

Alberta Municipal Government Board

PROCEDURE GUIDE

JANUARY 2000

Alberta Municipal Government Board

PROCEDURE GUIDE

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(clerical correction from 2000)

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(clerical correction from 2000)

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SCHEDULE OF FORMS

The forms in this section have been amended since January 2000 and, therefore, they have been removed from the Procedure Guide.

Alberta Municipal Government Board

Procedure Guide

1. INTRODUCTION

The Municipal Government Board (“Board”) has created and produced this guide to assist individuals and groups to understand the processes and activities encountered when submitting appeals to and/or appearing before the Board. It is hoped that through increased understanding people will be more at ease with these processes.

It is the belief of the Board that an increased level of comfort with the process will assist people in presenting their positions to the Board and will lead to increased satisfaction by participants. Most important is to have parties experience a fair hearing on all issues under appeal; that they have been fairly heard, and that the decision has been presented to them in a form that is understandable and is supported by reasons.

This guide is to provide parties with information on the requirements of the Board as set out in legislation. The procedures outlined are intended to supplement the legislation and to provide an appreciation, in lay terms, of legislative requirements. Where the legislation is silent on process these are the procedures of the Board. In this guide, where any procedure is in conflict with the legislation, the legislation takes precedence.

1.1 Mission Statement of the Municipal Government Board

The Municipal Government Board shall provide timely, independent, quasi-judicial appeal adjudication to all parties in the areas of assessment matters, planning, subdivision appeals, inter-municipal

disputes and annexation recommendations, that yields fairness and equity consistent with the authority of the Municipal Government Act.

1.2 Jurisdiction of the Municipal Government Board

- a) The jurisdiction of the Board is outlined in section 488 of the Municipal Government Act (“Act”).
- b) Pursuant to section 523 of the Act, the Board may make rules regulating its procedures and may vary those procedures to meet particular circumstances.

2. OVERVIEW OF PROCEDURE GUIDE

2.1 Purpose of the Procedure Guide

The purpose of the Procedure Guide is to:

- a) inform parties of the steps required to appeal decisions, disputes and/or complaints to the Board;
- b) ensure a fair, open and accessible process;
- c) increase the efficiency and timeliness of appeal proceedings;
- d) enable the Board to fulfill its statutory mandate; and
- e) explain the appeal hearing process in order to assist all parties to be prepared.

2.2 Operating Principles

The Procedure Guide (“Guide”) recognizes and responds to certain principles while adhering to the requirements established in legislation directing the activities of the Board. These principles include :

- a) to ensure natural justice is provided to all parties;
- b) provide parties with an opportunity to be heard;
- c) simplify processes so they can be understood and followed by all parties without compromising parties’ rights to natural justice;
- d) conclude each appeal in an efficient, effective and fair manner;

- e) complete the appeal process in a timely manner, to minimize the impact on the resources of all parties and to meet the time lines set out in the Act;
- f) treat, and be seen to be treating, all parties fairly through the application of consistent procedures;
- g) provide fair and reasonable notification and communication of all steps in the process to parties involved in the process;
- h) provide opportunities and support for parties to resolve issues under dispute prior to appeals being adjudicated by the Board;
- i) ensure the Board's services are accessible;
- j) provide clarity of process in making and delivering decisions; and
- k) present clear decisions with clear reasons for the decisions.

2.3 Application of Procedure Guide

- a) This Guide applies, in whole or in part, to appeals of the Assessment Review Board, linear assessments, equalized assessments, subdivision appeals and inter-municipal disputes.
- b) In the event of a conflict between the Guide and any statute or regulation the statute or regulation takes precedence.
- c) These procedures are intended to serve as a guide for the Board and parties before the Board and are not intended to fetter the discretion or authority of the Board in its activities and decision making.
- d) The Board will consider each appeal on a case by case basis and exercise discretion in the application of this Guide.
- e) Where the parties find that these procedures are not applicable to their specific case, a proposed variation of the procedure may be discussed with the Board.
- f) Any defect or other irregularity in form does not invalidate any Board proceeding, process, or decision.

3. GENERAL RULES

The “General Rules” of the Board are meant to assist people in understanding how the Board defines specific tasks, functions and responsibilities of the Board, and of those parties who make requests of and/or appear before the Board. The Board will usually act in these defined ways or interpret activities of parties according to the general rules outlined below.

Prior to the Board taking any actions that may be seen as being contrary to the general rules, the Board will advise the parties of the changes. The Board will do so only in situations deemed to provide individuals or groups with opportunities for receiving a fair and complete hearing of their appeal.

3.1 Powers of the Board

- a) The Board may exercise any of its authority under the Guide on its own initiative or at the request of a party.
- b) In addition to the rules in the Guide, the Board may issue general or specific procedure directions at any time providing the procedure directions comply with the Act, the regulations, the principles of natural justice and administrative law.
- c) The Board may waive or vary these procedures.

3.2 Parties to the Appeal

The following are parties defined in the Guide:

- a) persons specified as parties by the statute under which the appeal proceedings arise; or
- b) persons otherwise entitled by law to be parties to the proceedings.

3.3 Representation

- a) Parties may be represented in an appeal by any person. The Board may require written authorization to confirm authority to represent the party.
- b) An appellant/complainant is a party or parties lodging an appeal

- c) A respondent is the party or parties who must reply to the appeal made to the Board.

- d) Where an appellant/complainant or respondent is represented by a third party, the Board may communicate through the representative. If necessary to ensure fairness, the Board in its discretion, may also communicate with the represented party.

3.4 Non-attendance or Non-participation

Pursuant to section 495 of the Act, where any person who is given notice of the hearing does not attend, the Board may proceed to deal with the matter where it is satisfied that all persons required to be notified were given notice.

3.5 Board Proceedings

Board proceedings may take place as pre-hearing meetings, preliminary hearings and/or appeal hearings. The Board may combine any or all of these in any combination and/or sequence.

3.5.1 Pre-Hearing Meetings

A pre-hearing meeting is a non-adjudicative meeting held prior to the appeal for the purpose of case management.

- a) Pre-hearing meetings may be called by the Board to initiate discussions between parties; to determine and clarify the issues in dispute; to determine the necessary procedures to resolve the matter; and/or to determine where an agreement can be reached on issues without involving the Board.
- b) Board members participating in pre-hearing meeting may be restricted from being involved in the preliminary hearing or the appeal hearing in this matter.
- c) Pre-hearing meetings may be conducted by a member(s) of the Board and/or Board administration to identify issues or resolve concerns in determining if the appeal may proceed to a appeal hearing, or if a preliminary hearing is required prior to the appeal hearing to determine issues such as scheduling, exchange of documents, procedures, and related matters.

3.5.2 Preliminary Hearings

A preliminary hearing is an adjudicative hearing which addresses related matters, except merit issues, concerning any appeal and which results in formal Board directives.

- a) Preliminary hearings may be requested by any of the parties to an appeal, or the Board may direct the parties or their representatives to attend one or more preliminary hearings for the purpose of the consideration of any matter including:
 - i) identification of the parties and other interested persons and the scope of their participation at the hearing;
 - ii) scheduling the date, time, length, and place of the appeal hearing;
 - iii) dealing with preliminary matters such as: the jurisdiction of the Board; timeliness of the appeal/complaint; the disclosure and exchange of documents; and the evidence or witness information to be entered at the appeal hearing;
 - iv) agreement on the issues and facts to be brought forward at the merit appeal hearing;
 - v) clarification of and setting procedures to be followed at the hearing;
 - vi) any other matter that may assist in the fair and most expeditious disposition of the proceedings.
- b) The Board will not accept, nor permit, any evidence or argument concerning any issues of merit under appeal at the preliminary hearing.
- c) The Board will notify parties, and other persons as the Board considers necessary, in writing at least fourteen (14) days in advance of the date, time and place of the preliminary hearing.

3.5.3 Appeal Hearing

An appeal hearing is an adjudicative hearing to receive evidentiary submissions and arguments that relate to any issue(s) under appeal and may deal with substance of the appeal as well as preliminary matters, jurisdictional and legal matters.

3.6 Format of Hearings

All evidence is subject to the disclosure requirements in this Guide as noted in section 5 - Evidence and Witnesses. Evidence and arguments may be presented to the Board by the following methods:

- a) Oral representation involves the parties or their representatives attending in person before the Board. Written submissions may be provided to the Board and other parties prior to the hearing with the parties then appearing in person with or without expert witnesses and advocates to make an oral presentation. The general procedure with respect to oral hearings is presented in section 10.2
- b) Written representation involves the exchange of written submissions from all concerned parties when the hearing is not attended in person by parties to the appeal or their representatives. The Board may proceed with a hearing where one or both parties are not represented in person or by a third party, either by agreement or as determined by the Board. Hearings involving written presentations are described in greater detail in section 10.5.
- c) Evidence in written submission may include an affidavit. An affidavit may be subject to questioning by the parties and the Board. In its discretion, the Board will place the appropriate weight on the information supplied by the affidavit.
- d) Electronic representation involves the parties or their representatives meeting by conference telephone or other form of electronic technology which allows persons to hear, or to hear and see, one another. Written submissions may also be included. Hearings involving electronic representation are described in greater detail in section 10.6 of this Guide.
- e) After consultation with the parties the Board may decide that, based on the sufficiency of the written submissions, oral representation is not required.

