION

AFFIDAVIT OF SERVICE

NOTICE OF RESPONSE TO MOTION

CERTIFICATE OF READINESS

CERTIFICATE OF OBJECTION

There are Comments for some of the Rules, which further explain them or provide examples. These are written in italics. The Rules also have headings, for easier reading. Neither the headings nor the comments are part of the Rules.

RULES OF THE ASSESSMENT REVIEW BOARD

1. **Application** The Rules apply to all proceedings before the Assessment Review Board. The forms referred to herein are attached to these Rules for convenience of reference only and may be changed administratively from time to time.

(Note: Whenever possible, use the Board's forms. For the most up-to-date version of the forms in current use, please check with the Board directly or through the Board's website.)

2. **Definitions** of terms in these Rules (unless the context requires that they have a different meaning);

"A.D.R. event" means an alternative dispute resolution procedure held by the Board or pursuant to the direction of the Board at any stage of a proceeding.

"affidavit" means evidence provided in writing and made under oath or affirmation;

(Note: There is a requirement for an affidavit of service for a Notice of Motion set out in Rule 32. A form for an affidavit of service is attached at the end of these Rules and may be used as a sample format for any affidavit required in these Rules or by a Board order.)

"alternative dispute resolution" and "A.D.R." include mediation, settlement conferences and other forms of resolving issues between parties other than by holding a hearing;

"applicant" means a person who makes a complaint, application or appeal to the Board and includes a person added as a party by the Board;

"Board" means the Assessment Review Board;

"direct hearing stream" means the stream by which a matter is intended to proceed without a prehearing conference;

"document" means written and visual material, and includes written and visual evidence in a hearing event;

"electronic hearing" means a hearing event held by conference telephone or some other form of electronic technology allowing all the parties to hear one another;

"file" means to send to the Registrar of the Board, and requires that the material is either deemed to be or has actually been received by the Board;

“hearing event” means a procedure held by the Board at any stage of a proceeding, and includes a hearing, prehearing conference, motion, and A.D.R. event, whether these are held in the form of an oral hearing, electronic hearing or written hearing;

(NOTE: Holidays for municipalities may be different than those below.)

“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, 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 meeting with the parties in which a person, usually a Member of the Board, acts as (1) a neutral third party in meeting separately with the parties and suggesting to each their likelihood of success; or (2) a facilitator in meeting with all the parties together and identifying the interests of each and encouraging resolution of the matter, or (3) some combination of these methods;

“motion” means a request by a person that the Board make a decision or issue an order;

“moving party” means the person who makes the motion;

“oral hearing” means a hearing at which the parties or their counsel or representatives attend before the Board Member(s) in person;

“participant” means a person who may not wish to take part fully in the hearing, but who wishes to make a statement to the Board. (Note: Persons to whom the Board has granted participant status whether for themselves or as a representative of an unincorporated group will be allowed to make statements to the Board only at such time as the Board may set, are not entitled to receive notice of a mediation or conference calls on procedural matters and cannot ask for a review of the decision.)

“party” includes a person entitled by the governing statute to be a party, and also those persons whom the Board accepts as parties, and who take part fully in the hearing by such activities as exchanging documents, providing testimony, presenting and cross-examining witnesses, and making submissions to the Board;

“person” includes a corporation, partnership, bridge authority, agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law; (Note: An unincorporated group is not a person within the meaning of these Rules and must act through an identified individual or other person who shall act as the representative of the group.)

“prehearing stream” means the stream by which a matter is intended to proceed through one or more prehearing conferences prior to a hearing;

“preliminary hearing” means those portions of a prehearing conference (*see Rules 73 to 86*) in which binding procedural or substantive decisions are made by the Board (*these usually are shown in the Board order which follows the conference*);

“proceeding” means a matter before the Board;

“representative” means a person licenced by the Law Society of Upper Canada or other person who is legally authorized to represent a person in the proceedings;

“responding party” means a person, other than the Board Registrar, who is served with a notice of motion by the moving party;

“Rules of Civil Procedure” means the Rules in effect for the Superior Court of Justice;

“settlement conference” means a conference held to attempt to resolve all or part of a matter by discussion, and includes any part of a prehearing conference in which such discussions take place;

“stream” means the process by which a complaint, application or appeal is to be resolved and may be either the direct hearing stream or the prehearing stream;

“submission form” means a form provided by the Board for the submission of complaints, applications or appeals, whether in a printed or electronic version;

“visual evidence” means images intended to be introduced into evidence at a hearing event, and includes computer-generated images, photographs, maps, videos, plans, surveys, models and overlays;

“witness statement” means a short written outline of the person’s background, experience and interest in the matter; a list of issues which he or she will discuss and the witness’ opinions on those issues; and a list of reports that the witness will rely on at the hearing;

“written evidence” means material intended to be introduced into evidence at a hearing event, and includes reports, studies, documents, witness statements, photographs, maps, overlays, letters, charts, graphs, books of account and information recorded or stored by means of any device;

“written hearing” means a proceeding in the nature of a hearing held by means of the exchange of documents whether in written form (hard copy) or by electronic means.

3. Interpretation of the Rules The general principle for application of these Rules is that they shall be liberally interpreted to ensure the just, most expeditious and least expensive determination of every proceeding on its merits.

Comment on Section 4 below: The Board may also follow the Rules of Civil Procedure for the courts where appropriate, and may order that these be modified. The Forms provided in the Rules of Civil Procedure may also be used for any matter other than those where the Board has created a submission form.

4. Matters Not Dealt With in These Rules If these Rules do not provide for a matter of procedure, the Board may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on any matter before it.

5. Technical objections Substantial compliance with requirements respecting the content of forms, notices or documents under these rules or any Act is sufficient.

RELIEF FROM RULES

*Comment on Rule 6 below: This is based on the provisions of subsection 4(1) of the Statutory Powers Procedure Act. This Act also applies to the Board's proceedings. Amendments to this Act came into force on February 15, 2000 [Schedule B of the Red Tape Reduction Act, 1999, S.O. 1999, c. 12]. These amendments are reflected in these Rules. By subsection 4(1), the parties must CONSENT before the Board can permit exceptions from procedural requirements in statutes or regulations. However, the Board may permit exceptions from these **Rules**. **Note also that the Board will permit exceptions only if it agrees that changes are essential.***

6. Board may exempt from Rules The Board may grant all necessary exceptions from these Rules or a procedural order, or other relief as it considers appropriate, to ensure that the real questions in issue are determined in a just manner.

NON-COMPLIANCE

Comment on Rules 7 and 7.1, below: When considering motions for non-compliance, including motions to dismiss, the Board usually will consider the issues of prejudice and abuse of process. On motions to dismiss, the Board will provide the defaulting party an opportunity to cure the default and where the default is cured before the return of the motion to dismiss, the Board may choose to dismiss the motion.

7. Failure to comply with Rules If a party or participant refuses or fails, without reasonable excuse, to comply with these Rules or a Board Order, direction or ruling, or to attend any hearing event, the Board may, on its own motion or the motion of any party, after giving the defaulting party or participant such opportunity to cure the default as the Board considers just in the circumstances,

- (a) make an order limiting the extent to which the party or participant may take part in the proceedings,
- (b) where the defaulting person is the applicant, dismiss the matter, or
- (c) make such other order as the Rules and the governing statute or regulation allow.

7.1 Considerations on Motions for Non-Compliance In considering motions with respect to non-compliance, the Board shall consider issues of prejudice and abuse of process as appropriate.

7.2 Dismissal for Non-attendance Despite Rule 7, in cases of non-attendance, without reasonable excuse, by an applicant or other party initiating a matter, the Board may, where it deems appropriate, dismiss the matter summarily.

(Note: Section 8.2 of the Assessment Review Board Act permits the Board to dismiss a matter without holding a hearing if the reasons in the complaint do not disclose any apparent statutory ground, or the complainant does not respond to the Board's request for further information in the required time.)

REPRESENTATIVES

In light of changes to the Law Society Act and the Statutory Powers Procedure Act and in particular paying note to Rule 4.04(2) of the Paralegal Rules of Conduct in order to maintain a level playing field, the status quo of allowing unrepresented people or representatives permitted to appear before the Board to both advocate and give evidence under oath or affirmation will continue for the balance of 2008 or until the Board's Rules are revised.

8. **Appearance in Person or by Authorized Representative** A party may attend a proceeding in person or by a representative. Representatives who are not licenced by the Law Society of Upper Canada must obtain written authorization and may be asked to provide this authorization to the Board at any time. If representation changes, the party and the representative shall immediately notify the Board and the other parties.
9. **Reliance on Authorization** Until the party and representative notify the Board of a change in authorization the Board will rely on the authorization filed with the Board.
10. **Notices of Proceedings Provided to Representatives** Any notice given to a representative is deemed to have been given to the party for whom the representative acts.

TIME

Comments on Time Requirements (Rules 11-14 below):

*Note: Time limits in legislation may provide for different rules than these Rules. **The Board cannot extend a time given in a statute such as the Assessment Act except as set out in Rule 17 (Late Complaints). Therefore applications must be filed with the Board at the latest on the day established in the complaints or appeals sections of the applicable legislation as the last day for complaining or appealing.***

*Here is an example of how the Board would compute a period of, for example, 30 days. (This method of counting is based on the Rules of Civil Procedure and legislation.) The Board would consider the day **after** the decision or action as **day one**. The following days, including Saturdays, Sundays and holidays would be counted, up to the 30th day. Documents could be filed or delivered up to **5:00 p.m.** on the 30th day. Where this day falls on a Saturday, Sunday or holiday, documents may be filed **up to 5:00 p.m.** on the next day that is not a Saturday, Sunday or holiday. The Board's offices are open to 5:00 p.m. **Please note that no matter what the legal rule may be for the time that a day ends, it is advisable to file or serve documents within office hours to ensure receipt on the required day.***

*The Rules of Civil Procedure allow service by fax, as does Rule 24 below. The Rules of Civil Procedure deem service (delivery) made BY FAX **after 5:00 p.m.** to be made on the next day. Rule 25 below deems it to be made on the next **business** day.*

11. **Time** Time is computed under these Rules or in a Board order under the applicable law, unless it is stated to be computed differently.
12. **Extension or Reduction of Time** The Board may extend or reduce any time required in these Rules or in a Board order, with any terms or conditions. A request for a change in time

requirements may be made by bringing a motion, or the Board may change a time requirement on its own initiative, with or without a hearing, either before or after the time period expires.

13. Time for Serving Documents Time for serving (delivering) a document or other evidence may be extended or reduced if all those who must be served consent to this in writing.

14. No Proceeding for Period if Party is Absent

- (a) At an in-person hearing event the Board will not proceed for at least 30 minutes after the time given for the commencement of a hearing event if the parties have not yet appeared, unless they have given notice that they will not appear at that time.
- (b) At a hearing event by Teleconference or Videoconference (Rule 87) the Board will not proceed for at least 10 minutes after the time given for the commencement of a hearing event if the parties have not yet appeared, unless they have given notice that they will not appear at that time.

