



MEMORANDUM

**TO: ARB Stakeholders – MPAC, Municipalities, Counsel of the
Assessment Bar, Property Tax Representatives**

FROM: Assessment Review Board

DATE: December 21, 2016

RE: Strategic Plan Notice for the 2017 – 2020 Assessment Cycle

The Assessment Review Board (ARB) has customarily provided an update on the Board's caseload, direction and expectations for the upcoming assessment cycle. The Assessment Review Board has held numerous consultations with stakeholders to develop an efficient dispute resolution system. The Board intends to resolve 100% of its current and new caseload within the next four-year cycle ending March 31st, 2021.

A full revision of the ARB's Rules of Practice and Procedure and Practice Directions will assist in achieving this goal. Revised procedures will be consistent with:

- the principles of natural justice and procedural fairness,
- proportionality principles reflected in the Rules of Civil Procedure, 1.04(1.1) and
- best practices at other Ontario tribunals.

All of this has been done to make the Board's processes more accessible and efficient.

New and revised information sheets are also being developed to give parties a better understanding on how to navigate the Board's new processes.

Current Caseload

As of December 1st, 2016 the Board's current caseload was comprised of 50308 original and deemed assessment appeals and less than 1066 applications/appeals filed under the Municipal Act or City of Toronto Act. Approximately 43,000 of the assessment appeals are from the 2013-2016 assessment cycle; these appeals are made up of 13% residential and 87% non-residential matters. The total number of properties under appeal is less than 12,000. Approximately 70% of the appeals are in the Standard Stream with Procedural Orders and/or Case Management Plans. The Board's older cases include appeals on Pearson International Airport, and Shopping Centres. Many of these appeals are scheduled for hearings in 2017.

Any outstanding 2012 Current Value Assessment (CVA) and prior appeals that have not been scheduled for a full-hearing or mediation event will be linked with the 2016 CVA

assessment appeals.

As of January 1st, 2017 all outstanding procedural orders and case management plans will no longer be in effect to the Board's outstanding caseload and the appeals will follow the new strategy for the 2017-2020 assessment cycle.

The new schedule of events briefly described below will be applied to all CVA appeals. In order to eliminate the Board's back-log, a property with appeals from both the 2012 CVA and 2016 CVA, where appropriate, will be assigned the same schedule within the four year cycle. Properties with only 2012 CVA appeals will be scheduled for a teleconference call (TCC) to set peremptory hearing dates during 2017. The Board expects the full cooperation of stakeholders in order to achieve the resolution of the new caseload within the four-year cycle ending March 31st, 2021.

Filing Procedures

Under recent changes to the law, property owners with a property classified as residential, farm, managed forest or conservation land must file a Request for Reconsideration (RFR) with the Municipal Property Assessment Corporation (MPAC) before filing an appeal with the Board. For any other property types, property owners can choose to either file an RFR with MPAC or file an appeal with the ARB. Appellants have 90 days to file an appeal with the Board following the RFR decision. For non-residential properties and third party appeals, parties must file by March 31st.

Summary Proceeding

Any properties classified as residential, farm, managed forest or conservation land will be scheduled directly to hearing, regardless of their assessment value. These appeals will be scheduled within six months of the filing date. Although parties will not be consulted on the date of their hearing, the Board will provide notice for the hearing.

Before a hearing is scheduled, parties will be required to complete a concurrent exchange of relevant documents and meet among themselves to attempt to resolve the issues in dispute. The parties will also be given a due date by which they are to advise the Board, in writing, whether the appeal has been settled and, if not, request that the Board then proceed to schedule a hearing of the appeal.

General Proceeding

For all other properties, appeals will be scheduled as a General Proceeding which will follow a schedule of events set by the Board. The schedule of events includes both the procedural steps necessary to complete the hearing of an appeal, and the time between each procedural step.

The Board will set up an Appeal Management Advisory Committee (AMAC). This committee will include representatives from municipalities, MPAC, property tax representatives, Board members and staff. The AMAC will advise the Associate Chair on the following:

- policy and practice in assigning a commencement day for each appeal within the four year cycle, where the parties will be required to commence the procedural steps as set out in the schedule of events,
- alternative time intervals in a schedule of events, where necessary, and
- sensitive properties to be scheduled earlier in the four year cycle.

The AMAC will also assist the Board in monitoring the progress of appeals through the system.

Schedule of Events

In order to achieve 100% resolution of the Board's caseload, all parties will be expected to comply with a standardized schedule of events as directed by the Board. The schedule of events has the following requirements:

- Parties must submit their desired commencement date for each property to the Appeal Management Advisory Committee. Any party that fails to do so will have the Board determine their commencement dates. Parties may request a common commencement date for groups of related appeals.
- All statutory parties will be expected to comply with due dates specified in the assigned schedule of events for an appeal.
- The schedule of events will include disclosure, statement of issues, statement of responses, mandatory meetings between parties and a settlement conference conducted by the Board.
- Only evidence filed by the disclosure due date will be considered; the Board will not permit late evidence to be admitted at the hearing.
- An issue can only be raised at a hearing event if it has been set out in the statements of issue and response which have been served, and filed with the Board.
- Adjournments will only be granted in exceptional circumstances such as in an emergency.

Mandatory Settlement Meetings & Settlement Conferences

As part of the schedule of events, it is mandatory that parties meet with each other to discuss settlement options. If the matter is not resolved, parties will proceed to a Settlement Conference held by the Board via TCC, or in person when the nature of the issues in dispute indicates that it is advisable to do so. At the Settlement Conference, a Board Member will rely on the evidence filed by the parties to encourage settlement. If a settlement is not reached, the Board Member will determine if the property is to be scheduled for mediation or a hearing.

Mediation

Over recent months the Board has achieved a considerable amount of success using mediation to resolve appeals. As a result, the Board intends to incorporate mediation more fully into its processes for this upcoming assessment cycle (2017-2020). When an appeal is referred to mediation, a specially trained Board member will work with the parties to facilitate a negotiated resolution for the issues raised in an appeal. More specifically, the mediator works with the parties to promote a negotiated resolution by helping parties to identify issues, interests, and settlement options. The mediator also assists each of the parties in assessing the strengths and weaknesses of their case if the matter were to proceed to a hearing.


Alternative Hearing Formats

The Board will also be using alternative hearing formats to provide greater access to justice. Alternative formats can include written hearings, telephone conference call and video conference.

Complaints Resolution

MPAC, and Appellant Representative firms have agreed that they will each appoint an "ombudsman" to address any complaints regarding missed due dates.

For further information on the updated Rules of Practice and Procedure, please visit the Board's website at www.elto.gov.on.ca.


Acting Registrar, ARB, Kelly Triantafyllou


Date


Executive Lead, ELTO, Ellen Wexler


Date


Associate Chair, ARB, Paul Muldoon


Date


Executive Chair, ELTO, Bruce Krushelnicki


Date