3.7 Communications with the Board

- a) All communications with the Board, outside the hearing itself, must be made through the administration of the Board.
- b) Communications with the Board may be made in person, by telephone, fax, electronic mail (Email), the Internet or by regular mail. See section 6.1(c) for the address and numbers.
- c) Where a party is represented by a third party, the Board may communicate with the party through the third party.
- d) After the filing of an appeal/complaint, all communications with the Board must be copied to all parties to the appeal.

3.8 Timelines

Pursuant to the Interpretations Act:

- a) where there is a scheduling reference to a number of days between two events the first day is not counted;
- b) where a period of less than seven (7) days is prescribed, holidays are not counted;
- c) where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday;
- d) where a document would be deemed to be received or made effective on a day that is a holiday, it will be deemed to be received or effective on the next day which is not a holiday;
- e) holiday means Saturday, Sunday, any statutory holiday, and/or any other recognized provincial or civic holiday.

3.9 Amending the Timeline Requirements

- a) The Board may, at any time and on such conditions as it considers appropriate, amend the time prescribed for the performance of any obligation under the Guide providing that the change is consistent with achieving the time lines set out in the Act and the regulations, and is consistent with the principles of natural justice and administrative law.

- b) The Board will provide notification to the parties to the appeal, where changes to time obligations have been requested, and offer an opportunity for response to the proposed changes. The Board makes the final decision on such requests.
- c) The Minister of Municipal Affairs has the authority pursuant to section 605 of the Act, to amend the one-hundred-fifty (150) day time limit for the Board to make its decision as set out in section 500 of the Act. Requests to the Minister for extensions are initiated by the Board.

4. APPLICATION FOR COSTS

4.1 Introduction

Pursuant to section 501 of the Act, the issue of costs may be addressed by all parties to the appeal or by the Board.

Parties subject to costs under this section must have the opportunity to provide their positions on the request for costs prior to a decision on the costs.

Request for costs may be considered by the Board where it is of the opinion that as a result of a party abusing the appeal process and through such abuse a party or the Board incurring additional or unnecessary expenses. The Board may consider cost requests for expenses incurred by a party and/or by the Board. Board costs result from a loss of hearing time or the creation of additional hearing time owing to an abuse of process.

4.2 Request for Party Costs

The Board may award costs to cover all or part of expenses incurred by one party owing to a breach by the other party of any of the rules in this Guide or as established by a panel for a specific hearing.

- a) The Board may award costs against one or more parties and/or their representatives, and instruct by whom and to whom those costs shall be paid.
- b) As determined by the Board, costs may include:
 - i) travel expenses at reasonable or actual rates;

- ii) hearing related out-of-pocket expenses (for example, parking, meals, etc.);
 - iii) fees and travel expenses of witnesses;
 - iv) fees for legal counsel; and
 - v) other related hearing costs that may be incurred.
- c) The Board may require supporting invoices of costs.
- d) The Board may deal with the request for costs at the first instance it is raised **or** it may request that parties exchange information and rebuttals within a specified time period and may set a separate time to deal with the matter of costs.
- e) The Board may decide to consider the request for costs through oral representation **or** it may limit the presentations to written submissions.
- f) The Board will deal with a request for costs in a timely fashion. The target timeline for a decision on costs is sixty (60) days from the date of the hearing, or the date of the request where no hearing is deemed necessary, or a greater time if deemed necessary by the Board in complex matters.

4.3 Board Costs

The Board may award costs to cover all or part of its costs where it is satisfied that a party has breached the rules or otherwise acted in a manner considered to be detrimental to the other parties or to the operations of the Board.

- a) The Board may order Board costs against any or all parties to the appeal for the following. Where a party:
- i) has acted contrary to an agreed upon or Board instructed process;
 - ii) causes unreasonable delays or postponements;
 - iii) other like behaviour;

which results in additional costs to the Board for lost hearing time or the creation of additional hearing time.

- b) In its discretion, the Board will determine costs using established government rates.

5. EVIDENCE AND WITNESSES

The purpose of this section is to ensure fairness through communication. The information in section 5.1 applies to evidence and witnesses unless other regulations apply. Section 5 sets out the requirements for evidence and witnesses where the Complaints and Appeal Regulation 55/99 applies to the appeal.

Under section 496 of the Act, the Board is not bound by rules of evidence or any other law applicable to Court proceedings and has the power to determine the admissibility, relevance and weight of any evidence.

The Board needs full and complete information to fulfill its obligation and mandate under the Act, and to adjudicate appeals. In order to achieve the principles of natural justice, parties to an appeal need access to relevant evidence. The Board, in its discretion, will determine which evidence is relevant, necessary and the format in which the information will be released.

5.1 Disclosure

Disclosure is necessary to ensure that each party has knowledge of the case of the other party. There are to be no surprises at the hearing. Parties are required to disclose their case prior to a hearing. Where difficulties with disclosure arise, the Board, upon receipt of advance notice, will resolve the communication and disclosure issues.

A Notice of Disclosure of Evidence is

- a) the standard instruction issued by the Board to exchange materials between the parties at the time of receipt of the complete appeal/complaint form. (Sample Notices of Disclosure of Evidence are attached in the Schedule of Forms.) **or**
- b) a specific instruction to exchange materials as executed by a Board Order.

5.1.1 Principles of Disclosure

- a) The principles of disclosure include but are not limited to the following:

- i) all evidence that the party will be presenting to the Board;
 - ii) a summary of the relevant facts;
 - iii) the legislative grounds and reasons;
 - iv) relevant case law;
 - v) a summary of the argument;
 - vi) a reference to matters pending before the Board or the Courts which are related to the matter;
 - vii) an estimate of the hearing time required;
 - viii) any witnesses to be called;
 - ix) summary statements of witness submissions (“Will Say” statements);
 - x) other matters as determined by the Board.
- b) Materials provided under disclosure must set out the grounds and reasons in sufficient detail and should not simply be a re-statement of the grounds set out in the legislation.
- c) A minimum of four copies of the materials provided under disclosure are to be filed with the Board at the beginning of the hearing, or as directed by the Board. Additional copies may be requested by the Board.

5.1.2 Timing of Disclosure

All material must be exchanged as instructed by the Board. In its discretion, the Board may extend these timelines subject to the Assessment Complaints and Appeals Regulation 55/99.

5.1.3 Last Minute Submissions and Witnesses

Subject to the Assessment Complaints and Appeals Regulation 55/99, last minute submissions are defined as material not exchanged within the timelines directed by the Board.

- a) The Board retains the right to determine whether or not last minute submissions will be allowed for presentation to, and consideration by, the Board at a hearing.
- b) The Board may not allow the introduction of last minute submissions including evidence, argument or new witnesses unless:
 - i) it is relevant to the matter under appeal;
 - ii) it can be quickly reviewed;
 - iii) the party wishing to present the submission can demonstrate that it was not available or could not be reasonably accessed prior to the date of the hearing;
 - iv) the Board determines that parties to the appeal are not prejudiced and that principles of natural justice are maintained.
- c) The introduction of last minute submissions may be subject to costs.
- d) Where a party makes a request to present last minute submissions the Board may take any of the following steps:
 - i) the Board may request an explanation of:
 - why the new submissions are being introduced;
 - why they could not have been provided at an earlier date; and
 - why they are relevant;
 - ii) the Board may recess or adjourn the main portion of any hearing to rule on the admissibility of the new last minute submissions;

- iii) sufficient time will be allowed by the Board for the other party to consider the new material;

5.1.4 Board Compelled Evidence and Witnesses

- a) Subject to the Act the Board may order either or both parties to produce information, evidence, or documents where the Board is of the opinion that it may be relevant to the appeal.
- b) In making an order to compel evidence relevant to the issues and procedures as identified in Part 9 of this Guide, the Board will consider:
 - i) the appropriate format;
 - ii) the nature; and
 - iii) the extent of the information;

in order to respect the need for confidentiality of the person affected, and the Board's need for reasonable and accurate information to decide the matter.

- c) The Board may order a person to appear where the Board is of the opinion that the person's evidence is relevant to the appeal.
- d) In regard to submissions, the Board reserves the right to question a person on any relevant matter before the Board.

5.1.5 Recommendations and Late Withdrawals

The Board wishes to encourage and facilitate the parties own dispute resolution as well as ensure the most efficient operation of the appeal process.

- a) Where, after an Assessment Review Board decision is made, the Assessor provides a written recommendation which is agreed to by the other party, the Board may consider the recommendation.
- b) Recommendations must be submitted to the Board at least twenty-one (21) days in advance of the hearing.

- c) Where, the recommendation is provided in writing to the Board more than twenty-one (21) days in advance of the hearing, and where both parties agree to the written recommendation, neither party is required to attend the hearing unless the Board specifically instructs them to be present. The Board will make every attempt to expedite the recommendation within two (2) weeks of receipt.
- d) Where the recommendation is provided in writing to the Board less than twenty-one (21) days in advance of the hearing, parties may be required to appear before the Board to explain the recommendation and reasons and must address the Board's lost hearing time and associated costs.
- e) In the case of withdrawals, the Board may apply the same rules used for recommendations if, in its discretion, the Board is of the opinion that an unreasonable loss of hearing time has occurred.

With the approval of the Board, and with the full exchange of material taken place, parties can agree to substitute another case to preclude lost hearing time.

5.1.6 Pre-Hearing Procedures

- a) Within fourteen (14) days of receiving the Notice of Disclosure of Evidence from the Board, the appellant/complainant must provide the respondent with copies of all material being filed with the Board. This material includes the names of witnesses to be called before the Board.
- b) Within twenty-eight (28) days of receiving the Notice of Disclosure of Evidence from the Board, the respondent must provide the appellant/complainant with copies of all material being filed with the Board.
- c) Within thirty-five (35) days from receipt of the Notice of Disclosure of Evidence from the Board, the appellant/complainant must provide the respondent with rebuttal, if one exists.