INITIATING PROCEEDINGS

15. Form of Application Unless any Act or these Rules provide for other methods (*such as a motion - Rule 31, or multiple complaints filed by agents - Rule 16*), or the Board otherwise directs, a complaint, application or appeal may be commenced by letter or the Complaint Form attached to these Rules and shall,

- (a) be addressed to the Board Registrar;
- (b) provide the applicant's name, telephone, fax and e-mail address (if any) numbers and address, and postal code;
- (c) identify the property at issue by roll number;
- (d) state the nature of the application and the reasons for it;
- (e) include the appropriate fee for the complaint or other matter;
- (f) inform the Board of a request to provide a bilingual Member if the applicant wishes the proceeding to be conducted in French;
- (g) be signed by the applicant or his/her representative; and
- (h) if an applicant is represented other than by legal counsel, a declaration that that person has received written confirmation of authorization to act for the applicant, signed by the applicant.

Note: A similar Complaint Form can be filed electronically. An electronic version is posted on the Board's web site shortly after the Notices of Assessment are issued.

15.1 Request for Prehearing Stream An applicant may, as part of the complaint, application or appeal, request with reasons that the matter be placed in the prehearing stream.

15.2 Where No Fee Paid Unless the Board directs otherwise, the Board will not consider a matter or schedule a hearing event unless the appropriate fee has been paid.

16. Exceptions to Rule 15 – Complaints by Representatives for Many Properties

- (a) Persons filing complaints, applications, appeals for many persons and/or many properties must file them in accordance with the directions of the Board;
- (b) Third party complaints under subsection 40(3) of the *Assessment Act* must be delivered or mailed to the person on or before the last day for complaining under that *Act*;
- (c) Applications, Appeals and Complaints under the *Municipal Act, 2001*:
 - (i) must be filed with the Board by the *Municipal Act, 2001* filing deadline;

- (ii) must be delivered or mailed within the *Municipal Act, 2001* filing deadline to the municipality if the property owner is the complainant or to the property owner if the municipality is the complainant;
- (iii) must be accompanied by the requisite supporting documentation depending on the section of the *Municipal Act, 2001*; and
- (iv) must be accompanied by the requisite filing fee as determined by the Board.

An example under the Municipal Act, 2001 is a complaint under section 331. The property owner or municipality may complain to the Board within 90 days of the mailing of the municipal Notice of Determination by completing a complaint form, delivering or mailing a copy to the other party, paying the requisite filing fee and providing the supporting documentation (the municipal Notice of Determination). For further details please refer to the Board's tax appeals forms and fees guide at www.arb.gov.on.ca.

16.1 Parties and Participants Any person, other than the applicant and any person made a party by statute, who wishes to take in a proceeding either as a party or a participant must,

- (a) bring a Motion to be added as a party or a participant, as the case may be,
- (b) give written notice to the Board and every party of that person's intention to bring the Motion, and
- (c) where required to do so by the Board, provide proof of having given such notice.

16.2 No Re-opening without Leave Once a hearing event has commenced, no person may be joined as a party or participant and no party or participant 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.

LATE COMPLAINTS

17. Circumstances where Late Complaints May Be Considered The Board may accept a complaint, application or appeal received after the time set out in any statute or regulation provided that,

- (a) the applicant provides the Board with an affidavit satisfying the Board that,
 - (i) the complaint, application or appeal was mailed within the time set out,
 - (ii) in the case of a complaint under the *Assessment Act*, the complainant did not receive the required notice and filed the complaint with the Board within 30 days after the applicant became aware of the assessment or classification or designation of school support that is the subject of the complaint, or
 - (iii) in the case of an appeal under the *Municipal Act, 2001*, the appellant did not receive the required notice of the decision of council and filed the appeal with the Board within 30 days after the appellant became aware of council's decision;
- (b) the affidavit states, in the case of paragraph 17(a)(ii) or (iii), above, that the notice was not received and provides the date on which the applicant or the applicant's representative

became aware of the assessment, classification, designation or decision, as the case may be;

- (c) the applicant has provided the other parties with a copy of the affidavit.

NOTICE

18. Notices Any notices required by these Rules or a Board Order shall be given in writing, unless directed otherwise by the Board.

19. Notice of Hearing or Other Proceeding The Board may direct a party to give notice of a hearing event or other proceeding to any person or class of persons, and may direct the method of providing the notice. An affidavit must be filed at the beginning of the proceeding to prove that notice was properly given. (See *Rules 31 to 36 on Motions.*)

DOCUMENTS, EXHIBITS, FILING, SERVICE

Comment on Rule 20, below: When considering whether or not to permit the amendment of a document under clause 20(b), the Board will usually permit such an amendment where the other parties consent to it.

20. Amendment of Documents Documents filed with the Board cannot be amended except as follows:

- (a) an applicant may amend his or her Statement of Issues as of right at any time before receiving delivery of a Statement of Response;
- (b) in all other cases, a party may not amend a document unless the Board orders it.

20.1 Motions for Amendment of Documents A party seeking an order under Rule 20(b) shall do so by way of a motion under Rule 31, with notice to all other parties, where,

- (a) the matter is in the direct hearing stream and the Board has required the party to do so by way of motion; or
- (b) the matter is in the prehearing stream.

20.2 Prerequisites to Orders for Amendment of Documents In determining whether or not to grant an order under Rule 20(b), with or without such conditions as the Board considers just in the circumstances, the Board shall take into consideration the degree, if any, to which any party would be prejudiced by such an order.

20.3 Filing of Statements In the prehearing stream, where a party has delivered a Statement of Issues, a Statement of Response, or an amended Statement of Issues or of Response, the party must file that document with the Board at least 10 days prior to the hearing to which it relates.

20.4 Exchange or Filing of Documents In addition to the requirements of any other Rule, the Board may direct the parties to exchange and file documents or submissions at any time, either at a party's request or on its own initiative.

21. Copies of Board Documents A person may examine any document filed with the Board, and copy it after paying the Board's fee, and may view any visual evidence, unless an Act or a court or Board order provides otherwise.

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

Comment on Rule 23 below: Parties are encouraged to bring at least three copies of exhibits to a hearing.

23. Return of Exhibits Exhibits (*written or visual evidence*) of all types introduced at a hearing will be kept for 120 days after the Board decision issues or is mailed. The person introducing an exhibit may ask for its return after this time, and it may be given back if the Board agrees. If no such request is made, it becomes the property of the Board and may be archived. Exhibits will not be returned on the day of the hearing under any circumstances.

Comment on Faxes (Rules 24 to 29 below):

The Rules below respecting faxes apply to most documents, including the Complaint Form, filed or served, including notices of motion, notices of hearing and documents exchanged following a procedural order.

Note: The Board cannot extend an appeal period in an Act, except as provided in Rule 17, Late Complaints, so that documents must be served on or before the last day. These Rules merely require that documents be faxed by specific times. For example, staff will be present to receive a fax if it is faxed before 5:00 p.m. (See also Comments and Rules 11 to 14 respecting time.)

24. Service (Delivery) by Fax Where any document is required to be served (*delivered*) or filed, including one commencing a proceeding or a motion or providing notice, it may be served by fax (unless an Act, or the Board, requires another method of service). Faxes shall be sent to,

- (a) the party's representative, if any;
- (b) where the party is an individual and is not represented by a representative, that party directly where that party has provided a fax number;
- (c) where that party is a corporation and is not represented by a representative, the corporation's head office directly to the attention of an individual with apparent authority to receive the document;
- (d) where served on or filed with the Board, a local board or commission, or any department, ministry or agency of the federal, provincial or municipal government, an individual with apparent authority to receive the document;
- (e) where the party is the Municipal Property Assessment Corporation, its manager of case management; or
- (f) where the party is a municipality, its municipal clerk.

24.1 Exception Despite Rule 24, a complaint faxed to the Board does not need to be faxed to the other parties.

24.2 Payment for Faxed Complaints Where a complaint is faxed to the Board, it will be accepted only if the number and expiry date of a valid credit card and authorization to charge the applicable fee to that number is provided.

25. If Faxed After 5:00 p.m. Any document served by fax after 5:00 p.m. is deemed to have been served on the next business day.

26. Permission to Fax if More Than 12 Pages If a document is more than 12 pages including the cover page, it must not be served by fax between 8:00 a.m. and 5:00 p.m. unless the person receiving the document has given permission in advance. If more than 30 pages, it cannot be served by fax at any time without advance permission.

27. Contents of Cover Page The fax cover page must include the Board's complaint number and or roll number, the type of application and the municipality in which the property is located, as well as full identification of the sender and receiver.

28. Proof of Service by Fax A confirmation printout received by the sender is proof of the full transmission and receipt of the fax.

29. No Hard Copy Needed A hard copy of a faxed document must not be sent by another means of transmission unless requested, and may then be sent by ordinary mail.

DISCOVERY

Comment on Order for Discovery

The availability of an order under Rule 30 is not meant to replace other forms of discovery achieved either pursuant to pre-hearing discussions or through voluntary disclosure.

30. Order for Discovery The Board may grant an order for discovery where needed in order for a party to obtain necessary information from another party. This will only be granted where the party has requested the information and it has been refused, or no answer was received. This order must be requested by notice of motion (*see Rule 31*), together with an affidavit which sets out the efforts made to obtain the desired information, and the reasons why the requested information is needed. The Board may make an order for,

- (a) any person (*usually only a party*) to provide an affidavit containing a list of relevant documents which that person possesses;
- (b) the delivery of documents;
- (c) the examination for discovery of any party;
- (d) an examination for discovery by written questions;
- (e) the inspection, photographing and testing of property;
- (f) the examination of a witness before the commencement of a proceeding (under the Rules of Civil Procedure); or
- (g) any other form of discovery;

and the Board may impose conditions concerning the timing, manner and scope of discovery.

If an order for discovery is obtained, the Rules of Civil Procedure concerning discovery apply to Board proceedings unless the Board orders otherwise.

MOTIONS

Comments on Motions (Rules 31 to 36 below):

Motions (requests to the Board for an order) are usually held in person. However, if there will be four or fewer parties, and it is expected that the motion will last less than one hour, the Board may hold and a party may request a motion by telephone conference call. The Board may refuse to hear, adjourn, dismiss or hear only part of a telephone motion if it finds that persons have not been notified of it; the nature of the evidence requires an in-person hearing; if it will in the Board's view exceed one hour; or for any other valid reason.

31. Date for Motion and Notice of Motion A person making a motion must first obtain from the Board's scheduler a hearing date, if an oral or electronic motion. The Board may decide, if the parties do not object, to hold a motion by written hearing in which case it will specify the date by which the parties must deliver their submissions. (There is no need to obtain a motion date for a request to accept a late complaint under Rule 17, or a request for review of a Board decision under Rules 111 to 117). Once a date or permission is obtained, a notice of motion must be provided to the other parties. (*See Rule 32 for the time for delivery of this notice.*) The notice of motion must be submitted with an affidavit setting out a clear and brief statement of the facts, by a person with either first-hand knowledge or information and belief about the facts.

(Note: A form for a Notice of Motion is attached at the end of these Rules.)

32. Serving the Notice of Motion Unless the Board agrees to a lesser time, the notice of motion and all supporting documents must be served (*delivered*) at least 10 days before the date for the hearing of the motion, if heard in person or by telephone conference call.

If the Board approves a written motion, the Board will notify the applicant and the other parties. The applicant must serve a notice of motion within 20 days of this notice of written motion. The other parties wishing to respond must serve a response (*see Rule 33*) within 10 days of the date of the applicant's notice of motion. A notice of motion must be served on all parties, any other person directed by the Board, and the Board Registrar. An affidavit stating that this was done must be filed with the Board before or at the hearing of the motion, if an oral motion, or within 20 days of the date of the notice of motion if a written motion.

