



**EDMONTON
TRIBUNALS**
*Assessment
Review Board*

Hearing Procedures

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Table of Contents

1. Definitions	3
2. Hearing Procedures Review and Amendment	4
3. Complaint sufficiency	5
4. Party Notification	6
5. Scheduling	7
6. Joint Hearings	8
7. Postponements and Rescheduling	9
8. Postponement Decisions	10
9. Agreement to Correct and Joint Recommendations	11
10. Withdrawals	12
11. Continuation of a Hearing	13
12. Management of Challenging Parties	14
13. Refunds	16
14. Costs Applications	17
15. Re-hearings	19
16. Rounding	20
17. Decisions	21
18. Access to Records	22

1. Definitions

- 1.1. In this Policy Manual, the following definitions apply:
- a. “Act” means the *Municipal Government Act*, RSA 2000, c M-26;
 - b. “Board” means the Composite Assessment Review Board or the Local Assessment Review Board;
 - c. “Bylaw” means the City of Edmonton, Bylaw 18308, *Assessment Review Boards Bylaw*;
 - d. “Chair” means the individual appointed as the Chair of the Committee by Council;
 - e. “Clerk” means the Clerk of the Assessment Review Board and an individual to whom the Clerk has delegated the duties and responsibilities under the Bylaw;
 - f. “Committee” means the Assessment Review Board Administrative Committee consisting of the Chair and up to three other members.
 - g. “Member” means a Member of the Board
 - h. “MRAC” means the *Matters Relating to Assessment Complaints Regulation*, 2018, Alta Reg 201/2017;

2. Hearing Procedures Review and Amendment

- 2.1. The Clerk will review the Hearing Procedures annually.
- 2.2. The Chair will approve or amend the Hearing Procedures as recommended by the Clerk.

3. Complaint sufficiency

- 3.1. The Clerk will schedule a merit hearing for a complaint if:
 - a. The complaint includes the required information;
 - b. The complaint was received within the filing deadline for that particular complaint;
and
 - c. The complaint fee was received before the filing deadline for that particular complaint.
- 3.2. After the complaint deadline, for any complaints that do not qualify to be scheduled under 3.1, or where payment of a complaint fee fails for any reason, the Clerk will schedule a preliminary hearing before a one-member Board to determine the complaint's sufficiency.
- 3.3. The Clerk will send preliminary hearing notices to the parties not less than 15 days before the preliminary hearing indicating:
 - a. The date, time, and location of the preliminary hearing;
 - b. The disclosure deadlines; and
 - c. The date by which a party must submit a written request to appear if they wish to be present at the preliminary hearing.
- 3.4. A request to appear at a preliminary hearing must be received by the Clerk at least 7 days before the hearing date.
- 3.5. If the Clerk does not receive a request to appear under 3.4, the preliminary hearing will proceed based on the complaint form and any written submissions of the parties.

4. Party Notification

- 4.1. Where the Clerk is required to send a notification to the Complainant, the Clerk will also notify the following persons:
 - a. Owners of the subject property;
 - b. The Complainant's legal counsel, if identified by the Complainant; and
 - c. The Complainant's agent, if an Agent Authorization Form is received.
- 4.2. When the Clerk receives written acknowledgment from the Complainant stating that e-mail notice will be accepted, the Clerk will send all future notifications related to that complaint to that party by e-mail.
- 4.3. Where the Clerk is required to send a notification to the Respondent, the Clerk will notify the Assessor and Supervisor

5. Scheduling

- 5.1. The Clerk will develop and implement procedures for the scheduling of hearings that achieve a balance between the following objectives:
 - a. Ensuring that all legal requirements are met;
 - b. Ensuring that hearings are scheduled as soon as possible; and
 - c. Making the most efficient use of resources including hearing rooms, Members, and Board Administration.
- 5.2. When scheduling hearings the Clerk will, where possible, schedule cases into the same day and the same week when they are similar with regard to:
 - a. The type of property;
 - b. The location of the property;
 - c. The representative of the City; and
 - d. The Complainant or agency representing the Complainant, if any.
- 5.3. The Clerk may request input from parties or their Agents associated with multiple hearings on the most efficient scheduling and may take that input into account when scheduling hearings.
- 5.4. Subject to section 5.5, when scheduling a hearing, the Clerk will schedule:
 - a. a preliminary hearing via written hearing, unless the matter includes a motion to dismiss the complaint, in which case the preliminary hearing will be heard via video conference;
 - b. hearings to be heard via video conference, teleconference, in writing or in person.

The Clerk will consider the expressed preference of the Complainant at the time the complaint was filed, the availability of participants, and Board resources when scheduling.

- 5.5. In the event a party wishes to change the mode of hearing assigned by the Clerk, that party may submit a written request to the Clerk 14 days before the hearing setting out:
 - a. The mode of hearing they are requesting; and
 - b. The reason for the change.