- d) When, within seven (7) days of any of the above dates, one party has not received the materials from the other party, notice must be given to the Board.
- e) Each party must inform the Board within fourteen (14) days of receiving a copy of the other party's material where they disagree with the other party presenting such material to the Board.
- f) The Board may send the disagreement to a panel to decide on this preliminary matter and provide instructions to the parties as required.
- g) The Board, in its discretion, may abridge or expand the timelines listed above.

6. FILING AN APPEAL or COMPLAINT

6.1 Making Notice of Appeal/Complaint

- a) To initiate an appeal/complaint a written statement must be filed with the Board. A form for submitting an appeal/complaint statement is attached in the Schedule of Forms.
- b) An Appeal/Complaint Form (Notice of Appeal) is available from the Board office or most municipal offices. A copy may be requested by contacting the Board office at:
 - Phone: (780) 427-4864
Out of town callers may call toll free at 310-0000,
listen for the dial tone then dial 427-4864
 - Fax: (780) 427-0986
 - Email: mgbmail@gov.ab.ca (clerical correction from 2000)
- c) Notices may be filed with the Board by mail, fax, Email or by direct delivery. The address for the Municipal Government Board is:

Municipal Government Board
15th Floor Commerce Place
10155 - 102 Street
Edmonton, Alberta
T5J 4L4
Fax: (780) 427-0986

Email: mgbmail@gov.ab.ca (clerical correction from 2000)

6.2. Time Limit for Filing

An Appeal/Complaint Form must be officially filed with the Board on or before the thirtieth (30th) day after an Assessment Review Board decision is forwarded to the complainant. An information bulletin, "Appealing Your Property Assessment", is also attached in the Schedule of Forms.

- a) The time limits for filing notices for other types of appeals or complaints are as prescribed in the Act.
- b) An Appeal/Complaint Form is deemed to be filed with the Board when received:
 - i) by personal delivery before twelve midnight (12:00 a.m.) on the day of delivery; **or**
 - ii) by mail on the date of the postmark as per the Interpretation Act; **or**
 - iii) by fax or Email before twelve midnight (12:00 a.m.) on the day of receipt.
- c) A document that is filed by fax must include a cover page with sufficient information to identify the sender, recipient, pages giving detail of the appeal/complaint, total number of pages sent, date and time of transmission, and a reference telephone number to call in case of transmission problems.

6.3 Completion of Assessment Appeal Form

- a) A copy of the most current assessment/tax notice and decision of the Assessment Review Board must be supplied with the completed appeal form.
- b) Where an assessment/tax notice is not available, information must be provided presenting the assessment value of all land, improvements and market value assessments under appeal, and assessed owner's name and address.
- c) One appeal form is required for each tax roll number being appealed with the following exceptions:

- i) where the appeal was made to the Assessment Review Board under one header assessment roll number for a group of tax rolls, the appeal form (Notice of Appeal) to the Board may be made under the same header number but must indicate assessment values for each tax roll number being appealed;
- ii) where the appeal is made to the Assessment Review Board without a header number for a number of tax rolls, the Notice of Appeal may be made under the total property value but must indicate assessment values for all land;
- iii) where all properties contained under one header assessment roll number are not owned by the same entity, tax notices for each portion of the assessment will be required.

6.4 Completion of Linear Assessment Complaint

- a) The statement of complaint must contain the description of the linear property under complaint.
- b) The complaint must contain the name and address of the assessed party and the copy of the assessment notice.
- c) The complaint must be signed by the complainant or the complainant's representative.

6.5 Providing Reasons

- a) A brief description of the reason(s) for the appeal/complaint must be provided on the form. (Note: the statement that the assessment is too high does not provide an adequate reason for an assessment appeal.)
- b) Where reason(s) are not provided, the appeal/complaint will be classified as incomplete and further steps in the process will not be possible until the information is provided.

6.6 Incomplete Appeal/Complaint Forms

In order to facilitate the provisions of the Act and to process the Appeal/Complaint Form the following information is required: location (where appropriate the specific location in the community and/or the municipal address), assessment where applicable, reasons and statement of issue(s). Without this basic information the Board is not

able to schedule an appeal/complaint. The Appeal/Complaint Form shall contain as much detail as possible to outline the issues.

6.6.1 Overview

- a) Appeal/Complaint Forms that are not complete or contain inaccurate information will not be scheduled for an appeal hearing.
- b) Where more or different information is required, the Board will notify the appellant/complainant that the information must be supplied before the Board is able to take any further action.

6.6.2 Definition of Incomplete Appeal/Complaint Form

An incomplete Appeal/Complaint Form as determined by the Board is one that does not contain the following:

- a) signatures of, or other forms of authorization on behalf of, the appellant/complainant(s).
- b) for an appeal/complaint a copy of the Assessment Notice (or documents that provide the assessment roll number of each property under appeal, the location of the property, land and improvement values of the property, market value assessment, name of the assessed person(s), the property type and the calendar year that the property is under appeal).
- c) For an assessment appeal, a copy of the Assessment Review Board decision is required.
- d) reason(s) for the appeal/complaint. Appellants/complainants must include reasons for the appeal/complaint.
- e) any other information the Board requests in order to process the Notice of Appeal/Complaint.

6.6.3 Status of the Incomplete Appeal/Complaint Form

- a) The Board will acknowledge in writing to the appellant/complainant that the Appeal/Complaint Form was

received but will give it an incomplete status until the appellant/complainant provides all required information.

- b) It is the responsibility of the appellant/complainant to make all information available to the Board.

6.6.4 Process for Obtaining Information

The Board has put in place a process for acquiring the information it needs to hear the appeal/complaint in a timely manner consistent with the Act, the Regulations, the principles of natural justice and administrative law. It is expected that the information will be provided to the Board without delay.

- a) The Board will send a Notice of Incomplete Appeal to the appellant/complainant within fourteen (14) days of receiving the Appeal/Complaint Form. The notice will indicate that the Appeal/Complaint Form is incomplete and identify the information required (a sample notice is attached in the Schedule of Forms).
- b) The appellant/complainant has fourteen (14) days from the date of notice to supply the incomplete information. Where the party does not provide the information within the fourteen (14) days, the party will be required to appear at a preliminary hearing before the Board to explain why the information is not forthcoming or provide the information. (A sample letter notifying the appellant/complainant of the preliminary hearing is attached in the Schedule of Forms.)
- c) The appellant/complainant may either provide the information prior to the date of the preliminary hearing or appear at the preliminary hearing to explain why the information has not been provided.
- d) The preliminary hearing of administrative matters regarding the appeal/complaint is limited to resolving the issue of missing information with respect to incomplete appeals/complaints. The Board will not hear evidence on issues under appeal.

6.6.5 Board Decision

- a) At the preliminary hearing administrative matters regarding the appeal/complaint, the Board may do any of the following:

- i) issue an order compelling the information to be produced by a specified date.
 - ii) declare the appeal invalid which will result in the confirmation of the assessment.
 - iii) such other action the Board considers fair and reasonable considering the actions of the parties.
- b) the Board will notify the parties of its decision in writing.

7. SCHEDULING PROPERTY ASSESSMENT APPEALS AND PARTY NOTIFICATION

Time deadlines for hearing and deciding appeals are set out in legislation. The timelines outlined below were established to meet the legislative requirements while providing parties with ample opportunity and flexibility to prepare for, and have, their appeals heard and decided by the Board.

- a) establishes timelines to enable it to render a decision within one-hundred-fifty (150) days of the date in which the appeal/complaint form is received.
- b) After receiving a complete Appeal/Complaint Form the Board will send a Scheduling Notice setting a tentative date for an appeal hearing before the Board (selected date is to be within sixty [60] days of receipt of the appeal).
- c) Where possible the Board will establish a date, time and location suitable to all parties. If parties cannot agree, the Board will designate the date, time and location for the hearing (date not to exceed ninety [90] days from the day of the receipt of the appeal).
- d) It is the intent of the Board that appeal hearing dates will not be postponed or delayed beyond the ninety (90) days regardless of the circumstances. Requests to delay appeals, pending other decisions of the Board or of the Courts, will not be approved unless very special circumstances exist. The Board retains the right to decide if circumstances warrant consideration being given.

In appeals where the Board's jurisdiction to hear the appeal is in question, it will be the practice of the Board to reserve its decision on

jurisdiction and to hear the merit issues under appeal. This will allow all matters

under appeal to be heard fully and a decision issued within the legislated time frame.