(Note: A form for an Affidavit of Service is attached at the end of these Rules.)

33. Notice by Responding Party A responding party must serve a notice of response if that party intends,

(a) to rely on any grounds (*reasons*) or documents not provided by the moving party;

- (b) to use an affidavit as evidence (in this case the affidavit, setting out a clear and brief statement of the facts, by a person with either first-hand knowledge or information and belief about the facts, must be attached to the notice of response); or
- (c) to request permission for oral evidence by a witness at an oral hearing;

and if a written hearing, must notify the Board and the other parties if it does not intend to serve a notice of response.

(Note: A form for a Notice of Response to Motion is attached at the end of these Rules.)

34. Service of the Notice of Response for Oral Hearings Unless the Board agrees to a lesser time, the notice of response shall be served at least 2 days before the hearing of the motion; and shall be served on all parties, any other person directed by the Board and the Board Registrar. An affidavit proving service shall be filed with the Board before or at the hearing of the motion.

(Note: A form for an Affidavit of Service is attached at the end of these Rules.)

35. Oral Submissions A party bringing a motion and those responding to it may make oral submissions at the hearing of a motion, whether the hearing is held in person or an electronic hearing.

Comment on Motions at Oral Hearing Events (Rule 36 below):

Parties frequently make motions without notice at the commencement of oral hearings. The Board discourages this practice, and prefers that parties receive advance warning of motions wherever possible. Therefore it will usually hear motions during hearings without notice only where the reason for the motion has arisen out of events or evidence after the hearing has commenced.

36. Motions Made at Oral Hearing A motion may be made at an oral hearing only if the need for the motion arises out of events in the hearing. The motion will be heard or decided in accordance with any procedures ordered by the presiding Member. If the moving party is aware of the need for a motion before the hearing, the party should serve a notice of motion under Rule 31 and request that the Board reduce the time required in that Rule for service of the notice, if necessary.

SETTLEMENT BEFORE BOARD PROCEEDINGS

37. Procedure if Settlement before Board Hearing Event Where the parties reach a settlement before any hearing event is held, the Board may hold a brief hearing into the terms of the settlement. If all statutory requirements are satisfied, the Board may issue a decision approving the settlement, with any necessary amendments, and fixing the assessment. The Board at an electronic hearing will not accept recommendations or settlements. The parties must appear at an in person hearing or in the alternate submit Minutes of Settlement to the Board.

38. Minutes of Settlement Minutes of Settlement must be signed by all participating parties, unless concluded at a hearing of which notice was given to all parties and a party failed to appear. In this case it is not necessary to obtain the signature of the party who did not appear. Minutes of Settlement must contain the following, if applicable:

- (a) name of applicant;

- (b) roll number(s);
- (c) municipal address(es);
- (d) taxation year(s), including commencement dates for appeals under sections 33 or 34 of the *Assessment Act*;
- (e) realty assessment for each roll number and taxation year dealt with in the settlement;
- (f) where a supplementary assessment, the total assessment and a breakdown (if necessary) of the conversion, improvement increase, and so on;
- (g) changes (other than the amount) which the parties wish the Board to order;
- (h) a statement that the parties certify that the contents relate wholly to matters that are properly before the Board, and contain all the information that should be in the Board's order; and
- (i) the property's classification.

If the Minutes deal with more than one roll number, the information should be shown in column format on 8 1/2 " by 11" paper, with the roll numbers on the left and any other information in columns to the right, and should be attached to the settlement. If the roll numbers relate to the same municipal address, this should be stated in the attachment.

WITHDRAWAL OF COMPLAINTS

38.1 Withdrawal of complaint, etc. An applicant may, by notice of withdrawal to the Board and the other parties, withdraw the applicant's complaint, application or appeal, as follows,

- (a) in the case of a complaint under the *Assessment Act* where another party has given notice of its intention to request a change in property classification or in assessment under Rule 45, with leave of the Board;
- (b) in all other cases, including when an applicant has filed a complaint and given notice under Rule 45, as of right until a hearing has commenced. Once a hearing has commenced a complaint cannot be withdrawn without leave of the Board.

38.2 Disposition of Motion to Withdraw. On hearing a motion under clause 38.1(a), the Board may:

- (a) grant the request to withdraw, with or without conditions;
- (b) refuse the request to withdraw and proceed immediately to hear the request for a change in property classification or in assessment;
- (c) refuse the request to withdraw.

COMPELLING ATTENDANCE OF WITNESSES BY SUMMONS

39. Summons Form from Board A party who wishes to require a witness in Ontario to attend an oral or electronic hearing may serve a summons in a form available from the Board Registrar, for the fee set by the Board. The party should obtain a request for summons form from the Board Public Inquiry Unit, and return the completed form. The summons will be signed and issued by the Chair or delegate. However, the Board may refuse to issue a summons unless an affidavit is provided indicating how the witness' evidence is relevant to the matter. If the Board is not satisfied from the

affidavit that the evidence is relevant, it will hold a motion to determine the question. It may cancel a summons for valid reasons. Board Members may also issue a summons without the witness' name in urgent cases. The party or representative must then complete the form and insert the name(s) of the witnesses required. A summons is valid even without the Board's seal.

(A summons may be refused if, after hearing a motion, the Board decides that witness' testimony is not material to the matter, or admissible in evidence at a hearing. Once issued, the summons will require the witness to attend the hearing at a time and place stated in the summons, or as arranged with the person issuing the summons, and may require the witness to bring relevant documents and other things set out in the summons.)

40. Serving the Summons A summons must be served on (*handed to*) the witness **personally** at least 5 days before the time for attendance. At the same time the attendance money that is paid for attendance before the Superior Court of Justice shall be paid or tendered to the witness.

LANGUAGE OF PROCEEDINGS

41. Use of English and French The Board may conduct proceedings in English or French or partly in English and partly in French.

42. Where French is Used A person who wishes a proceeding to be conducted wholly or partly in French or who wishes to give evidence or make submissions in French must, at least 25 days before the hearing, request that the Board provide a bilingual member.

43. Documents in English or French Where written evidence or a submission is provided in either English or French, the Board may order that the person also provide it in the other language translated by a qualified translator at the person's expense if the Board considers it necessary for the fair determination of the matter.

44. Where Interpreter is Required If an interpreter is required for a witness whose language is not English or French, the party calling the witness must provide a qualified interpreter.

NOTICE OF HIGHER ASSESSMENT

45. Special Notice by Party of Request for Higher Assessment If a party intends to request a change in property classification or in assessment that would result in a higher assessment than that fixed by the Municipal Property Assessment Corporation or its predecessor, it must give notice of its intention to all other parties and the Board. This notice must include the amount of the assessment and the classification requested. This notice must be given at least 50 days before the hearing of the matter, unless otherwise directed by the Board. An affidavit proving service of the notice must be filed with the Board at the hearing. If this notice of higher assessment is not served, the Board may refuse to consider the request.

45.1 Notice after Statement(s) Where a party has already delivered a Statement of Issues or a Statement of Response in a proceeding, Rule 20 shall be deemed to apply to its notice of intention to request a higher assessment as if the notice were an amendment of document in a prehearing stream.

SCREENING OF APPLICATIONS

Comments on Screening of Applications (Rules 46 to 53 below):

Screening of applications by the Board can be both administrative (by staff) and adjudicative (by Board Members). Administrative screening is the process in which staff may decide to stop processing because the information submitted is not complete, until the technical defect is corrected.

Adjudicative screening is the process for dismissing an application without a full hearing. It is based on criteria that are set out in the governing legislation. For example, section 8.2 of the Assessment Review Board Act permits the Board staff to stop processing a complaint or application if the complainant has not responded to a request for further information in the time given. This can only occur after a warning and an opportunity to respond. Other reasons for dismissal require that a Member make the decision, such as determining whether the complaint is frivolous or vexatious, or the Board has no jurisdiction to deal with it. In the latter case, the Board may make the decision without a hearing.

46. Administrative Screening The Board shall conduct administrative screening of matters submitted to the Board to determine whether,

- (a) the required fees have been paid;
- (b) written reasons are given in the document submitted;
- (c) the complaint has been signed by the complainant or their representative;
- (d) the complainant has responded to a request for further information within the time specified by the Board;
- (e) a complaint has been filed within the statutory deadline; or
- (f) if the complainant is not the assessed party, that the complainant has mailed or delivered to the assessed party a copy of the complaint before March 31 of the taxation year related to the assessment under appeal.

Comment on Rule 47: Where a complaint is incomplete, the Board will give the complainant notice of the deficiency and how to cure it in order to have the processing resume.

47. Incomplete Information The Board will stop processing a complaint if the information submitted is not complete. Once the application is considered complete according to the Board's established requirements, staff will continue to process it. Discretionary judgments and legal interpretations are referred to a Board Member.

NOTE: The Board cannot accept a complaint after the deadline in the governing legislation, except as set out in Rule 17, Late Complaints.

48. Notice Before Dismissal Before dismissing an incomplete application under Rule 47, the Board will notify the applicant or the applicant's representative, and provide an opportunity to respond within the time provided. If no response is received in that time, the Board may dismiss the application.

49. Board May Dispense with Requirement At the request of the applicant, the Board may cancel a request for further information where it is satisfied that there is good reason to do so.

50. Complainant to Serve Additional Materials Requested If a complaint or application was provided to the other parties before the Board notifies the complainant of an incomplete application, the complainant shall provide a copy of the amended complaint and further materials required to all other parties as well as to the Board.

51. Completed Matter Deemed Filed on Original Date If the defect set out in a notice of incomplete application is resolved within the time stated in the Board's letter, the complaint is deemed to have been properly filed on the day it was first received, rather than the day the amendment was received.

52. Adjudicative Screening By Board Member A Board Member may screen matters and may dismiss them without holding a hearing event, or after a hearing event, if,

- (a) the Board is satisfied that it is without jurisdiction to hear the application;
- (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 complaint or application do not disclose any apparent statutory ground on which the Board can make a decision; or
- (d) the complainant has not responded to a request by the Board for further information within the time specified by the Board.

53. Notice before Dismissal Before dismissing a matter for the reasons in Rule 52, the Board will notify the complainant or applicant and provide the applicant with an opportunity to respond within the time provided. If no response is received in that time, the matter will be dismissed without a hearing.

STREAMING

Comments on Streaming (Rules 54 to 59 below):

The Board assigns a matter to the stream which in its opinion will resolve the matter quickly and at the least cost, while maintaining fairness. There are two streams, the direct hearing stream and the prehearing stream. These can also take several forms.

Streams are not the same as scheduling priorities. The Board may schedule to conduct matters as efficiently as possible.

In choosing the appropriate stream, the Board will consider any factor it considers relevant, including: nature of the dispute; value of the property; property code; property classification; novelty of the issues; complexity of the issues, facts and evidence; applicant representation; complexity and quality of the documents; likelihood of settlement; number of parties involved; likely number of witnesses and/or expert witnesses; number of procedural steps that may be needed to focus the issues and expedite resolution; estimated duration of the hearing; remedies requested; parties' preferences for a particular stream; and potential for any jurisdictional challenges.