The Clerk will provide notice of the request to the other party, and ask for their response within 7 days. If there is no objection, the request will be granted by the Clerk. The Clerk will present

the request and response to a single panel member, who will inform the parties in writing of the mode of the hearing.

6. Joint Hearings

- 6.1. The Clerk may schedule multiple complaints, preliminary matters, costs applications, or other matters to be heard in a single agenda where either:
- a. It is consented to by all other parties to the matters; or
 - b. It is administratively efficient to hear the matters at the same time, and:
 - i. The evidence to be heard with regard to each matter is expected to be similar;
 - ii. The issues with regard to each matter and the argument on those issues is expected to be similar;
 - iii. The parties to the matters are the same;
 - iv. Hearing the matters together will help the Board achieve a fair and consistent outcome; and
 - v. There is no significant prejudice to any party to the matters from hearing the matters together.

7. Postponements and Rescheduling

- 7.1. All requests must be received by the Clerk no later than 14 days prior to the hearing. The request will be forwarded to the other parties, and the Clerk will ask for their position within seven days.
- 7.2. The Clerk will forward all responses to the other parties.
- 7.3. After the deadline for response has passed or receipt of all parties' positions on the request, the Clerk will schedule a preliminary hearing without notice and without an appearance before the appropriate one-member Board.
- 7.4. Any requests received within 14 days of the hearing date may be considered as a preliminary matter at the hearing.

8. Postponement Decisions

- 8.1. Where a Board hears a request for postponement or rescheduling of a hearing to a different date, whether as a preliminary matter or in the course of a merit hearing, the Board must determine in accordance with s. 18 of MRAC.
- 8.2. Where a Board grants a request to postpone or reschedule a hearing, that decision must be made in writing, and in addition to the requirements of all written decisions must state:
 - a. A specific date, time, and location for the hearing;
 - b. Whether and how the dates for the disclosure of evidence and written argument have been changed; and
 - c. That no further notice will be provided of any postponed or rescheduled hearing.
- 8.3. In addition to the written decision, where the parties have appeared before an Assessment Review Board, the Board may notify the parties orally of a decision to grant a postponement or rescheduling request.

9. Agreement to Correct and Joint Recommendations

- 9.1. If at any time before the hearing, the Respondent issues an Amended Assessment Notice, the complaint will be cancelled.
- 9.2. If at the outset of the hearing, the parties submit a joint recommendation, the Board will accept the recommendation if it is fair and equitable. If upon deliberation the Board determines further information is required, they will seek further submissions from the parties.
- 9.3. If during the hearing, the parties reach an agreement regarding a complaint and a verbal joint recommendation is made to the Board, the Board will accept the recommendation if it is fair and equitable.
- 9.4. Where the Board accepts a joint recommendation, the Board's written decision will incorporate the terms of the joint recommendation.

10. Withdrawals

- 10.1. The Clerk may cancel any hearing in which the Clerk has received written notice of withdrawal which:
 - a. Identifies the complaint;
 - b. Indicates that the complaint should be withdrawn; and
 - c. Is signed by the Complainant or an agent authorized to act on the Complainant's behalf, unless the notice of withdrawal is submitted online.

11. Continuation of a Hearing

- 11.1. If a hearing does not conclude in the time scheduled, a new date, time and location for the hearing will be identified and the Board will continue the hearing on that date.
- 11.2. If, after a hearing has closed, the Board is of the opinion that further submissions are required, the Board may continue that hearing by requesting further submissions from the parties.
- 11.3. A hearing can be continued only if the Board has not yet issued a written decision.

12. Management of Challenging Parties

- 12.1. The Board may determine that a party to a hearing is a challenging party if the person engages in:
- a. Inappropriate behaviour in the course of the hearing or in communication with the Board or the other party;
 - b. Persistent refusal to comply with the Board's instructions or rulings; or
 - c. Repeated actions that adversely affect the fairness and efficiency of the hearing process.
- 12.2. Inappropriate behaviour includes, but is not limited to, the following:
- a. Engaging in abusive, disorderly, delaying or threatening behaviour which directly or indirectly disrupts or obstructs the progress of the hearing;
 - b. Engaging in any disruptive conduct, gesture, or verbal exchange which a reasonable person would believe shows contempt or disrespect for the hearing, the other party or the panel, or which a reasonable person would perceive as intimidating;
 - c. Disregarding the authority of a member of a hearing panel or Board administration, for example, refusing to comply with directions; or
 - d. Making or causing to be made an electronic recording, photograph, screenshot or court reporter transcription of any hearing, unless the Board authorizes these activities.
- 12.3. To remedy prohibited conduct, the Board may take such steps as it deems reasonable, including, but not limited to, the following:
- a. Verbally warn the offending party that their actions are not acceptable and must stop;
 - b. Take a recess to reduce any tension or emotion;
 - c. Set time limits for making submissions at each stage of the hearing; or
 - d. Direct that the hearing proceeds with written submissions only (no oral hearing).
- 12.4. To establish the process for a hearing through written submissions, the Board may issue a procedural order,
- a. Setting timelines for submission of parties' written evidence, arguments, and summation;

- b. Establishing the format for the parties' submissions;
 - c. Requiring service of submissions from one party to another party; or
 - d. Establishing any further requirements deemed appropriate to conduct a fair hearing in written format.
- 12.5. Any direction or order made in regard to a challenging party will apply only to the current hearing involving that party, and any continuation of that hearing, but not to any other hearings involving the same party.