7.1 Notification

- a) Within fourteen (14) days of receipt of an appeal/complaint form, and upon verifying that the appeal/complaint form is complete, the Board will send a acknowledgement of receipt to the appellant/complainant. The acknowledgement notification will include:
 - i) acknowledgement that the Board has received the Appeal/Complaint Form;
 - ii) a notice of requirements and timelines established by the Complaints and Appeals Regulation and any other legislative or regulatory requirements.
 - iii) an information sheet entitled "Appealing Your Property Assessment" (a sample is attached in the Schedule of Forms);
- b) a Scheduling Notice setting a tentative date, time and location for an appeal hearing (a sample Scheduling Notice is attached in the Schedule of Forms):
 - i) a checklist to assist appellants/complainants to prepare for the appeal hearing the estimated time required for the hearing process;(a sample checklist is attached in the Schedule of Forms);and
 - ii) a request to provide the estimated time required for the hearing process;
- c) The Board will select a tentative date for the appeal hearing that is within 60 days of the appeal being received (forty-six [46] days from the date of the acknowledgement).
- d) Where it is determined that circumstances affecting an appeal require a hearing date beyond sixty (60) days, the Board may agree to schedule hearing dates up to ninety (90) days following the receipt of the appeal (seventy-six [76] days from the date of the notification).
- e) a notice of the appeal/complaint form will be provided to the municipality within the legislated time frame of thirty [30] days;

7.2 Confirming a Hearing Date

- a) Parties to an appeal must inform the Board within fourteen (14) days of receipt of the Scheduling Notice if the tentative date is not acceptable. If the date of receipt of the Board's notice is questioned by the parties to the appeal, the date of the notice is deemed to have occurred within seven days of mailing of the notice.
- b) If the hearing date is not acceptable, the party or parties must provide alternate dates for the hearing which will allow the Board to render its decision within the one-hundred-fifty (150) day time frame. Alternate dates must be provided that meet the requirements set out in section 7.1(c) "within ninety (90) days of receipt of the appeal".
- c) If either party refuses the tentative date and no reasonable alternative date is provided, or if there is a disagreement between the parties about an acceptable time or date, the Board will schedule a preliminary hearing to determine a date, time and location for the appeal hearing. At the preliminary hearing the Board will also address any other preliminary matters, such as requirements for information exchange, and issue instructions to enable the hearing to proceed in a timely manner. Unless it can be arranged for an earlier date, the preliminary hearing will take place on the tentatively scheduled hearing date. Preliminary hearings are to be scheduled in a timely manner so that hearing dates do not extend beyond ninety (90) days from the receipt of the appeal.
- d) If parties cannot agree on a hearing date, the Board reserves the right to schedule the hearing within ninety (90) days of the Board receiving the appeal/complaint (seventy-six [76] days from the Board sending the acknowledgement notice).

7.3 Confirming a Recommendation Date

- a) Within fourteen (14) days of receiving the Board's Scheduling Notice of a tentative date for a hearing, a respondent municipality may notify the Board that this appeal may be scheduled to a panel for consideration of an assessor's recommendation. The Board will then place the appeal/complaint on a tentative weekly schedule for a panel to consider recommendations.
- b) If, as a result of the Scheduling Notice, the parties give notice to the Board that the matter may be resolved, the Board may abridge the above timelines and schedule a time for submission of a written

recommendation. No later than fourteen (14) days prior to the date scheduled for the written recommendation, the parties must confirm their acceptance of the date. If no acceptance is filed, a full hearing will be scheduled within ninety (90) days of the receipt of the appeal.

- c) Within fourteen (14) days of receiving the Board's notification letter of a tentative date for a hearing, the parties shall notify the Board that the appeal/complaint may be subject to a correction pursuant to section 305 of the Act. The parties are expected to inform the Board on a regular weekly basis of the progress of their discussions. After thirty (30) days, if the Board has not been informed of any progress, the Board may proceed to confirm a hearing date.

7.4 Notice of Confirmed Hearing Date

- a) The Board will send a notice to the parties of the confirmed appeal hearing date, at least fourteen (14) days in advance of the hearing. (A sample of this Hearing Notice is attached in the Schedule of Forms.)
- b) Hearings will not be held within the fourteen (14) day advance notice period without the agreement of the parties to the appeal.

7.4.1 Notice for a Hearing - Oral

For an oral hearing [see section 3.6(a)], in addition to the requirements of section 7.1, the notice must include a statement that if the party notified does not attend the hearing, the Board may proceed in that party's absence and the party will not be entitled to any further notice in the proceeding.

7.4.2 Notice for a Hearing - Written

For a written hearing [see section 3.6(b)], in addition to the requirements of section 7.1, the Notice of Hearing must include:

- a) a statement that parties will be required to exchange documents, with other parties and the Board, within a specified period of time;
- b) a statement that the parties must provide, with their submissions, a list of the documents that they are relying on to support their positions;

- c) a statement that the parties are required to identify any new evidence that was not presented to the Assessment Review Board;
- d) a schedule setting out the time periods during which parties are to serve and file documents for the written hearing;
- e) a statement that the parties may submit a rebuttal to the other parties' positions and the time periods in which rebuttals must be submitted to the other party and the Board;
- f) a statement that a notified party may object to the hearing being held as a written hearing by filing an objection within fourteen (14) days after receiving notice that a written hearing is to be held (objections to a written hearing must be supported with reasons);
- g) a statement that the Board, upon receiving an objection to holding a written hearing, will ask the other affected party or parties to provide their position on holding a written hearing, and upon receipt of positions from all parties, the Board will hold an administrative hearing to determine if a written hearing is to be held; and
- h) a statement that where an objection is filed and the Board decides it will hold an oral or electronic hearing, the Board will supply the parties with directions and the timing for holding that hearing.

A sample of the Notice of Disclosure of Evidence is attached in the Schedule of Forms.

7.4.3 Notice for a Hearing - Electronic

For an electronic hearing [see section 3.6(d)], in addition to the requirements set out in sections 7.1 and 10.6, the Notice of Hearing must include:

- a) a statement of the time of the hearing with details about the manner in which the hearing will be held;

- b) a statement that the parties notified may request, with reasons, that the Board hold the hearing as an oral hearing,

then the Board will determine the appropriate procedures;
and

- c) a statement that if the parties notified neither follow the procedure set out in section 10.6 for objections to an electronic hearing, nor participate in the hearing in accordance with the notice, the Board may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding.

8. POSTPONEMENT AND ADJOURNMENT

Hearings are scheduled for completion in an efficient and timely manner consistent with the Act, the Regulations, the principles of natural justice and administrative law. Delays are granted only for strict, legitimate reasons as outlined in section 8.3 below. The Board will not postpone a hearing for an indefinite period (*sine die*). The parties will be consulted at the time of the postponement or adjournment to set a definite date to continue the hearing.

8.1 Definitions

- a) A postponement is granted to an appeal that is scheduled but where the hearing has not started, in other words the panel has not been "seized" within its authority. The hearing may be rescheduled with a different panel.
- b) An adjournment is granted to an appeal that is in the hearing process. The appeal will be rescheduled with the same panel sitting at the reconvened hearing.
- c) A recess may be called by the panel when a short break in the proceedings is required.

8.2 Requests for Postponement or Adjournment

The Board, at the request of a party or on its own initiative, may direct a postponement or adjournment of a scheduled hearing. Requests for postponements must be in writing and must include substantive reasons.

8.3 Guidelines for Postponement

The Board will postpone or adjourn appeals only where requests for postponement have been approved by a panel of the Board. The criteria used by the Board in granting approvals is as follows:

- a) where the Board has determined that an appellant/complainant, respondent, their agents, or a bona fide witness is unable to attend because of death, ill health, accident or injury, or owing to inclement weather. Inclement weather means weather conditions that put a person or property at risk when travelling;
- b) the Board reserves the right to request verification that reasons of ill health, or the results of an injury, warrant consideration for postponement or adjournment.

8.4 Postponement or Adjournment Owing to Pending Decisions

Parties may request a postponement or adjournment where the outcome of the case may depend upon, or be influenced by, the results of another matter currently before the Courts or the Board.

8.4.1 Guidelines for Granting

In dealing with the request, the Board will consider the following:

- a) where it would be just and practical to do so;
- b) where a Court decision or Board Order in relation to similar matters has been heard and a decision is expected within thirty (30) days;
- c) compliance with the requirement under section 500.3 of the Act to hear and decide an appeal within one-hundred-fifty (150) days.

8.4.2 Guidelines for Refusing

Where the Board refuses a request for postponement or adjournment, the Board will proceed to hear the matter subject to the following procedures:

- a) the Board will hear the appeal and render a decision on the matter within the specified timelines established under the Act.
- b) providing the decision of the Board is made prior to a decision of the Courts in relation to a specific case and identified to the Board, the decision of the Board will stand until parties to the appeal submit a request to have the Board rehear the appeal. The decision will continue to stand until the Board reviews, rescinds or varies the decision.

9. PUBLIC ACCESS TO HEARINGS AND INFORMATION

As the Board is a “public body” as set out in the “Freedom of Information and Protection of Privacy Act” (“FOIP”) the Board will follow the practices and procedures set out in the Act for release of information in the possession of the Board.

9.1 Nature of Board Hearings

All Board hearings and documents are deemed to be public in nature. As a result all hearings and documents will be administered in a manner that is in the best interests of the public served by the Board. The Board will follow the requirements and processes set out in FOIP in collecting and responding to all requests for information.

9.2 Access to Hearings

- a) Board hearings are public hearings and are open to all interested persons. The Board will accommodate all persons wishing to attend hearings where it is physically possible and practical to do so.
- b) Only parties to an appeal, their representatives, or parties having recognized intervenor status will be allowed to make representations before the Board or ask questions of the other parties at a public hearing.

9.3 Sealing of Records or Parts of Records

The Board may determine that records, or parts of records, will be sealed from time to time and the duration of time that the records will be sealed. Such determination will be made based upon agreement of the parties and the Board, **or**, the Board may determine that FOIP legislation requires the information not to be made public.