54. Types of Streams The Board may schedule a matter into either a direct hearing stream or a prehearing stream

55. Parties may Request Stream Up to 5 business days before any hearing event is held, a party may make a request in writing, with reasons, that the matter be directed to a specific stream. Thereafter, such a request may only be made with leave of the Board.

55.1 Transfer to a Different Stream At any stage in the proceedings, the Board may, either at the request of a party or on its own motion, transfer the matter into a different stream, where the Board is of the opinion that it is appropriate to do so.

56. Consolidated Hearings or Hearing Matters Together When the Board considers that two or more matters are related to each other by common facts, issues, questions of law or for any other reason, the Board may,

- (a) with the consent of the parties, order that the matters be **consolidated or heard at the same time,**
- (b) order that the matters be heard one after the other; or
- (c) stay or adjourn any matter until the determination of any other matter.

57. Effect of Consolidated Proceedings When two or more proceedings are consolidated,

- (a) statutory procedural requirements for any of the original separate proceedings apply, where appropriate, to the consolidated proceeding;
- (b) parties to each of the original separate proceedings are parties to the consolidated proceeding; and
- (c) evidence to be presented in each of the separate proceedings is evidence in the consolidated proceeding.

58. Effect of Hearing Matters Together Where two or more proceedings are **heard together** but not consolidated,

- (a) statutory requirements for each proceeding apply only to that particular proceeding and not to the others;
- (b) parties to the hearing are parties to their individual proceedings only and not parties to the other proceedings; and
- (c) unless otherwise ordered by the Board, evidence in the hearing is evidence in each proceeding to which it could apply.

59. Board May Reverse Decision for Combined or Other Proceedings The Board may separate consolidated proceedings or matters 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

Comments on Adjournments of Proceedings (Rules 60 to 64 below):

The Board will not often grant adjournments (later dates) for hearings or other proceedings. Parties and the Board spend time and money in giving notice, preparing and traveling for hearing events, and this is wasted if they are cancelled at the last minute. If the request is presented at the last moment,

the Board may refuse the adjournment and proceed with the hearing. If, on the other hand, settlement discussions are reasonably nearing completion, the Board may agree to a delay. The main consideration is whether an adjournment is necessary to permit a fair hearing, versus the cost of any delay for all parties. Hiring a lawyer or consultant shortly before a hearing, for example, is not a reason for an adjournment.

Parties should prepare for a hearing shortly after the complaint or matter is submitted. They should not wait until notice of hearing is sent. Performance standards for tribunals mean that the Board is setting hearing dates earlier than in the past.

If a matter is adjourned, the Board will pick a new date for it to proceed unless there is a good reason to leave it undecided (e.g. it is dependent upon a decision of a court).

60. Hearing Dates Fixed Hearing events will take place on the date set unless the Board agrees to an adjournment.

61. Requests for Adjournment if All Parties Consent If all of the parties consent, they may make a written request to postpone a hearing event. The request must include the reason(s), a suggested new date and an indication that all the parties consent to the adjournment. However, the Board may require that the parties attend in person to argue for an adjournment, even if all of the parties consent. If, for whatever reason, not all the parties consent, the Board may where it considers appropriate grant the adjournment subject to terms and conditions, if any.

62. Requests for Adjournment Without Consent If a party consulted objects to an adjournment request, the party requesting the adjournment must bring a motion under Rule 31 at least 10 days before the date set for the hearing event. If the need for an adjournment arises less than 10 days before (see Rule 63), the party must give notice of the request to the Board and to the other parties, and serve their motion materials as soon as possible. If the Board refuses to consider a request made late, any motion for adjournment must be made in person at the beginning of the hearing event.

63. Emergencies Only The Board will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witness cannot be obtained. The Board must be informed of these emergencies as soon as possible.

64. Powers of the Board upon Adjournment Request The Board may,

- (a) grant the request;
- (b) grant the request and fix a new date; or where appropriate, the Board will schedule a prehearing conference about the status of the matter;
- (c) grant a shorter adjournment than requested;
- (d) deny the request, even if all parties have consented;
- (e) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- (f) grant an indefinite adjournment if the request is made by the complainant and is accepted by the Board as reasonable, and the Board finds no substantial prejudice to the other parties or to the Board's schedule. In this case the complainant must later make a request that the hearing be rescheduled;
- (g) convert the scheduled date to a mediation or prehearing conference; or
- (h) make any other appropriate order.

ALTERNATIVE DISPUTE RESOLUTION

Comments On the Alternative Dispute Resolution (“A.D.R.”) Process (Rules 65 to 72 below):

A.D.R. is a form of consensual dispute resolution, in which the parties meet with a Board Member (or someone else appointed by the Board) as mediator or neutral third party (rather than as adjudicator). All present try to settle the dispute in an informal way. The Member will attempt to identify the interests of each party, and explore possible settlement of the issues in a complaint or other application.

The Board requests that the parties take part in an A.D.R. event because mere discussion may produce a resolution. If one or more parties refuse to take part there clearly cannot be a settlement. If held early and if successful, a matter may be resolved more rapidly through A.D.R. The Board may, however, refuse requests for A.D.R. may resolve some disputes more quickly, but for others, it may only add an extra step to the process that a speedy hearing may better resolve.

Other benefits of an A.D.R. event include providing an opportunity for the parties to: meet together (if they have not yet done so); acquire a better understanding of the matter; reduce the length of the hearing itself by resolving at least some of the procedural and/or substantive issues, so that there are fewer issues to be adjudicated and the parties are properly prepared; or to settle the matter even after the hearing has started, thus saving hearing time and shortening the time before a decision issues.

There are ground rules to try to ensure that parties make a decision to sign a settlement with a clear understanding of their rights and the terms to which they are agreeing. This is to prevent prejudice to parties who are not represented by counsel or agents. However, the Member is not obliged to inform unrepresented parties of their rights under the legislation; provide case law precedents or advice that would be given by a representative. A party may take part in an A.D.R. event with a representative (unless the Board directs otherwise); and representatives other than counsel may attend without the party if they have a signed consent and proof that they are authorized to enter into a settlement on the party’s behalf. It may not be helpful for counsel to attend without a party, but they may do so if they provide assurances that they can enter into a settlement on the party’s behalf.

The Board must confirm any complete settlement by reviewing it either in written form or by holding a brief hearing so that the Board is satisfied that the requirements of the governing legislation are met. Unless all parties take part in the A.D.R. event, any part of a settlement which is outside the Board’s jurisdiction will not be included in a Board order confirming the settlement.

65. A.D.R. Events The Board may direct parties to take part in a mediation or settlement conference or other A.D.R. event, either of its own accord or at the request of the parties, and the A.D.R. event may be held in person or by electronic conferencing. The parties may be given short notice of the A.D.R. event, which notice may be given by telephone.

66. Choice of Process at A.D.R. Events At an A.D.R. event, the person presiding may make use of any appropriate dispute resolution process to help the parties resolve the issues in dispute. The parties should advise the Board in writing if they feel that one method is more appropriate than another. The person presiding will explain the process, the safeguards provided, and the benefits of the process.

(For example, the person presiding may identify interests that may lead to a solution, yet not express any opinion on the merits of each position. Alternately, the person presiding may hold discussions with the parties together, but then meet separately with them at their request to give an opinion on the merits of each case, and the probable outcome if the matter proceeds to a hearing.)

67. Partial Resolution and A.D.R. Report If, in the course of an A.D.R. event, the parties do not settle all of the issues in dispute, the person presiding may assist the parties in arriving at a statement of agreed facts and remaining issues and will prepare an A.D.R. Report which includes this statement (but not the actual terms of settlement) (see *Rule 70*). The statement of agreed facts and remaining issues will be placed on the file for the information of the Board panel conducting the hearing on the remaining issues. In addition, where the person presiding is a Board Member, he or she may make a final order on some of the issues, if the Member is satisfied that the statutory requirements have been met. This order is binding on the parties and the Member(s) hearing the other issues, unless the Member(s) is (are) satisfied that there is good reason to vary the order.

67.1 Disclosure in Advance of an A.D.R. Event Unless otherwise ordered, at least 3 days before the date set for the A.D.R. event, the parties shall prepare and produce to the Board and to the other parties the following,

- (a) concise statements describing the nature of the complaint, application or appeal, the issues, the evidence expected to be called at the hearing and applicable legal principles, and
- (b) experts' reports intended to be relied upon or, if the expert reports have not yet been prepared, a statement describing the anticipated opinion of the expert, the facts upon which the opinion is based and the qualifications of the expert.

67.2 Procedure at an A.D.R. Event At all A.D.R. events, the following apply,

- (a) the A.D.R. event is confidential and is to be held *in camera*;
- (b) The person presiding has the discretion to determine the manner in which the A.D.R. event is to be conducted and, without limiting the generality of that discretion, may,
 - (i) cancel the A.D.R. event if any person attending the event as a party or on behalf of a party lacks the authority to enter into a binding resolution on any matter at issue,
 - (ii) facilitate discussion between the parties,
 - (iii) meet with any party individually,
 - (iv) provide non-binding opinions on any matter at issue,
 - (v) provide an evaluation on the likelihood of success of a party on any matter at issue,
 - (vi) adjourn the A.D.R. event,
 - (vii) make a report of the results of the A.D.R. event, including any settlement reached;
- (c) Where the person presiding is a Member, he or she may,
 - (i) make any order that can be made under these Rules,
 - (ii) refer any matter at issue to be scheduled for a hearing event,

- (iii) include in the report of the results of the A.D.R. event any interim orders made;
- (d) at the end of the A.D.R. event, unless the parties otherwise agree, the person presiding shall return to the parties any documents provided by them for the purpose of the A.D.R. event which might be used as evidence in a hearing event.

68. Member to Preside at Hearing Only with Parties' Consent A Board Member who presides at an A.D.R. event in which one or more of the issues was not resolved may not preside at the hearing of those issues unless all of the parties consent.

69. Parties' Consent Where the person who presides at an A.D.R. event is a Member, at the conclusion of the A.D.R. event, the parties may request that the Member preside at a hearing of any unresolved issues.

70. A.D.R. Event Discussions Confidential All documents created for or anything said in an A.D.R. event and any offer to settle shall be confidential, and cannot be introduced into evidence in the same or other proceeding without the consent of the party who created the document or made the statement or offer, and the Board's approval. Notes made by the person presiding at the A.D.R. event shall remain confidential and shall not be released to any person or admitted into evidence in any proceeding. A person presiding at an A.D.R. event is not competent or compellable in any proceeding to give evidence regarding the discussions.

71. Possible Hearing to Examine Settlement A settlement proposed by the parties must satisfy the requirements of the *Assessment Act* or other Act under which the proceeding arises, and if the Board is not satisfied after reviewing the terms proposed that this is the case, it will hold a hearing to hear evidence on this issue. This hearing may be held at the end of the A.D.R. event, if the parties attending the event consent and the Member is satisfied that sufficient notice has been given.

72. Hearing Priority to Matters from A.D.R. Events When setting hearing dates, the Board may give priority to matters that have been the subject of an A.D.R. event.

PREHEARING CONFERENCES

Comments on Prehearings (Rules 73 to 86 below):

There can be at least three activities at a prehearing conference, as may be seen from the subjects which may be considered (see Rule 73 below). These are: a settlement conference (which is similar to a mediation), a discussion of procedure for the hearing, and a preliminary hearing. There may be no clear division between these procedures, and the Board may switch from one to another whenever it seems appropriate.