13. Refunds

- 13.1. The Clerk will refund complaint filing fees to parties in accordance with the requirements of s 481 of the Act.
- 13.2. The Clerk will refund complaint filing fees to the person who paid them.

14. Costs Applications

Costs applications during the hearing

- 14.1. Where, in the course of a hearing, a Composite Assessment Review Board finds it may be appropriate to exercise its discretion to award costs, or an application for costs has been made, the Board may request evidence and argument on the possible award of costs from the parties prior to closing that hearing, notwithstanding the fact that the evidence was not disclosed.

Written costs applications after the hearing

- 14.2. A written application for costs must be received no later than 30 days after the conclusion of the hearing and must identify the roll number and date of the hearing for which costs are requested, the grounds for seeking costs, the amount of costs claimed and how the requested amounts were calculated, with reference to Schedule 3 of MRAC.
- 14.3. Upon receiving a written application for costs, the Clerk will forward the application to the other parties and will schedule a hearing for costs.
- 14.4. The Clerk will send the costs hearing notice to the parties not less than 30 days before the costs hearing date and the notice will contain:
- a. The date, time, and location of the costs hearing;
 - b. The disclosure deadlines; and
 - c. The date by which a party must make a request to appear if they wish to be present at the costs hearing.
- 14.5. The Clerk will require parties to a cost hearing to disclose their evidence in accordance with the following timelines:
- a. Applicant's evidence – at least 21 days before the costs hearing date;
 - b. Respondent's evidence – at least 14 days before the costs hearing date;
 - c. Applicant's rebuttal evidence – at least 7 days before the costs hearing date.
- 14.6. Wherever possible, the Clerk will schedule costs hearings to be heard by the same Composite Assessment Review Board that heard the matter from which the costs application arises.
- 14.7. The Clerk will schedule all applications for costs arising from the same hearing as one hearing and may reschedule costs hearings as required.

- 14.8. Where a costs hearing is rescheduled by the Clerk, the Clerk will send notice of the revised date and revised deadlines to affected parties.
- 14.9. The Board will render a decision arising from a cost hearing within 30 days of the last day of the hearing.
- 14.10. The Clerk will send a cost hearing decision to the parties within 7 days of receiving the decision.

15. Re-hearings

- 15.1. Unless otherwise directed by a court, when a decision of a Board is returned to the Board to rehear, the Clerk will schedule the re-hearing as a hearing *de novo*, with new disclosure dates and notification periods calculated in accordance with the MRAC.
- 15.2. The Clerk will schedule the re-hearing before Members who have not heard the matter before unless the court directs otherwise.

16. Rounding

- 16.1. Subject always to the Board's authority to determine a fair and equitable value, in its decision a Board will round total assessment figures to the lowest \$500 increment.
- 16.2. Where an assessment is divided among more than one assessment class, only the total assessment will be rounded.

17. Decisions

- 17.1. If the Complainant has identified an authorized representative, the Complainant's copy of the decision will be sent to that representative.
- 17.2. In addition to issuing written decisions to the parties to a hearing, and in the interests of transparency and public access, the Clerk will publish Assessment Review Board decisions electronically through the Canadian Legal Information Institute ([CanLii.org](https://www.canlii.org)).
- 17.3. Assessment Review Board decisions that are not available online may be accessed by request to the Clerk.

18. Access to Records

- 18.1. The Clerk will permit access to Assessment Review Board's records only in accordance with this procedure and any applicable legislation.
- 18.2. Records may be accessed if the Clerk is satisfied that the records include no personally identifying information belonging to anyone other than:
 - a. Information that has already been made public by the Assessment Review Board;
 - b. The party making the request; and
 - c. Any persons who have provided that party with specific written authorization to have their personal information accessed.
- 18.3. When processing a request for access to records, including electronic recordings, the Clerk may assess reasonable fees to the person making the request, taking into consideration:
 - a. The resources required to process the request; and
 - b. The type and size of the records requested.
- 18.4. For the purposes of this procedure, an Agent Authorization Form is not specific written authorization to have personal information accessed after a final decision is rendered on the complaint to which the Agent Authorization Form applies.