9.4 Access to Records and Information

- a) Board records are deemed to be public documents and are open to public inspection during regular Board office hours. Exceptions to the viewing of all Board documents will apply as required by FOIP legislation. Some examples have been outlined in section 9.4(g) below.
- b) For an individual or group to have access to records a written request giving the purpose of the review must be made to Board administration. The Board, in its discretion, reserves the right to determine if the purpose of the request is adequate reason for review. Upon approval by the Board, administration will make available or reproduce the required documents
 - i) When a request is made to have a record or document photocopied, a reasonable period of time is required by the Board to enable photocopying to be completed [see section 9.4(g)(iii)].
 - ii) A request to view Board records must be made at least forty-eight (48) hours in advance of the desired time of viewing. The security and safety of Board documents are the responsibility of the Board, therefore, the viewing of all records will be done in the Board offices, and only in the presence of a representative of the Board.
- c) All Board decisions will be provided upon request through delivery by e-mail, fax or in paper copy.
- d) Board Orders are available on the Internet for all orders completed since January 1, 1995, to decisions confirmed within the last thirty (30) days. The Website address for the Board is:

http://www.municipalaffairs.gov.ab.ca/mgb_index.htm
(clerical correction from 2000)
- e) Reasonable costs for producing and delivering copies of Board decisions or other materials may be charged to the persons making the request. When such costs are known prior to the copying being completed payment must be paid prior to the work being done.
- f) All information requests for other Board records, including exhibits and/or evidence submitted at appeals, personal records, etc. will be

subject to the rules set out in the Freedom of Information and Protection of Privacy Act Statutes of Alberta, 1994, Chapter F-18.5. (FOIP).

- g) Each request for information will be evaluated according to FOIP legislation. Related information will be released or withheld accordingly. While each request is unique, some general outcomes may be expected from requests for information that are similar in nature. Generally, requesters will find that the following outcomes may occur on requests of the Board for information that have the following qualities:
- i) upon request, any personal information contained in a record will be released to that person, and only that person. Personal information records are to be picked up at Board offices by the requester, who must provide proper picture identification;
 - ii) any personal information contained in a record will not be released without the approval of that person;
 - iii) responses to all information requests will be made within thirty (30) days, and earlier where possible;
 - iv) any information that would reveal a trade secret, or do financial harm, or have financial consequences to a party will not be released;
 - v) any information that was supplied, explicitly or implicitly, in confidence and which would result in public information no longer being supplied, will not be released;
 - vi) any information that was collected from a tax return or gathered for the purpose of collecting a tax will not be released.
- h) All decisions of the Board to release or to not release information may be appealed to the FOIP Commissioner if a request is submitted as a FOIP request.

10. HEARINGS

A hearing is focused on the issue(s) in the Notice of Appeal/Complaint. At the hearing, the appellant/complainant submits evidence and

arguments related to the issue(s). The respondent is obligated to address those issues. The Board makes a decision on all the evidence and arguments.

10.1 Jurisdiction

During a hearing, where an objection is raised concerning the Board's jurisdiction to hear the appeal, the Board shall accept any oral or written arguments and either recess the hearing and decide the issue or accept the arguments and reserve judgement on the question of jurisdiction and proceed to hear the merits of the appeal/complaint.

10.2 Conduct of a Hearing

The Board is subject to the requirements of the Act, regulations, and other procedural rules developed through law. The Board, when conducting hearings, will comply with these requirements and will, at the outset of the hearing, indicate to the parties the order of proceedings that are to apply at the hearing.

10.2.1 Preliminary Part of the Hearing

- a) The Board calls the interested parties into the hearing room.
- b) The Presiding Officer calls the hearing to Order and introduces the panel and other parties. (The Presiding Officer is the person designated by a panel of the Board or the Chairman to preside over a hearing of a specific matter before the Board.)
- c) The panel asks all parties who wish to make submissions to the Board to identify themselves and to establish their capacity at the hearing or clarification of their status (i.e. City assessor, landowner, agent, observer, or other category). Parties may be asked to provide written confirmation of their status.
- d) The Presiding Officer asks if there are any preliminary matters either administrative or jurisdictional in nature. Preliminary matters may include:
 - i) objection to any of the panel members;
 - ii) objection to third party attendance;
 - iii) hearing procedures/order of presentation;

iv) evidentiary and issues matters;

- v) other matters relating to the hearing process.
- e) The Presiding Officer confirms the property under appeal (as per the agenda). The Presiding Officer reads the roll number, legal description and/or municipal address, and the other information on the agenda (i.e. improvements, land and associated assessed value, etc.). Other matters such as scheduling (how long), order of presentations, housekeeping matters may be scheduled in this portion of the hearing.
- f) The Presiding Officer outlines to all parties the procedure intended to be followed for the appeal hearing.
- g) The Presiding Officer advises the following:

“Unless there are alternative suggestions, it is the Board’s intent to proceed.”

10.2.2 Hearing Procedures

The following outlines the hearing procedure for assessment matters. In the case of subdivision appeals and inter-municipal disputes the Board may alter these procedures to ensure a fair and reasonable hearing. In most subdivision appeals the Board usually requests the subdivision authority to present first.

a) Administering the Oath

It is the Board’s practice to receive evidence under oath.

For those who want to swear on the Bible - the right hand is placed on the Bible and the Board member or staff administering the oath asks:

“Do you solemnly swear that the evidence you are about to give to the Municipal Government Board is the truth, the whole truth and nothing but the truth, so help you God?”

For others - the right hand is raised and the Board member or staff administering the oath asks:

“Do you affirm that the evidence you are about to give to the Municipal Government Board is the truth, the whole truth and nothing but the truth?”

- b) Issue clarification: following the administration of the oath the Board may ask the parties to summarize briefly their case in order to crystalize and clarify the issues.
- c) Where desired, the Presiding Officer may request an overview of the situation/property to become familiar with the location of the site or the specific issues in a general manner. No argument is to be presented here. The respondent municipality is not expected to defend the assessment at this point in the hearing.
- d) In a hearing questions are to be directed through the Presiding Officer. Under certain circumstances the Board may, in its discretion, permit cross-examination.
- e) The Board will first hear the evidence and argument of the appellant/complainant as indicated when the Presiding Officer advises: “The appellant/complainant may proceed”:
 - i) the Board will call for questions from the respondent;
 - ii) the Board may ask questions of the appellant/complainant;
 - iii) the Board will provide opportunity for the respondent to ask further questions arising from the questions of the Board.
- f) The Board will hear the evidence and argument of the respondent:
 - i) the Board will call for questions from the appellant/complainant;
 - ii) the Board may ask questions of the respondent;
 - iii) the Board will provide an opportunity for the appellant/complainant to ask further questions arising from the questions of the Board.

- g) The Board will allow other parties with standing to make submissions and to ask questions.
- h) Legal argument and supporting case law may be presented by the appellant/complainant.
- i) Legal argument and supporting case law may be presented by the respondent.
- j) Rebuttals are given by each party, where necessary.
- k) The Board may permit either a two part summary or a three part summary:
 - i) a two part summary consists of the respondent presenting first, followed by the appellant/complainant with the last word;
 - ii) a three part summary consists of the presentation from the appellant/complainant, followed by the respondent with the last word to the appellant/complainant.
- l) In the summary portion of the hearing parties must not introduce any new evidence, new argument nor new case law.
- m) The Presiding Officer asks if there are any other matters.
- n) Delivery of the decision:

The Presiding Officer advises that an oral decision will be given following the hearing and the decision will be confirmed in writing within thirty (30) days. In the case of subdivision and inter-municipal disputes all decisions are delivered by Board Order.
- o) When a written decision has been requested, the Board may require each party to provide a written summation of their evidence and/or legal argument. The Presiding Officer advises what the Board expects to be included in the written summation and how that summation will be administratively handled

- i) The purpose of a summation is to provide the Board with a written record of all the pertinent points made during

the hearing by all presenting parties. No new evidence is allowed. References to any pertinent legal arguments and case law may be included provided that the legal arguments were part of the presentation at the hearing.

- ii) Each party must send the summary document to the Board and to the other party within fourteen (14) days (unless another time is agreed to by all parties).
- iii) Where documents are not received within fourteen (14) days or where documents include information which was not presented at the hearing, the Board may:
 - consider not accepting the new material; or
 - request rebuttals to the new material to be submitted within seven (7) days; or
 - invoke the appropriate consequence to the offending party; or
 - reconvene the hearing;
- iv) Where new legal argument and/or case law is submitted with the written summation, the Board will determine its relevance and will ensure that the other party has an opportunity to provide a position on the new legal argument and/or case law.
- v) Where new materials are introduced in the written summation the Board may consider a request for costs.

10.2.3 Exhibits

Where exhibits are submitted during the course of the hearing, the Presiding Officer or secretary numbers and identifies each exhibit as it is presented. The number of the exhibit is spoken aloud so that references can be made to that number throughout the balance of the hearing. The letter "A" will be used to identify the appellant's/complainant's exhibit and "R" to identify the respondent's exhibits. Each parties' exhibits will be numbered sequentially, e.g. A-1, A-2, R-1, R-2, etc.

10.2.4 Closing Part of the Hearing

The closing part of the appeal hearing includes:

- a) formal closure of the hearing by the Presiding Officer;
- b) deliberation where an oral decision is being given. The Presiding Officer asks all parties to leave the room while the Board deliberates, reaches a decision and notes the reasons for the decision. The parties are called back into the room and given the decision with reasons;
- c) advice from the Presiding Officer, where written reasons are requested, that the decision will be forwarded within three months. In complex hearings this timeline may be extended;
- d) in some cases the Board will not close the hearing until it has had a full opportunity to review all the material submitted and determine whether the Board needs further information or if the information submitted is sufficient. The Board will notify the parties when the hearing is closed.