Before a prehearing conference, the Board may send the parties a sample Procedural Order (a copy follows these Rules in the Attachments). The parties are expected to study the contents of this sample, to meet to discuss it, and to come to the prehearing conference prepared to give the Board their comments on the issues and procedures dealt with in the sample order. Following the prehearing, the Board will issue a formal order governing the procedure and issues for the hearing, based on the discussion of the contents of the sample order at the prehearing. The Board Member(s) conducting the later hearing must follow the order, unless a party convinces the Member that it is appropriate to change the order.

Prehearing Procedural Orders may deal with such matters as productions, discoveries, inspections, mediation, settlement conferences, narrowing of issues, additional hearing events and Member continuity.

The purpose of these Rules is to make the prehearing process as efficient and effective as possible by defining the process and the issues (usually in the first prehearing conference) and by dealing with motions arising out of the Procedural Order(s) and making such further orders for such matters as the exchange of expert reports and witness statements as may be required (usually in the second prehearing conference).

If the Board hears some evidence and/or submissions on the issues in a preliminary hearing mode at the prehearing, and decides that it can dispose of some or all of them, it will make formal decisions about the issues (given either during the prehearing or at a later date). These will be set out in the written order following the prehearing, and this is a final order on those issues.

Note: The prehearing Member will not necessarily conduct the hearing. In order to ensure speedy hearings, the Board may assign another Member or Members if the prehearing Member is not available for an early hearing.

73. Prehearing Conferences At the request of a party or on its own initiative, the Board may direct the parties to take part in a prehearing conference, which can include settlement conferences, motions or preliminary hearing matters, in order to:

- (a) identify and simplify the issues;
- (b) identify facts or evidence the parties may agree upon or on which the Board may make a binding decision;
- (c) obtain admissions that may simplify the hearing;
- (d) provide directions for pre-filing of witness lists, expert witness statements and reports; for meetings of experts; and for further disclosure where necessary;
- (e) discuss opportunities for settlement, including possible use of mediation or other dispute resolution processes;
- (f) fix a date and place for the hearing and estimate its length, and encourage the parties to agree upon the dates for any procedural steps;
- (g) discuss issues of confidentiality, including any need to hold a part of the hearing in the absence of the public or to seal documents; and
- (h) deal with any other matter that may assist in a fair and quick resolution.

74. If Party Requests a Prehearing Conference A party may request the Board to hold a prehearing conference or to convert a hearing event to a prehearing conference. The request must be in writing to the Registrar, and copied to all parties (*applicants, respondents, the Municipal Property Assessment Corporation, and the municipality, or their representatives*). The request must include the roll number and address of the property, and state in detail the reasons for the request and the issues to be addressed. Similarly, if the request is to convert a hearing to a prehearing conference, the reasons for the request must also be provided, and it must be delivered to the Manager of Hearings at least 25 days before the hearing date.

75. Serving Notice of Prehearing Conference If the Board agrees to schedule a prehearing conference, it will serve a Notice of Prehearing Conference or provide the Notice to the requester which the requester must serve. Where the requester serves the Notice, it must provide it to all

persons mentioned in Rule 74 at least 14 days or by a date specified by the Board before the date set, and file with the Board an affidavit proving service at the conference.

(Note: A form for an Affidavit of Service is attached at the end of these Rules.)

75.1 Notice of First Prehearing Conference Despite the time prescribed in Rule 75, in the case of the first prehearing conference, the Notice must be provided to the parties at least 90 days before the date set for the prehearing in the Notice unless the Board has ordered or the parties have consented to a different time.

76. Sample Procedural Order and Meeting Before Prehearing Conference The Board may provide a sample Procedural Order to the parties before a prehearing conference. (*The sample Procedural Order is in the Attachments to these Rules.*) Whether or not the sample is sent, the parties must meet before the conference to consider the subjects set out in Rule 73, and prepare to make recommendations for the conduct of the hearing to the Board at the prehearing conference.

Comments on Form of Statements

Statements of Issues and of Response are to be used to bring focus to prehearings and are to include the information required in Rule 83.

77 Prehearing Preparation Prior to the first prehearing conference, the parties must do the following:

- (a) at least 45 days before the date set for the prehearing, file a consent to a procedural order, addressing the prehearing process, following which the Board may issue a procedural order, or
- (b) exchange statements as follows:
 - (i) at least 45 days before the date set for the prehearing, the applicant must deliver a Statement of Issues to the other parties, and
 - (ii) where a party has received a Statement of Issues and intends to take part in the proceeding, it must deliver to the applicant and the other parties a Statement of Response responding to the Statement of Issues, at least 15 days before the date set for the prehearing.

77.1 Processes in Prehearing Conferences A prehearing conference in the prehearing stream may include some attempt at resolution by way of mediation or settlement conference or other form of alternative dispute resolution, and may also include a preliminary hearing of some of the issues (*see definitions in Rule 2*).

78. Board Member Presides Unless otherwise ordered in relation to an A.D.R. event, a Board Member will conduct the prehearing conference.

79. Method of Hearing The prehearing conference may be held in person or electronically. If any part of the prehearing conference will take the form of a preliminary hearing and a party objects to it being held electronically, the party must file an objection, including reasons, within 7 days of receiving the Notice. If the Board is satisfied that significant prejudice will result, the prehearing conference will be held in person.

80. Public Attendance at Prehearing A prehearing conference held in person will be open to the public, and one held by electronic conferencing will be open to the public where practical.

81. Conversion from One Procedure to Another The Board Member conducting a prehearing may conduct a procedural discussion, settlement conference or a preliminary hearing at any time, and may convert from one to another form on the consent of the parties. The Board may state in the notice of prehearing that the parties should arrive prepared for a procedural and settlement conference as well as a preliminary hearing where evidence or formal statements are heard. **Even if no settlement is reached, the Board may proceed to make a final decision on the evidence received during the conference.**

82. Results of Failure to Attend a Prehearing Conference If a party fails to attend the prehearing conference in person or by authorized representative, the Board may proceed without that party. The Board may dismiss a complaint where a party does not attend a prehearing conference.

83. Statement of Issues and Responses When Statements of Issues and of Response are ordered by the Board or are otherwise provided, they shall contain at least the following information, as applicable:

Note: A party may request that the Statements of Issues and of Response be filed with the Board under Rule 20.4.

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 similar property to be referred to by the complainant, if any;
- (c) identification of the vicinity claimed by the party; and
- (d) a listing of the information/documentation known at the time of disclosure and to be produced in evidence at the hearing.

If the issue is the classification of the property:

- (a) the classification requested;
- (b) a full statement of the grounds to support this classification; and
- (c) a listing of the information/documentation known at the time of disclosure and to be produced in evidence at the hearing.

If the issue is the cancellation, reduction or refund of taxes pursuant to the Board's authority under the *Municipal Act*:

- (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 listing of the information/documentation known at the time of disclosure and to be produced in evidence at the hearing.

84. Preliminary Hearing Following an A.D.R. Event If the Board is satisfied that a party reasonably objects to the same Member presiding at a preliminary hearing portion of a prehearing conference after presiding at an A.D.R. event at the prehearing, the Board may set a later date for the preliminary hearing before another Member.

85. Board Order Following Prehearing The Member conducting the prehearing conference may issue an order which may decide any of the matters considered at the conference, as well as provide procedural directions for any proceedings to follow.

86. Hearing Member Bound The Member conducting the hearing is bound by the procedural order resulting from the prehearing conference, unless the Member is satisfied that there is good reason to vary the order.

CERTIFICATES OF READINESS AND OBJECTION

86.1 Certificate of Readiness In a matter in the Prehearing Stream, each party shall file with the Board a Certificate of Readiness or Certificate of Objection, as the case may be, in the form prescribed by these Rules, as follows:

- (a) where a party is of the opinion that the matter is ready to proceed, the party may file a Certificate of Readiness with proof of service on the other parties;
- (b) where a party has been served with a Certificate of Readiness and the party objects to the matter being certified for hearing, the party must, within 10 days of the receipt of the Certificate of Readiness, file a Certificate of Objection with proof of service on the other parties. In the event that a party has not served and filed a Certificate of Objection within ten days of the date of receipt of the Certificate of Readiness as evidenced in the proof of service filed under clause (a) and has not, within that time, brought a Motion for an Extension of Time to file a Certificate of Objection, the party shall be deemed to have filed a Certificate of Readiness.

86.2 Prehearing Conference on Objection or Motion for Extension Upon receipt of a Certificate of Objection or a Motion for an Extension of Time, the Board shall schedule a prehearing conference with the parties to deal with the objection or motion, as the case may be, and may, as a result of that or any subsequent conference, issue an order declaring the matter ready to proceed.

86.3 Requirement for Scheduling No hearing for the purposes of finally resolving a complaint, application or appeal in the Prehearing Stream shall be scheduled until,

- (a) each party has filed a Statement of Issues or Response and a Certificate of Readiness, or
- (b) an order of the Board has been issued declaring the matter ready to proceed.

86.4 Prehearing on Status Where the parties have not filed their Certificates of Readiness within 6 months of the issuance of a procedural order and the file appears to be inactive, the Board may, on its own motion, hold a prehearing to determine the status of the matter.

(Note: A form for each of a Certificate of Readiness and a Certificate of Objection is attached at the end of these Rules.)

METHODS OF HOLDING HEARING EVENTS

Comments on In Person, Electronic or Written Hearings (Rules 87 to 97 below):

The Board may hold hearing events or any part of a hearing event in person orally), electronically or in written form. Written hearings can be held unless a party “satisfies the tribunal that there a good reason for not doing so” [section 5.1(2) of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22 (“SPPA”), as enacted as Schedule B of the Red Tape Reduction Act, 1999, S.O. 1999, c. 12].

Note: The Board cannot hold an electronic hearing ON ANY SUBSTANTIVE ISSUE if a party satisfies the Board that holding an electronic hearing rather than an in person hearing is “likely to cause the party significant prejudice”. The Board may hold an electronic hearing on procedural issues without the parties’ consent.

ELECTRONIC HEARINGS

Comments on Telephone Conference Calls or Videoconferences (Rules 87 to 92 below):

A hearing event by telephone conference or videoconference will generally be arranged by the Board. Notice is sent out by the Board or as directed by the Board. The process is difficult if lengthy documents are involved, and there will usually be a direction to file documents of over 10 pages before the conference. Cellular telephones must not be used for a telephone conference call. For videoconferencing, a full view of the participants will be arranged where possible.

87. Hearing Events by Teleconference or Videoconference The Board may hold a hearing event by teleconference or videoconference or other automated means to determine,

- (a) any matter of procedure; and
- (b) any other matter, unless a party objects and the Board decides that holding an electronic hearing event is likely to cause significant prejudice to the party.

88. Factors the Board May Consider In deciding whether to hold a hearing event by automated means, the Board may consider any relevant factors, such as,

- (a) the fairness and convenience to the parties;
- (b) the likelihood of the process being less costly, faster and more efficient;
- (c) whether it is a fair and accessible process for the parties;
- (d) whether the evidence or legal issues are suitable for an automated format; or
- (e) whether credibility may be an issue.

89. How to Object on Grounds of Significant Prejudice A party who objects to an electronic hearing shall file and provide a copy to the other parties, a written objection containing a statement of its reasons for claiming significant prejudice and the facts and evidence supporting the objection, at least 10 days before the date of the hearing.

90. Board Decision on Objection If the Board finds that an electronic hearing will not cause significant prejudice, it may confirm that it will hold an electronic hearing on the original date.

91. Protection for the Process The Board may direct the arrangements for the electronic hearing to protect the integrity of the hearing process, including the security and confidentiality of evidence, and will not permit a party to take part in a teleconference while using a cellular telephone.

92. Videoconferences All participants in videoconferences and all locations connected to the conference shall be in full view of the camera at all times, with minimal visual obstructions.

WRITTEN HEARINGS

Comments on Written Exchange of Evidence and Submissions (Rules 93 to 97 below):

The Board may hold written hearings, but cannot do so if a party satisfies the Board that there is a good reason for not doing so. If this occurs, the hearing must be either electronic (with the parties' consent if it is on the merits) or in person.

93. Power to Hold Hearing Events by Written Submissions The Board may conduct the whole or any part of a hearing event in writing, unless a party satisfies the Board that there is good reason for not doing so. The objection must be filed within 10 days of the date of the notice of written hearing event.

94. Factors Board May Consider In deciding whether to hold a written hearing, the Board may consider any relevant factors, such as,

- (a) the fairness and convenience to the parties;
- (b) the likelihood of the process being less costly, faster and more efficient;
- (c) whether facts and evidence may be agreed upon;
- (d) whether most of the issues are legal issues; and
- (e) whether oral testimony is likely to be necessary.

95. How to Object A party who objects to a written hearing shall file and provide a copy to the other parties, a written objection providing details of its claim that there is a good reason for not holding the hearing event in written form, within 10 days of the notice of written hearing.

96. Procedure for Exchange of Documents in Written Hearings If no notice of objection is received, the applicant shall provide to the Board and the other parties copies of its affidavit (*see Rule 97*) and submissions within 30 days after the date of the notice of the written hearing. If an objection has been made and rejected, the submissions should be filed 30 days from the date of the Board notice that the hearing would be held in written form. The submissions shall include,

- (a) the reasons for the application and the order requested;
- (b) the facts relied on;
- (c) the evidence supporting the facts; and
- (d) any law relied on.

The other parties wishing to respond shall do so by copy to all parties and the Board within 20 days of the date that the applicant's submissions were served, and shall include submissions, its affidavit and evidence. If a party has no submissions or evidence on any of the issues raised, this should be stated.

The applicant may reply to the other parties' responses with a copy to the Board within 10 days after the last date for service of the responses, and the reply shall be limited to submissions on the responses.

97. Requirement for Affidavit Evidence Evidence in a written hearing must be by affidavit, and any documents filed shall be attached to an affidavit of a person having personal knowledge of the document. The Board may permit evidence to be filed in a different form or in electronic form as approved by the Board upon request.

CONDUCT OF PROCEEDINGS

98. Hearings to be Public All Board hearing events will be open to the public except where the Board Chair, Vice Chair or Member determines that this is not possible or practical, such as mediations, some electronic or written hearings, or that a matter should be heard in the absence of the public.

99. Procedure at a Hearing The Board may by order fix the procedure at a hearing event unless these Rules or an Act provides differently.

100. Commencement of Hearings At the start of a hearing, the Board will confirm the name of the applicant and, for each property and assessment that is the subject of the hearing, the parties must confirm,

- (a) the roll number;
- (b) the name of the assessed person;
- (c) the municipal address;
- (d) the amount of the assessment; and
- (e) the property classification as returned on the roll.

101. Media Coverage - Photographic, Audio or Video Recording Photographic, audio or video recording of a proceeding which is open to the public will be permitted only on conditions which the Board considers appropriate.

102. Request to Record Proceeding A person wishing to record a proceeding must ask for authorization from the Chair as soon as possible after notice of the proceeding; from the presiding Member at the beginning of the proceeding; or as soon as the issue arises. The parties will be given the opportunity to comment on the request, and if the Board approves it, to make a request to vary the permission at any time. In evaluating the request, the Board will consider, among other issues,

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

103. Conditions of Approval The Board may approve recording on conditions, and the following conditions shall always apply to any approval to record:

- (a) only equipment which does not produce a distracting noise or light may be used, and it must be placed in one location approved by the Board;

- (b) a person recording shall not move about the hearing room while the proceeding is going on; and
- (c) the activity authorized will occur only within the times and portions of the proceeding determined by the Board.

104. Withdrawal of Approval The Board may withdraw permission to record temporarily or permanently if the conditions are not met; if any of the factors in Rule 102 become relevant; or if the Board in the circumstances cannot conduct a full and fair hearing.

105. Recordings and Transcripts The Board may permit a proceeding to be recorded, subject to the following:

- (a) Any party may arrange for the attendance of a qualified verbatim reporter at his or her own expense for the purpose of recording all testimony, but submissions may only be recorded with leave of the Board;
- (b) Before a qualified verbatim reporter is permitted to record only part of a proceeding, the party retaining the qualified verbatim reporter must obtain the consent of the Board. The Board may withhold its consent and shall not provide its consent if such a record would unduly prejudice any party;
- (c) If a party intends to make use of a transcript or partial transcript in a proceeding, the party shall notify the Board and the other parties to the proceedings of its intention and furnish a copy to the Board and the other parties free of charge.
- (d) The Board may, at its own expense and on notice to the parties, order a transcript or partial transcript from the qualified verbatim reporter without furnishing a copy of the transcript to the parties. In any such case, the Board will advise the parties that it has ordered the transcript and, where the Board orders a partial transcript, the Board shall notify the parties as to the part of the transcript that the Board has ordered.

WRITTEN REASONS FOR DECISION

106. Request required A party who requires written reasons for a Board decision must make a request for written reasons at the conclusion of the hearing or in writing within 14 days of the end of the hearing. *(A party intending to ask for a review of the Board's decision [see Rule 111 and following] must request written reasons.)*

BOARD DECISIONS

Comment on Conditions Imposed: Any conditions imposed in a decision must be fulfilled within a reasonable time. If not, the Board may reopen the hearing to determine whether to change its decision.

107. Issuing a Board Decision The Board Registrar will issue a written decision, unless the Board directs otherwise. The decision is effective on the date it is released, unless it states otherwise.

CORRECTING MINOR ERRORS IN DECISIONS

Comments on Minor Changes to Decisions (Rules 108 and 109 below):

The Board may correct a minor error in decisions or reasons, such as typing errors, incorrect figures or the language used, if needed. Such a correction does not change the decision reached by the Board Member(s). The Board may make such corrections without notice or on request. Corrections will be sent to all the parties. If a different type of error is claimed, see Rule 111 and following.

108. Correcting Minor Errors The Board may at any time and without prior notice to the parties 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. There is no fee if a party requests this type of correction.

109. Processing Request as a Review Request If a party requests a correction or clarification that in the Board's opinion is a request for a substantive change in the decision, the Board will treat it as a request for review under Rule 111.

109.1 Prohibition against Unilateral Communications Following the end of a hearing and before the issuance of a decision or written reasons, where written reasons are requested, whichever is later, no party shall undertake communications directly with the Member presiding in that hearing with respect to that hearing without notice to and consent of all other parties to that hearing.

REHEARING

110. Rehearing The Board may order that a matter be reheard if a Notice of Hearing was not issued or a party failed to attend a scheduled hearing because of circumstances outside of the control of a party.

Note: This provision does not apply to situations in which a party is seeking a rehearing based on grounds in support of an application to review a decision of the Board. This provision only applies to those rare situations in which a hearing could not take place because of an obvious situation where a party does not receive notice of a hearing or in situations in which a party could not attend a hearing and provide advance notice of their non-attendance because of, for example, a serious medical emergency arising just before the hearing event.

REVIEW OF A BOARD DECISION OR ORDER

Comments on Reviews and Rehearings (Rules 111 to 117 below):

There is a process for review of the findings in the decision. It is a three-step procedure:

- (1) *The Board must be convinced from the written material submitted in an affidavit that it is possible that there was an error in the original decision or process. Review requests will not be successful if they merely attempt to provide the same evidence or reargue the matter. No notice is given to the other parties at this stage, because there is no need for a response from them at this time.*

- (2) *If it appears that there might have been an error in the decision or part of it, the Board may hear a motion (oral or electronic) where all parties argue the question.*
- (2a) *If the error in the decision is patently obvious, the Board may without hearing a motion, direct that the matter be reheard.*
- (3) *If the Member hearing the motion decides that the claim of error is correct, either the decision is corrected, or if necessary the matter is reheard. The rehearing may follow right after the motion hearing, or at a later date. If the Board decides that the rehearing will take place immediately, this will be stated in the Notice of Motion supplied by the Board to the requester, and the requester then serves the other parties.*

Note: The Board requires very good reasons for changing a final decision. It will not review a decision if in its view the basic conclusions will not change even though there is an error in the decision. Therefore the second stage, the hearing of a motion, is not often reached.

If the reason for the request is "new evidence", the evidence must not have been available at the time of the hearing; the evidence must be credible, and material to the original result; the requester must act quickly upon becoming aware of it; and the prejudice to the requester must be far greater than the other parties' right to a final decision.

111. Board's Powers on Review The Board may review all or part of a decision, and may confirm, vary, suspend or cancel the decision. It may order a rehearing before a different Member.

112. Request for Review of a Board Decision The Board may consider a request to review a decision if,

- (a) the party requesting the review **has requested written reasons for decision under Rule 106;** and
- (b) the information and materials set out Rule 113 are provided to the Board.

Note: A request for review does not automatically stay the effect of the original decision, unless the requester asks the Board to make this order and the Board does so.

113. Contents of a Request A request for review shall be made in writing to the Chair of the Board **within 30 days** of the issue of the Board's decision, and shall include:

- (a) the requester's full name, address, telephone and fax number (if any) and e-mail address (if any);
- (b) the full name, address, telephone and fax number (if any) and e-mail address (if any) of the requester's representative (if any);
- (c) the requester's or representative's signature;
- (d) brief reasons for the request;
- (e) the desired result;
- (f) any documents which support the request, including copies of the original decision and new evidence that was not available at the hearing [see Rule 114(d)];
- (g) whether the requester has or will submit an application for leave to appeal or for judicial review to the court;
- (h) **a filing fee of \$125.00 (cheque or money order payable to the Minister of Finance); and**
- (i) **an affidavit stating the facts relied upon in support of the request.**

114. Reasons for Review The Board will hear a motion to review a decision or grant a rehearing without a motion only if the reasons provided in the request raise an arguable case that the Board,

- (a) acted outside its jurisdiction;
- (b) violated the rules of natural justice or procedural fairness, including allegations of bias;
- (c) made an error of law or fact such that the Board would likely have reached a different decision;
- (d) should consider new evidence which was not available at the time of the hearing, but that is credible and could have affected the result; or
- (e) heard false or misleading evidence from a party or witness, which was discovered only after the hearing and could have affected the result.

115. Initial Refusal The Board will refuse a review motion if,

- (a) the request is filed later than 30 days after the Board decision and written reasons issue, unless the Board determines that there is good reason to extend this time;
- (b) the requester does not supply all of the information and materials required in Rule 113 within 21 days of the Board's notice; or
- (c) it is a second request by the same party. The Board will not respond to correspondence raising the same or similar issues.