10.3 Recording of Hearings

- a) No person will make a written, audio or video recording of any Board proceeding unless authorized by the Board.
- b) The Board must approve any written, audio or video recording of any hearing in advance of, or at the start of, the hearing.
- c) Conditions to the approval are:
 - i) that the requesting party must provide a copy of the record, in its entirety, to the Board and to the other party or parties to the appeal;
 - ii) that the party making the request is responsible for the costs involved in the recording;
 - iii) that any equipment used to record a hearing must be of a sufficient quality to result in an acceptable transcript, audible record and accurate viewing of the proceedings;

- d) In addition to the conditions stated in section 10.3(c)(iii), requests for video recordings will be approved by the Board only where both parties agree to the video taping.
- e) Where the Board orders that a court reporter be present to record the hearing, the Board will indicate whether one or both parties will be responsible for the costs of the recording.

10.4 Conflict of Interest

- a) The Board undertakes to conduct all of its hearings and activities according to its Code of Conduct and Ethics.
- b) A member of the Board who has either a personal interest in any Board hearing or who, because of his position, affiliation or involvement in or with an organization, firm, business or Alberta Government department or agency which has an interest or concern in any matter related to any such hearing, must declare such interest, and refrain from participating unless waived by all parties.
- c) Where the appellant/complainant and/or his agent or any party served by notice of an appeal objects to the participation of a Board member present at the hearing, on the grounds that the member has an actual or reasonable apprehension of bias or a conflict of interest, that member shall:
 - i) vacate his seat where he or she is of the opinion that the objection raises some reasonable grounds of actual or reasonable apprehension of bias or conflict of interest; or
 - ii) where he or she is of the opinion that the objection is not substantiated, explain his or her reasons for disputing the claim of conflict of interest, then vacate his/her seat to permit the remaining panel member(s) to hear any further representations to the challenge of that member hearing the appeal.
- e) The Presiding Officer shall then call a recess in order that the remaining panel member(s) may decide if there if it has been shown or determined that there is a reasonable apprehension of bias or a conflict of interest on the part of the challenged member.
- f) Where the Presiding Officer and the remaining panel member(s) decide that it has not been proven that there is a reasonable apprehension of bias or a conflict of interest on the part of the

- g) challenged member they shall deny the objection and request the member to return to their seat.
- h) Where the Presiding Officer and the remaining panel member(s) decide that it has been proven that there is a reasonable apprehension of bias or conflict of interest on the part of the challenged member they shall accept the objection and advise the member of the decision. That member shall not participate in the hearing or in the Board's decision.
- i) The Presiding Officer and the remaining panel member(s) shall make the determination on a challenge against a Board member or the matter may be referred to the Chairman who may assign an independent panel to hear the objection.
- j) Where removing a Board member from a panel results in less than the required quorum of the Board remaining, then:
 - i) an alternate member shall be brought in and the appeal hearing continued on the same day; or
 - ii) the hearing will be adjourned and the matter be rescheduled for hearing with an alternate panel of the Board.

10.5 Written Hearings

- a) The Board may hold written hearings on any matter or issue under appeal if, by holding a written hearing, none of the parties to the appeal are left at a disadvantage, and that the tenets of natural justice will be served.
- b) The Board may hold written hearings at the request of a party to an appeal, with the agreement of the other affected party or parties to the appeal.
- c) Written hearings may require the parties to submit written statements of agreed facts.

10.5.1 Conducting Written Hearings

- a) The Board will order the parties to exchange evidence, legal argument, and case law which they intend to use. The appellant/complainant is to provide the respondent and the Board with their submission not more than thirty (30) days

from the date of the notice or as outlined in the Complaints and Appeals Regulation if applicable.

- b) The Board will order the respondent to provide the appellant/complainant and the Board with the evidence it intends to use, not more than thirty (30) days from the date of the notice, or as outlined in the Complaints and Appeals Regulation if applicable. Where the Board deems it necessary the respondent may be granted forty-five (45) days from the date of the notice, to exchange its submission.
- c) Parties wishing to rebut the positions, evidence, and legal argument of the other party must submit their rebuttals to the other party and to the Board within fourteen (14) days of the exchange of submissions.
- d) A hearing of the appeal will be conducted by the Board within thirty (30) days of the rebuttal deadline.
- e) Upon review of the material, the Board in its discretion, may determine that the written hearing may be changed to an oral hearing.

10.6 Electronic Hearings

An electronic hearing is a hearing in which all submissions both oral and written are made to the Board using electronic technology. Such submissions or information exchanges may be made by any or all parties to the appeal. Electronic technology may include, but is not limited to, teleconferencing and video conferencing.

10.6.1 Request for Electronic Hearings

- a) A request for an electronic hearing must include the reasons for the request, the time of the hearing, details about the manner in which the hearing will be held, and the purpose for the hearing.
- b) In deciding whether to hold an electronic hearing the Board may consider any relevant factors, including:
 - i) the suitability of the electronic technology for the subject matter of the hearing;

- ii) whether the nature of the evidence is appropriate for an electronic hearing, including whether witness credibility is at issue and the extent to which facts are in dispute;
 - iii) the extent to which the matters in dispute are questions of law;
 - iv) the consent of the parties;
 - v) the convenience of the parties;
 - vi) avoidance of unnecessary delay;
 - vii) costs, efficiency and timeliness of proceedings;
 - viii) ensuring a fair and understandable process;
 - ix) the desirability or necessity of public participation or public access to the hearing process; and
 - x) meeting the Board's statutory mandate.
- c) The Board may impose any conditions for an electronic hearing it considers appropriate, including:
- i) specifying who will set up the electronic hearing; and/or
 - ii) requiring that a party requesting an electronic hearing pay all or part of the cost of providing the facilities necessary for the electronic hearing.
- d) The Board may continue an electronic hearing as an oral or written hearing whenever the Board considers it appropriate.
- e) No electronic evidence or argument may be accepted by the Board unless all parties to the hearing have before them a written copy of the evidence or argument.

10.6.2 Objections to an Electronic Hearing

- a) A party who objects to holding an electronic hearing must notify the Board and all other parties of its objection in

writing within ten (10) days of receiving notice of the electronic hearing.

- b) All parties receiving an objection to an electronic hearing may send a response to the objection in writing to the Board and all other parties within five (5) days of receiving the objection. The Board may provide for shorter or longer response times where it is deemed necessary or waive opportunities for objections where no other options for submissions are determined to exist.
- c) In a notice of objection, the objecting party must state whether holding the hearing as an electronic hearing is likely to cause the party significant prejudice or state other reasons for the objection accompanied by any evidence or argument upon which the party relies.

10.6.3 Decision on Objections

Where the Board receives an objection:

- a) the Board may accept the objection, cancel the electronic hearing and schedule a hearing without electronic means;
- b) the Board may reject the objection without inviting responses from the other parties and proceed with the electronic hearing where the Board is satisfied that an electronic hearing will cause no significant prejudice;
- c) the Board may provide all other parties with an opportunity to respond to the objection in writing and, after considering the objection and all responses, proceed with the electronic hearing, schedule an oral or written hearing, or with the consent of the parties, schedule a written hearing.

11. DECISIONS ON ASSESSMENT APPEALS

11.1 Decisions

- a) The Board will make its decision and deliver it in one of the following manners:
 - i) orally with reasons at the conclusion of the hearing, followed by a letter of confirmation of the decision; **or**

- ii) by letter outlining the decisions and reasons where no decision was given at the conclusion of the hearing; **or**
 - iii) by a full written Board Order.
- b) An oral decision of the Board is not a decision of the Board until it is confirmed in writing. (A sample of the Notice of Decision is attached in the Schedule of Forms.)
 - c) Where a party requests a written decision after a hearing at which an oral decision was given, the request must include reasons and be made as soon as possible. Parties must make requests for written decisions within thirty (30) days of the hearing.
 - d) A Board decision is effective from the date of the written decision unless the Board indicates otherwise. (A sample of the Notice of Transmittal enclosing the Board Order is attached in the Schedule of Forms.)
 - e) Where a decision or order requires clarification, a party, on notice to the other parties, may apply to the Board for direction.
 - f) The Board may decide to issue an oral decision or, where the Board is of the opinion that a written decision is required owing to the circumstances, it may issue a written decision.

11.2 Recommendations/Consent Matters

- a) Subject to the Board having jurisdiction to do so, it may approve matters that parties resolve by consent/recommendations. Parties must advise the Board as soon as possible that they want to resolve certain matters by consent.
- b) Any agreements or recommendations presented to the Board by either party or by representatives of these parties are to be in writing and signed by the parties to the appeal.
- c) Recommendations regarding assessed values must be made according to the procedures, and in the prescribed form, outlined in section 5.1.5 of this Guide.

11.3 Timing of Decisions

The Board must make its decision within one hundred fifty (150) days after receiving the written statement appealing the Assessment Review Board decision unless additional time is granted by the Minister.

With respect to other appeals and complaints within its jurisdiction the Board will follow the applicable timelines outlined in the Act.

12. REHEARING/REVIEW REQUESTS

This section outlines the Board's procedures for dealing with requests for a rehearing and requests for a review, rescinding or varying a decision. The purpose of this section is to provide a fair, independent, impartial and efficient process to decide matters pursuant to Section 504 of the Act. These procedures ensure that requests for a rehearing/review are dealt with in a timely manner free from any apprehension of bias.

Prior to issuing a decision the Board may rehear a matter. A decision of the Board is not a decision until it is confirmed in writing. After a decision is issued the Board may review, vary or rescind the decision. This action may result in the matter being reheard if the decision is rescinded.

12.1 General Information

- a) The Board has the discretion to rehear matters before making its decision and may review, rescind or vary any decision made. In exercising its discretion, the Board will review the grounds for the request for a rehearing or review in the context of the factors considered below.
- b) A party's disagreement with the decision is not sufficient grounds for a rehearing or a review of a decision.
- c) The Board may rehear or review a matter for any of the following reasons:
 - i) a judicial review has taken place and the Court has instructed the Board to rehear a specific case;
 - ii) new facts/evidence are available which were not reasonably available at the time of the hearing. The facts/evidence must be

relevant, on point and significant enough to have a bearing on
the

outcome of the decision. (Requests asking that new facts or evidence be considered may be affected by the Alberta Regulation 121/97 or the Assessment Complaints and Appeals Alberta Regulation 55/99);

- iii) a procedural defect occurred during the hearing which prejudiced one or both of the parties;
 - iv) correction of errors or fact which would change the outcome of the decision (Alberta Regulations 121/97 and 55/99 may apply);
 - v) the Board's interpretation of the relevant legislation conflicts with earlier decisions of the Board not presented to, or considered by, the Board in the recent decision;
 - vi) any other matter the Board considers reasonable and substantive;
- d) A party's failure to cite related case authority, or to present available evidence is not sufficient grounds for a rehearing or a review of a decision. The Board will not accept new submissions which, in the opinion of the Board, will cause unnecessary delay to the process.
- e) This is a written process. Any oral presentations will be initiated only at the discretion of the Board.

12.2 Content of Requests for Rehearing/Review

Any party expressing an interest in a rehearing/review will be advised of the process and criteria for submission of a request.

12.2.1 Content

Requests for rehearing or reviews must be submitted in writing.

The request must contain the following:

- a) name of requester, property identifier (roll number, legal description) name of municipality in which property is located, type of appeal (property, linear, subdivision, etc.), names of appellant/complainant and respondent to the appeal, Board decision number (where applicable);
- b) detailed and specific reasons for the request;

- c) clear statements of the grounds in support of the request;
- d) an outline of any new evidence to be introduced and the reasons why it was not available at the earlier hearing;
- e) a description of the alleged procedural defect;
- f) references to any earlier Board decisions conflicting with the Board's decision and specific references to same case scenarios;
- g) copies of any Court decisions or statutes conflicting with the Board's decision;
- h) names, addresses, phone numbers and contact persons of all parties at the earlier hearing;
- i) documentation that a copy of the request has been sent to the other parties;
- i) copy of the position of the other party on the request for rehearing (if available);
- j) other information as required by the Board.

12.2.2 Timing of Requests

Requests must be timely. Requests made beyond thirty (30) days of the Board's hearing or decision must have sufficient and substantive reasons to disturb the finality of the Board's decision.

12.2.3 Processing Requests

Throughout the process the Board will keep all parties apprised of the progress of the request for a rehearing/review.

- a) The Board will acknowledge receipt, within seven (7) days of receiving the request, to the requester, the other party and the panel members who heard the appeal.
- b) A panel of the Board (consisting of members other than those who heard the original appeal) will deal initially with the request for a rehearing or review and will issue

- c) instructions to the parties within twenty-one (21) days of receipt of the request.
- d) The instructions will outline the process to be followed by the Board and the parties and may include one or more of the following actions:
 - i) deny the request;
 - ii) determine if the request is timely;
 - iii) determine if the request is complete or if additional information is required;
 - iv) where an oral decision was issued, determine if a written decision (Board Order) is required prior to processing a request;
 - v) determine if a report is required from the panel who heard the original appeal. The report will include a listing of the issues and exhibits placed before the Board, identification of the hearing proceedings, issues leading to the Board's decision and reasons for the decision. Where a Board Order has been issued the Board Order may be part of the report. The report will be provided to the parties affected by the rehearing request;
 - vi) recommend that the membership of the panel who will consider the request be made up of
 - the members who heard the original appeal, or
 - different members (a new panel);
 - i) decide to abridge or expand the timelines for the Board or the parties on any matters regarding the request.
- d) Where the Board determines that a written decision is required, subject to section 12.2.3(c)(iv), the Board will complete and forward the Board Order to the parties within the timelines allowed for submission of a written decision by the Board.

- e) The Board will instruct the parties to adhere to the following timelines for all requests for rehearing/reviews in which a Board Order is not required prior to consideration of the request:
 - i) the parties to the request will be given up to thirty (30) days from receipt of the Board's instructions regarding the request, to prepare and provide in writing to each other and to the Board, detailed positions on the issue(s);
 - ii) upon receipt of submissions referred to in section (i) above, parties will have 44 days from receipt of the Board's instructions (14 days from the deadline for receipt of positions) to provide to the Board written rebuttals on each other's position.
- f) The steps the Board will follow in processing the requests it receives are:
 - i) within fourteen (14) days from receipt of rebuttal the Board will consider the request and all materials;
 - ii) when considering the request the panel of the Board will decide whether to grant or refuse the request for a rehearing/review. Where it grants a rehearing or review the Board will decide, based on examination of any apprehension of bias, whether to return the matter to the original panel, to submit the matter to a new panel, or any other course of action the Board may determine;
 - iii) within thirty (30) days of consideration of the request by a panel, the Board will issue a written decision on the request;
 - iv) The Board will provide written notification to all parties, outlining the decision and reasons for the decision.

12.3 Rehearing/Review Timelines

- a) Discretion for shortening or lengthening the timelines for making submissions and rebuttals on requests for a rehearing or review lies with the Board. The Board will use its discretion where it is

requested to do so by the parties, or where the Board deems it necessary or

- b) practical to hear the matters in a more appropriate manner.
- c) The Board, in its discretion, may abridge or expand the timelines outlined in this section.

APPENDIX A

Alberta Municipal Government Board

PROCEDURE GUIDE

**PROCEDURES FOR
APPEALS FILED UNDER
THE EVIDENTIARY REGULATION 121/97 AND
PART 2, OF THE ASSESSMENT COMPLAINTS AND APPEALS
REGULATION 55/99**

- 1.2 For appeals Filed Under the Evidentiary Regulation 121/97, or subject to part 2 of the Assessment Complaints and Appeals Regulation 55/99, the procedures outlined in Appendix A apply. All other appeals are processed according to the Complaints and Appeal Regulation 55/99.

1.2.1 Application

The Lieutenant Governor in Council passed Regulation 121/97 to ensure that there is full disclosure at an Assessment Review Board hearing. This Evidentiary Regulation restricts the Board from considering any new evidence that was not presented at the Assessment Review Board.

The Regulation applies to all appeals filed between June 25, 1997 and March 5, 1999 and in municipalities that have not passed a bylaw adopting the Assessment Complaints and Appeals Regulation 55/99. Applications received after December 31, 1999 will be subject only to the Assessment Complaints and Appeals Regulation 55/99.

- a) The Evidentiary Regulation does not allow parties to an appeal to waive the application of the regulation by consent.
- b) For the purposes of the application of the Evidentiary Regulation, a complaint is deemed to be sent or made to the Assessment Review Board on the date the complaint is officially received by the clerk of the Assessment Review Board.

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1.2.2 Definition of New Evidence Pursuant to Regulation 121/97

- a) Evidence is the body of material that is used to prove or disprove the facts at issue. Case law, previous Board decisions, legislation and legal argument are not evidence.
- b) Evidence that is presented to the Board in a form that is different from that presented to the Assessment Review Board is not new evidence.
- c) Evidence that is presented to the Board by a different representative from that at the Assessment Review Board is not new evidence.
- d) Recommendations for varying the assessment agreed to by both parties are not new evidence for the purposes of the Evidentiary Regulation.

1.2.3 Hearing Procedures

- a) Upon opening the appeal hearing, the Board will determine if there are any preliminary matters to hear. At this time, the Board may introduce the Evidentiary Regulation to the parties.
- b) Where, in response to this inquiry or at any time during the hearing, either party indicates that the evidence being presented is new, the Board will make inquiries of the parties, including but not limited to the following:
 - i) “What is the evidence that the party alleges is new?”
 - ii) “What is each party’s position on this evidence?”
 - iii) “How is the evidence relevant to the issues of the appeal?”
 - iv) “What is the impact of this evidence on the issues under appeal?”

APPENDIX A

- v) “Why was this material not available at the Assessment Review Board hearing?”
- c) After hearing full submissions from each party on these questions, the Board will decide whether the evidence is new and the Evidentiary Regulation applies.
- d) Where the Board determines that the evidence is not new and that the Evidentiary Regulation does not apply, the Board will announce its decision to the parties with reasons and proceed with the hearing.
- e) Where the Board determines that the evidence is new and that the Evidentiary Regulation does apply, the Board will determine whether to refer the matter back to the Assessment Review Board or to proceed with the hearing without considering the new evidence. In order to refer the matter back to the Assessment Review Board, the Board must be convinced that the new evidence will have a material impact on the outcome of the appeal.
- f) The Board will use the process set out in subsections (b) to (e) at any time during the hearing where either party raises the issue of new evidence being presented to the Board. This may arise as a preliminary matter or as a result of, or in response to:
 - i) questions by either party;
 - ii) the Board’s questions; or
 - iii) the Board’s decision to compel evidence.

1.2.4 Powers of the Board

- a) The Board may request records, documents or minutes from Assessment Review Board hearings to determine whether or not new evidence is being presented to the Board.