116. Procedure on Review Request The Board will determine initially whether the request has met one or more of the eligible grounds for such a review, without providing notice to the other parties. The Board may review or grant a motion request without submissions from other parties. If the requester has not obtained a motion date or a rehearing date within 90 days of the date of the Board letter granting a motion or rehearing, the decision to grant a motion or rehearing will be revoked. The requester must serve notice of the motion and any supporting material on the other parties who attended the hearing at least 30 days before the date set for the motion, unless the Board directs otherwise. Rules 33 and 34 requiring written responses also apply to this motion.

117. Procedure on Motion The motion for review must follow the general procedure for motions as set out in Rule 31 and following, except that the Notice of Motion must be served at least 30 days before the date set for the motion. The motion will generally be heard by a different Member than one who made the original decision, unless the request is based on new facts. At the hearing of the motion, the parties will be expected to address whether the request meets the Board's reasons for review under Rule 114.

NOTE: Definitions for any critical term used in the attachments will be found in section 2 of the Rules.

(ATTACHMENT - COMPLAINT FORM)



NOTICE OF COMPLAINT - Annual Assessment - 2007

Assessment Review Board, 655 Bay Street, Suite 1200, Toronto, Ontario M5G 2K4
Phone: (416) 314-6900 or 1-800-263-3237 **Fax:** (416) 645-1819 or 1-866-297-1822
Website: www.arb.gov.on.ca

PLEASE NOTE: THIS FORM IS FOR ANNUAL ASSESSMENT COMPLAINTS ONLY. DO NOT USE THIS FORM FOR ANY OTHER APPLICATIONS, APPEALS AND/OR COMPLAINTS. Issues of tax exemption can only be addressed by the superior court of justice.

Before Filing: Please contact MPAC at 1-866-296-6722, as you may be able to resolve your assessment through the Request for Reconsideration process without filing a complaint with the Assessment Review Board.

Complaint Deadline: Your complaint along with the required filing fee **must be filed by April 2, 2007.**

Important: Please attach a copy of your property assessment notice from the **Municipal Property Assessment Corporation (MPAC).**

Refund Policy: Please note that the required filing fee is non-refundable, except when it meets the criteria set out in Ontario Regulation 320/01, which states:

- That a **Request for Reconsideration** be filed with the Municipal Property Assessment Corporation (MPAC) **before** this assessment complaint is filed; **and**
- That the matter is settled through the request for reconsideration process **before** the corresponding hearing before the Assessment Review Board; **and**
- That this complaint with the Assessment Review Board is withdrawn **before** the start of the Board hearing.

Please refer to the Instruction Sheet for assistance with filling out this form.

Part 1: Property Information (Please print clearly)

Roll

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 number:

19 digit

roll-number – please see property assessment notice

Street Address: _____ Municipality: _____

Please choose preferred language: English French

Part 2: Reason(s) for Complaint (Please check ONLY the reasons that apply to your complaint)

- I believe the value assigned to the property is: too high too low
- I believe the property is incorrectly classified (See the Assessment Act for information about property classes.)
- My school support designation is: correct incorrect

If incorrect, please choose ONE of the following:

- Change school support to English Separate Change school support to English Public

- Change school support to French Separate Change school support to French Public

Other reason(s): _____
(If the reason for your complaint is not listed above, please describe the matter here.)

Part 2a: Special Property Class Tax Rates (this section is for farms, managed forests & conservation lands)

I believe the property is eligible for a special property class tax rate

**Please confirm your eligibility with the appropriate agency before filing with the Assessment Review Board. The Board will acknowledge your complaint and forward the matter to the applicable tribunal. Please see complaint form instructions for further information on property class tax rate programs.*

Farm

Does your property assessment notice classify your property as a farm? **yes** **no**

I believe this classification is: **correct** **incorrect**

I believe the value assigned to the property is: **too high** **too low**

If you checked this box, this matter will be heard at the Assessment Review Board.

I wish to request eligibility for:

- Farm Property Class Tax Rate Program (25%, or lower, of the Municipal Residential Tax Rate)**
If you checked this box, this matter will be forwarded to the Agriculture, Food and Rural Affairs Appeal Tribunal (AFRAAT).

Managed Forests

Does your property assessment notice classify your property as a managed forest? **yes** **no**

I believe this classification is: **correct** **incorrect**

I believe the value assigned to the property is: **too high** **too low**

If you checked this box, this matter will be heard at the Assessment Review Board.

I wish to request eligibility for:

- Managed Forest Tax Incentive Program**
If you checked this box, this matter will be forwarded to the Mining and Lands Commissioner.

Please provide your Managed Forest Plan Number: _____

How many acres are currently classified as managed forest? _____

Should the amount of managed forest be: **increased** **decreased** **remain the same**

Conservation Lands

Does your property assessment notice classify your property as conservation land? **yes** **no**

I believe this classification is: **correct** **incorrect**

I believe the value assigned to the property is: **too high** **too low**

If you checked this box, this matter will be heard at the Assessment Review Board.

I wish to request eligibility for:

- Conservation Land Tax Incentive Program**
If you checked this box, this matter will be forwarded to the Mining and Lands Commissioner.

How many acres are currently classified as conservation land? _____

Should the amount of conservation land be: **increased** **decreased** **remain the same**

Part 3: Third Party Complaint Information (Complete if you are NOT the owner of the property)

Name of assessed person/owner of property: _____

Mailing Address of above: _____

*Please note: According to the Assessment Act, the complainant **must** provide the name and address of the assessed person/owner of the property, and deliver or mail a copy of the complaint to the assessed person/owner by the April 2, 2007 filing deadline.*

Yes, I delivered/mailed a copy of this complaint to the above assessed person/owner on:

_____/_____/_____
day month year

Part 4: Complainant Information (information about person filing this complaint)

Have you filed a Request for Reconsideration with MPAC? yes no If yes, please enter date filed: ____/____/____
day month year

Do you have a representative? yes no (If yes, please complete Part 5 of this form)

Are you the owner of this property? yes no (If no, please complete Part 3 of this form)

Last name: _____ First name: _____

Company name (if applicable): _____

Mailing address: _____

Apt/Suite/Unit#: _____ City: _____ Province: _____

Country (if not Canada): _____ Postal code: _____

Business/other telephone #: _____ Home telephone #: _____

Fax #: _____ E-mail address: _____

Complainant signature: _____

Please note: You must notify the Assessment Review Board of any change of address or telephone number in writing.

Personal information requested on this form is collected under section 40 of the *Assessment Act*. After a complaint is filed, all information relating to this complaint may become available to the public. For additional information, please contact an ARB public inquiry assistant at (416) 314-6900 or toll-free at 1-800-263-3237. The *Assessment Act* is available at www.arb.gov.on.ca.

Part 5: Representative Authorization (Only fill out this section if you choose to have representation)

I hereby authorize the named company and/or individual(s) to represent me:

Company name: _____

Name of representative: _____

Mailing address: _____

Street address	Apt/Suite/Unit#	City
<hr/>		
Province	Country (if not Canada)	Postal code
<hr/>		
Telephone #: _____	Fax #: _____	E-Mail address: _____

Signature of complainant: _____

Please note: If you are representing the complainant and are NOT legal counsel, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on the behalf of the complainant. Please confirm this by checking the box below.

I certify that I have written authorization from the complainant to act as a representative with respect to this complaint on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 6: How to File a Complaint

IMPORTANT: The deadline for filing your complaint is **April 2, 2007**

File your complaint using only ONE of the following options:

Internet: www.arb.gov.on.ca - Use the E-FILE service (credit card required)

Mail: Assessment Review Board, 655 Bay Street, Suite 1200, Toronto, Ontario M5G 2K4

Fax: (416) 645-1819 or 1-866-297-1822 (toll free) (For complaints ONLY)

Due to the volume of faxes received, the ARB is unable to confirm receipt of faxes by phone – please print the

transmission report from your fax machine.

In person: 655 Bay Street, Suite 1200 (Bay Street, north of Dundas)

For additional information, call (416) 314-6900, (toll free) 1-800-263-3237 or visit our website: www.arb.gov.on.ca.

Please file your complaint only ONCE. If you are unsure that your filing attempt was successful and resubmit, please mark any other submissions COPY to avoid duplicate charges.

For office use only:

Fee Received: \$ _____ Cash Cheque Money order Credit card

Verified by: _____

Part 7: Required Filing Fee

Residential, Farm, Managed Forest & Conservation Land Properties..... \$75 for each Roll Number

Multi-Residential Properties, Commercial, Industrial & Other Properties \$150 for each Roll Number

The fee is non-refundable, except where provided by Ontario Regulation 320/01.

Total fee submitted: \$ _____ by: Cheque Money Order OR

Credit card: Visa MasterCard American Express

Credit card #: _____ Expiry date: ____/____/____
month year

Cardholder's name:

Cardholder's signature:

- If you are **not** paying by credit card, the filing fee must be received by cheque or money order, in Canadian funds, payable to the **Minister of Finance**. Please note the applicable roll number(s) on the front of the cheque or money order. **Please do not send cash by mail.**
- If you are paying by VISA, MasterCard or American Express, **the Board will accept a faxed complaint with the full credit card information requested above.**
- **Please note that if a financial institution returns your cheque, or if you cancel or stop payment, an administrative fee of \$35 will apply.**
- You will receive an **Acknowledgement Letter** followed by a **Notice of Hearing**.

The information you fill in under Required Filing Fee is confidential. It will only be used to process your complaint and will not be placed on file.

(ATTACHMENT - BOARD ORDER)

This is a sample of the Procedural Order that the Board issues after holding a prehearing conference. For further explanations and meanings of the terms used, see the attachment to this sample order. Note that the Board expects that the terms of the procedural order when issued will be met. If a party has not complied with a requirement of a procedural order, the Board will decide whether or not any part of or step in the proceeding, or any written or visual evidence or order is not valid as a result.



Assessment Review Board

Board Order No: _____
Previous Board Order No: _____

B/O DRAFT # _____

- | | |
|--|--|
| <input type="checkbox"/> MEMBER SEIZED FOR HEARING: (Evidence was heard) | <input type="checkbox"/> RELEASE |
| <input type="checkbox"/> MEMBER CONTINUITY SUGGESTED FOR CASE MANAGEMENT | <input type="checkbox"/> DO NOT RELEASE |
| | <input type="checkbox"/> FORMAT & RELEASE |

PLEASE PRINT

PreHearing Number: _____

Region Number(s): _____

Municipality(ies): _____

Roll Number(s): _____

Complaint Number(s): _____

In the matter of Section 33 and/or Section 34 and/or Section 40 of the Assessment Act, R.S.O. 1990, c. A.31, as amended, and in the matter of complaints with respect to taxation year(s) _____ with respect to the premises known municipally as:

BETWEEN: _____

Assessed Person(s) / Complainant(s)

-and -

The Municipal Property Assessment Corporation,

Region Number(s): _____ and the *Municipality(ies)* _____

Respondent(s)

APPEARANCES - AS PER SCHEDULE 'A'.

ORDER OF THE ASSESSMENT REVIEW BOARD

These matters having come before the Assessment Review Board at a Prehearing Hearing

Telephone Conference event on: _____
[Month – Day-Year]

The Board orders:

The Board orders this hearing is converted to prehearing and the complaint is transferred to the prehearing stream.

The complainant(s) shall serve a Statement of Issues on the Municipal Property Assessment Corporation (MPAC) and the municipality(ies) no later than: _____
[Month – Day-Year]

The Municipal Property Assessment Corporation (MPAC) shall serve its Response no later than: _____ on the complainant(s) and the municipality(ies).
[Month – Day-Year]

If the municipality(ies) intend to take part in the proceedings, the municipality(ies) shall serve its/their Response(s) no later than: _____ on the complainant (s) and MPAC.
[Month – Day-Year]

Each Statement of Issues and Responses shall identify all matters in dispute.

Productions are to be exchanged no later than: _____
[Month – Day-Year]

Inspections are to be completed no later than: _____
[Month – Day-Year]

Examinations for discovery and any related undertakings are to be completed no later than: _____
[Month – Day-Year]

This matter is adjourned to a further prehearing event:
 In Person By Telephone Conference **which will be held:**
(Start Time) _____ on **(Date)** _____
[Month – Day-Year]
at **(Location)** _____

Hearing Number: _____

The purpose of the prehearing is: _____

No further notice will be given. **OR** Further notice will be given.

For a Telephone Conference Call, no earlier than five minutes prior to the indicated start time **parties must** dial one of the following telephone numbers:

From Toronto: 416-212-0400 or From outside Toronto: 1-866-355-2663

After hearing the conference greeting **enter the code:** _____#. Your call will be connected to all other participants. Please remain on the line until the Presiding Member calls the hearing to order.

Note that for a Telephone Conference Call event the Board will proceed 10 minutes after the start time indicated if the parties have not yet appeared.

A Hearing will only be scheduled after the Parties have filed their Certificate of Readiness and all objections have been dealt with and/or when the Board declares that these matters are ready to proceed.

Member's Name (Please Print)

Member's Signature

Member's Name (Please Print)

Member's Signature

Attachments:
 Schedule 'A' Schedule 'B' Additional Instructions Other: _____

(ATTACHMENT TO SAMPLE BOARD ORDER)

Purpose of the Procedural Order and Meaning of Terms

The Board requires that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Board to order following the conference. The Board will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the pamphlet "Preparing for your Assessment Review Board Hearing" and the Board's Rules, from the Board Public Inquiry Unit, 30th Floor, 250 Yonge Street, Toronto, M5B 2L7, 416-314-6900 or 1-800-263-3237, Fax 416-314-3717, or the Board Website at www.arb.gov.on.ca.

Meaning of terms used in the Procedural Order:

"Party" includes a person entitled by the governing statute to be a party, and also those persons whom the Board accepts as parties, and who take part fully in the hearing by such activities as exchanging documents, providing testimony, presenting and cross-examining witnesses, and making submissions to the Board.

If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorization from the party.

NOTE: "Person", as defined in section 2 of the Rules, includes a corporation, partnership, bridge authority, agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law. A person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board's permission.

"Written Evidence" means material intended to be introduced into evidence at a hearing event, and includes reports, studies, documents, witness statements, photographs, maps, overlays, letters, charts, graphs, books of account and information recorded or stored by means of any device.

NOTE: Any written evidence submitted at a hearing must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material.

A **"witness statement"** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing.

NOTE: An expert witness statement should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing.

Additional Information

Summons: *A party who is not represented by a lawyer must ask the Chair, Vice Chair or a Board Member to issue a summons. This must be requested before the time that the list of witnesses is provided to the Board and the parties. (See Rules 37 and 38 of the Board's Rules on the summons procedure.)*

The Order of examination of witnesses: *is usually*

- (a) *direct examination, cross-examination and re-examination in the following way:*
 - (b) *direct examination by the party presenting the witness;*
 - (c) *direct examination by any party of similar interest, in the manner determined by the Board;*
 - (d) *cross-examination by parties of opposite interest;*
 - (e) *re-examination by the party presenting the witness; or*
 - (f) *another order of examination mutually agreed among the parties or directed by the Board.*
-

(ATTACHMENT – NOTICE OF MOTION)

ASSESSMENT REVIEW BOARD

In the matter of section.....of theAct.

(state the section number and the legislation under which the matter has been complained or appealed.)

and

In the matter of *(state the nature of the application, appeal, motion, etc.)*

NOTICE OF MOTION

ARB Complaint/Application No.....

(If more than 2, list on Attachment)

The *(name and address, phone and fax numbers and e-mail address (if any) of the person or party bringing the motion)* **will make a motion to the Board on (day) at (time) at (location of hearing). The estimated time required is hours. (or: has been granted a request for a motion by written hearing. The date for responding is (date).**

The motion is for *(state the decision or order desired).*

The grounds for the motion are *(specify the reasons for the request, including sections of statutes, regulations or rules that will be referred to).*

The following documents will be used [at the hearing of the motion]: *(list the affidavit(s) and any other documents to be relied on and attach a copy of them to the Notice of Motion when filed or served).*

(Optional) **I (we) intend to request permission to introduce oral evidence** *(describe the nature of the evidence, and state who will provide it)* **at the motion hearing.**

The next clause may be inserted if the Board directs it. If the motion is to dismiss an appeal or complaint without holding a hearing, the Board will notify the moving party of the procedure that will follow the motion if it is not granted:

(Insert if Board directs) **If the motion is not granted, the hearing will (follow immediately) (be held at a later date).**

Name, mailing and e-mail (if any) address, and telephone and fax (if any) numbers of the moving party or the moving party's representative

To: Names and addresses of responding party or representative, and all of the persons to whom the Board requires notice of the motion be given

(ATTACHMENT - AFFIDAVIT OF SERVICE)

ASSESSMENT REVIEW BOARD

ARB Complaint/Application No.....

(If more than 2, list on Attachment)

AFFIDAVIT OF SERVICE

I, (full name of person swearing or affirming), of the (City, Town, etc. of), in the (County, Regional Municipality, etc.) of
.....(state the person's capacity, if any, e.g. party, solicitor, representative, officer, member or employee of a party, etc.) **MAKE OATH AND SAY (or AFFIRM):**

1. Notice of the [written] hearing of this matter [at(place) commencing at a.m./p.m. on day, the day of,(year)] was given in the following manner:

(one of both of the following, as relevant:)

(i) **by delivering notice by prepaid registered (certified) mail (prepaid courier) (fax) on day of,(year) to (name the persons to whom mailed (faxed) (sent by courier); or if more than 2, refer to a list attached - The list of persons to whom such notice was mailed (sent) (delivered) is attached to this Affidavit as Attachment.....**

(ii) **by (describe any other means of service used, including personal service, as may have been directed by the Board in its letter giving instructions for service).**

2. Service of notice of the hearing in this matter is in accordance with the instructions given by the Board in its letter dated,(year)

3. The persons to whom notice has been given include the present parties and any person who requested in writing that notice be given.

4. This affidavit has been sworn by me in good faith and in support of....application under (legislation) and for no improper purpose.

**Sworn (or Affirmed) before me at
the (City, Town, etc.) of
in the (County, Regional Municipality, etc.)**

of....., on (date).

(Signature of person swearing/affirming
Affidavit)

Commissioner for Taking Affidavits
(or as the case may be)

(ATTACHMENT – NOTICE OF RESPONSE TO MOTION)

ASSESSMENT REVIEW BOARD

ARB Complaint/Application No.....
(If more than 2, list on Attachment)

In the matter of section.....of theAct.

(state the section number and the legislation under which the complaint or application has been made.)

and

In the matter of *(state the nature of the application, appeal, motion, etc.)*

NOTICE OF RESPONSE TO MOTION

ARB Complaint/Application No.....
(If more than 2, list on Attachment)

I /We/ The *(name and address, phone and fax numbers and e-mail address (if any) of the person or party responding to the motion)* **will make a response to the motion [to be made to the Board by (person making the motion) on (day) at (time) at (location of hearing)] (or if written hearing) and attach a response to the motion made by (person making the motion)**

The grounds to be relied on in response to the motion are *(specify the reasons, other than those given by the moving party, including any sections of statutes, regulations or rules that will be referred to).*

The following documents, in addition to evidence introduced by the moving party, will be used at the hearing of the motion [(if written) to be relied on] *(list the affidavit(s) and any other documents to be relied on, and attach a copy of them to the Notice of Response to Motion when filed or served.)*

(Optional) **I (we) intend to request permission to introduce oral evidence** *(describe the nature of the evidence and state who will provide it)* **at the motion hearing.**

Name, mailing and e-mail (if any) address, and telephone and fax (if any) numbers of the responding party or the party's representative

**To: Names and addresses of moving party
or representative, and all of the persons who received
notice of the motion**

(ATTACHMENT – CERTIFICATE OF READINESS)
(For use in Prehearing Stream only)

ASSESSMENT REVIEW BOARD

In the matter of section.....of theAct.

(state the section number and the legislation under which the matter has been complained or appealed.)

and

In the matter of (state the nature of the application, appeal, motion, etc.)

CERTIFICATE OF READINESS

ARB Complaint/Application/Appeal No.....

(If more than 2, list on Attachment)

I/We/The [name of the counsel, agent or person who filed the complaint, application or appeal] certify that this matter is ready to be heard by the Board, as follows:

1. My/our best estimate of the time required for the hearing of this matter is [number] days.
2. I/We propose that the hearing be scheduled for [date(s)].
3. I/We confirm that Statement(s) of Issues and of Response have been delivered.
4. There are no contemplated or outstanding motions, including motions to amend the Statement(s) of Issues or of Response.
5. Productions, inspections, discoveries and undertakings are complete or are not necessary.
6. Expert reports and witness statements have been exchanged and filed or will be exchanged and filed by [date] or, in any event, no later than 10 days prior to the hearing. I/We acknowledge that reports not so exchanged will not be admitted as evidence at the hearing without leave of the Board.

Signed on [date] **in** [name of municipality]

Signature: _____

Print Name: _____

Address: _____

Telephone # _____

Fax # _____

E-mail _____

In order to obtain a hearing date, this form as completed must be delivered to all parties (including parties who have not appeared, but which are required by law to be parties). If a party objects to this matter being certified for hearing, that party must file a completed Certificate of Objection in the prescribed form within 10 days of the delivery of this Certificate and a prehearing, if not already scheduled, will be scheduled to consider the objection.

(ATTACHMENT – CERTIFICATE OF OBJECTION)
(For use in Prehearing Stream only)

ASSESSMENT REVIEW BOARD

In the matter of section.....of theAct.

(state the section number and the legislation under which the matter has been complained or appealed.)

and

In the matter of (state the nature of the application, appeal, motion, etc.)

CERTIFICATE OF OBJECTION

ARB Complaint/Application/Appeal No.....

(If more than 2, list on Attachment)

I/We/The [name of the counsel, agent or person who has received a Certificate of Readiness] have received a Certificate of Readiness of [name of party] and object to the certification of this matter as ready for hearing for the following reasons:

1. _____
2. _____
3. _____
4. _____

I/We certify that my/our best estimate of the time at which these complaints will be ready to be heard is no earlier than [date].

Signed on [date] **in** [name of municipality]

Signature: _____

Print Name: _____

Address: _____

Telephone # _____

Fax # _____

E-mail _____