APPENDIX A

- b) Where the Board determines that the evidence is new and the Evidentiary Regulation applies, the Board may refer the matter back to the Assessment Review Board to be reheard or may proceed with the hearing without considering the new evidence.
- c) Where the Board decides to refer the matter back to the Assessment Review Board, the Board may add any terms and conditions it deems appropriate. The referral and any terms and conditions will be carried out by written order identifying the new evidence.
- d) Terms and conditions may include the following:
 - i) setting a specific time in which the matter must be heard by the Assessment Review Board;
 - ii) allowing the second decision of the Assessment Review Board to be appealed to the Board according to the timelines outlined in the original appeal;
 - iii) hear the new evidence in the context of the previously presented evidence;
 - iv) any other matter the Board may consider necessary or appropriate to ensure full disclosure before the Assessment Review Board.
- e) The Board may consider an award of costs against any party where the Board determines that the new evidence presented:
 - i) causes unnecessary delays as the evidence was readily available at the time of the Assessment Review Board hearing; or
 - ii) is an abuse of the hearing appeal process.

APPENDIX B

Alberta Municipal Government Board

PROCEDURE GUIDE

**Procedures For Acceptance of
An Assessor's Recommendation**

The following procedures apply to assessment appeals filed under the Municipal Government Act or the Municipal Taxation Act where the assessed person has agreed to a change in the assessment recommended by the assessor.

1. Application Form:

All agreed recommendations must be in writing and presented on the attached Recommendation Form or in a written form containing the same information.

2. Required Information:

All submitted agreed recommendations must contain the complete information as outlined in the assessor's recommendation form.

3. Multiple Roll Numbers:

When the appeal involves multiple roll numbers, the information must clearly set out all the roll numbers, the initial assessment, the recommended assessments, all relevant information and the reasons for each change.

4. Matters Within Board's Jurisdiction:

Parties to the agreed recommendation must certify that the contents of the assessor's recommendation refer only to matters that are properly before the Municipal Government Board, that the Board has received all the necessary information and that the parties agree the recommendation represents a correct, fair and equitable assessment.

5. Timeliness of Recommendation:

An agreed assessor's recommendation must be submitted according to the timelines and procedures set by the Board.

APPENDIX B

Agreed Assessor's Recommendation Form
Municipal Government Board

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT
AND IN THE MATTER OF AN ASSESSMENT APPEAL
TO THE MUNICIPAL GOVERNMENT BOARD

Background:

Appellant: _____

Appellants Address: _____

Municipality: _____

Municipal Address: _____

Roll Number(s): _____

Assessment Value on the Roll: _____

Assessment Year: _____ Taxation Year: _____

Date of ARB Decision, if applicable: _____

Value Set by ARB: _____

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Recommendation: The parties are agreed to the following assessor's recommendation. (Set out in detail below, or on an attached Schedule A, the from-and-to values agreed to, or any of the other changes agreed to, for each roll number.)

Reasons: The parties agree to the recommendation for the following reasons. (Give the complete reasons for the recommendation and calculations below, or on an attached Schedule B, for each change to each roll number.)

APPENDIX B

Legislative Authority: The parties agree that the following legislation outlines the clear authority to come to this agreement. (Outline below, or on an attached Schedule C, those parts of the legislation, Act or regulations, which deal with the issues addressed by the parties.)

Jurisdiction of The Board: The parties certify that the matters addressed in this agreed recommendation are matters fully within the jurisdiction of the Board in Part 12 of the Municipal Government Act. The parties agree that the revised assessment represents a correct, fair and equitable assessment.

Signature of the appellant
or authorized agent

Signature of the designated
assessor or authorized agent

Witness: _____

Witness: _____

Witness: _____

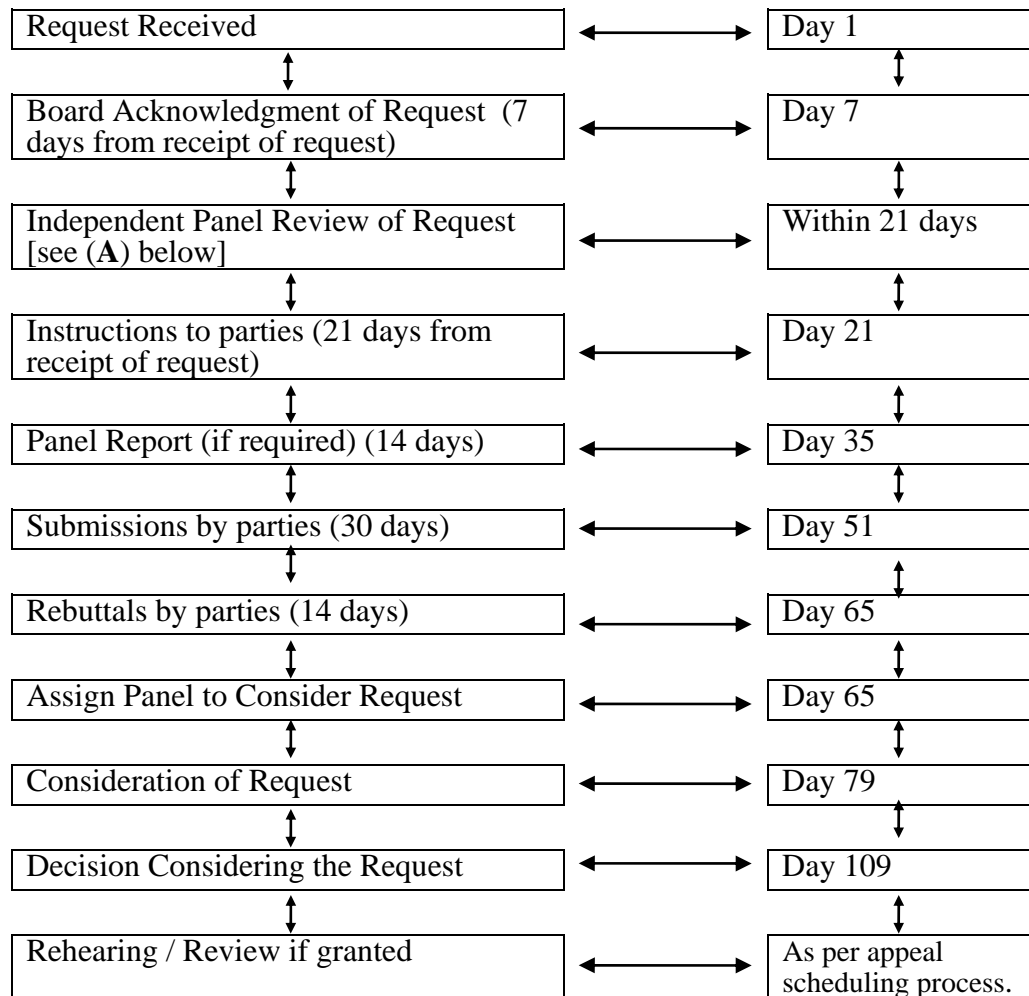
Witness: _____

Signed at: _____, AB
on _____, 200__

Signed at: _____, AB
on _____, 200__

APPENDIX C

**Alberta Municipal Government Board
Process for Rehearing / Review Requests
Pursuant to Section 504**



(A) Board Panel Reviewing the Request will assess the request and set out one or more of the following instructions:

1. Determine if a written Board Order is required. (Where it is determined that a Board Order is required this process is pre-empted and the timelines and process for writing a Board decision are implemented).
2. Determine if the written Board Order is sufficient to enable a panel of the Board to deal with the request, or if a report from the panel that made the decision or heard the appeal is required (e.g. to provide an explanation of the procedures followed by the Board in making its written decision).
3. Determine if a report is required by the panel who made the oral decision, to enable the Board to fairly assess the request.
4. Determine if the request is complete and timely.
5. Determine if the parties to the request would be better served by the original hearing panel or by a new panel considering the request.

6. Determine if the timelines for considering the request need to be abridged or expanded.

ALBERTA MUNICIPAL GOVERNMENT BOARD

PROCEDURE GUIDE

SCHEDULE OF FORMS

SCHEDULE OF FORMS

The forms in this section have been amended since January 2000 and, therefore, they have been removed from the Procedure Guide.

Please contact the Alberta Municipal Government Board for the current forms.

Removed are the following documents:

1. **Assessment Appeal Form (Notice of Appeal)** the form to file property appeals as well as appeals for business, local improvement, machinery & equipment, exemption and others.
2. **“Appealing your property assessment”**, an information sheet to assist the Appellant in the appeal.
3. **Incomplete Notice of Appeal/Complaint**, an example document indicating what other documents are required to complete the appeal/complaint.
4. **“Disclosure of Evidence” Part 1** – instructions on disclosure according to Part 1 of the *Assessment Complaints and Appeals Regulation*
5. **“Disclosure of Evidence” Part 2** – instructions on disclosure according to Part 2 of the *Assessment Complaints and Appeals Regulation*
6. **“Disclosure of Evidence” Letter 3** – instructions on disclosure when the appeal is not subject to part 1 of the *Assessment Complaints and Appeals Regulation*

7. **Scheduling Notice** – a notice with information when the appeal will be scheduled
8. **Checklist** – a list to assist Appellants in preparing for their appeal hearing
9. **Notice of Hearing** – an example of a hearing notification
10. **Notice of Transmittal** – a notice with attached an MGB decision
11. **Notice of Decision** – a notice containing an MGB decision
12. **Application for Assessment Appeal of Linear Property** – the form for filing a complaint on a linear property assessment