



CALGARY ASSESSMENT REVIEW BOARD POLICIES AND PROCEDURAL RULES

These policies and procedural rules apply to all appointed members of the Calgary Assessment Review Board. They stipulate obligations and duties of the Board and various procedures and policies that govern Board proceedings. They also establish various practices for the efficient administration of Board matters. They have been developed in recognition of the fundamental and over-riding responsibility to maintain the integrity, independence, competence and effectiveness of the Calgary Assessment Review Board.

Revised – April 2018

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DEFINITIONS

- 1) In these rules:
 - (a) “Board” means the Calgary Assessment Review Board and includes a Calgary Composite Assessment Review Board and a Calgary Local Assessment Review Board;
 - (b) “Charter” means the *City of Calgary Charter, 2018* Alberta Regulation 40/2018;
 - (c) “Clerk” means the clerk of the Board;
 - (d) “General Chair” means the General Chair of the Boards¹;
 - (e) “Member” means a provincial member appointed to the Board by the Minister or a member appointed to the Board by council of The City of Calgary;
 - (f) “MGA” means the *Municipal Government Act, Revised Statutes of Alberta 2000, c M-26*;
 - (g) “MRAC” means the *Matters Relating to Assessment Complaints Regulation, 2018* Alberta Regulation 201/2017;
 - (h) “Panel” means the members convened to hear a complaint as a Local or Composite Assessment Review Board;²
 - (i) “Policies and Procedures” means any policy, procedure, or rule herein.

ADMINISTRATIVE

- 2) A Board member reports to the General Chair concerning matters of Board administration.
- 3) Obtaining a legal opinion respecting any matter, issue, or subject related to a hearing before the Board, and any further correspondences, must be approved by the General Chair.
- 4) Board records or exhibits may not be removed from the office of the Board without the express authorization of the General Chair.
- 5) The Board may adopt specific procedures or vary existing procedures or rules for a given circumstance, subject to the requirements of the MGA, the regulations, and procedural fairness.

¹ City of Calgary Bylaw Number 15M2018

² MGA, s. 454.11 and 454.21

CONDUCT OF MEMBERS

- 6) A member is responsible for a thorough understanding and compliance with the Policies and Procedural Rules.
- 7) A member shall complete an undertaking acknowledging that he / she has studied and will comply with the Policies and Procedures.
- 8) A member shall be available at the offices of the Board no less than 30 minutes prior to the scheduled commencement of a hearing.
- 9) The working hours for members of the Board are from 8:30 a.m. to 4:30 p.m.

KNOWLEDGE OF LAW AND PROCEDURAL FAIRNESS

- 10) A member shall know and apply all legislation respecting the procedures, authority and obligations of the Board.
- 11) A member shall, in all instances, apply the rules of natural justice and procedural fairness concerning matters which come before the Board.

BIAS AND CONFLICT OF INTEREST

- 12) A member will inform the General Chair, at the earliest opportunity of any basis on which an allegation of bias or conflict of interest might be raised with respect to any activity, interest or relationship of the member.
- 13) A member must not participate as a Panel member on any hearings in which
 - (a) the complainant is a family member or extended family member of the member, or of the member's spouse or children;
 - (b) the property or business that is the subject of the complaint is located in the same community in which the member resides; or
 - (c) the complainant is a business associate, employee or close acquaintance of the member.
- 14) A member must not participate as a Panel member on any hearing that relates to a matter in respect of which the member has a pecuniary interest.³

³ See MGA, s. 480(1).

- 15) A member has a pecuniary interest in a matter to the same extent that a councilor would have a pecuniary interest in the matter as determined in accordance with section 170 of the MGA.⁴
- 16) A member shall study and apply section 170 of the MGA.
- 17) A member shall not act as a professional or legal consultant in the preparation of a matter to be heard by the Board.

WITHDRAWAL OF PANEL MEMBER

- 18) Where a Panel member becomes aware of circumstances that raise a reasonable apprehension of bias or conflict of interest, that member will
 - (a) declare that an apprehension of bias or conflict of interest exists and withdraw from the Panel, or
 - (b) disclose the circumstances to the parties to the complaint before the Panel and offer to withdraw from the Panel.
- 19) A member may remain on the Panel if he or she has disclosed to the parties the circumstances described in section 18 and the parties have waived any objection to the member remaining on the Panel.
- 20) A party to the complaint may request a Panel member to withdraw because of a reasonable apprehension of bias or conflict of interest.
- 21) A member may confer with other Panel members before deciding whether to withdraw.
- 22) A Panel from which one member has withdrawn may
 - (a) proceed to hear the matters before it, subject to the existence of a quorum as defined in section 458 of the MGA,
 - (b) the General Chair may assign a new member to the panel, or
 - (c) adjourn to make arrangements to reschedule the matter.

⁴ See MGA, s. 480(2).

TEST FOR BIAS

- 23) In deciding a matter of reasonable apprehension of bias the test to be applied is whether or not an informed person, viewing the matter realistically and practically and having thought the matter through, would have a reasonable apprehension of bias.
- 24) If at the conclusion of a hearing a member realizes that a reasonable apprehension of bias arose that was not known to the member during the hearing, the member will advise the other Panel members of the apprehension of bias and will recuse him or herself from the Panel's deliberations and decision.
- 25) In those instances where an objection has been raised by the parties to the hearing, or when a member has raised the potential for an apprehension of bias after the hearing has been closed, the written decision with reasons will describe the objection and note the selected course of action.

COMMUNICATIONS

- 26) A member must not use or divulge information obtained as a result of his or her appointment to the Board for personal benefit or for the benefit of any other person.
- 27) A member shall not engage in conduct that exploits his or her position on the Board.
- 28) A member of a Panel shall not communicate directly or indirectly with any party, witness or representative of a party in respect of a Board proceeding except in the presence of all parties and their representatives.
- 29) Correspondence, email, or other communication to a member of a Panel from a party in respect of a Board proceeding will be remitted to the attention of the General Chair (email: arb@calgaryarb.ca).
- 30) A member shall not make public statements, orally or in writing, on any aspect of a matter before the Board.
- 31) A member shall not communicate with the media regarding any Board matter and shall direct all media inquiries to the Clerk of the Board.

HEARINGS OPEN TO THE PUBLIC

- 32) Subject to sections 33, 34 and 35, and section 464.1(2) of the MGA, all hearings before a Panel are open to the public.⁵
- 33) At the request of a party, if a Panel considers it necessary to prevent the disclosure of intimate personal, financial or commercial matters or other matters because, in the circumstances, the need to protect the confidentiality of those matters outweighs the desirability of an open hearing, the Panel may conduct all or part of the hearing in private.⁶
- 34) The Panel will recess to consider requests to conduct all or part of a hearing in private, and if the request is granted:
- (a) any party who wishes to attend the *in camera* portion of the hearing must execute the *Confidentiality Undertaking for Hearings Conducted in Private* (Schedule 1), and all other persons will be excluded from the *in camera* portion of the hearing;
 - (b) a sign will be placed on the hearing door 'Private Hearing - Do Not Enter' during the portion of the hearing conducted in private; and
 - (c) the Presiding Officer will declare when the hearing is *in camera* and when the hearing *in camera* is concluded.
- 35) If all or any part of a hearing is to be held in private, no party may attend the *in camera* portion of the hearing unless the person files an undertaking, *Confidentiality Undertaking for Hearings Conducted in Private* (Schedule 1).⁷

DOCUMENTS ON THE PUBLIC RECORD

- 36) Subject to section 37, and section 464.1(5) of the MGA, all documents filed with respect to a matter before the Board will be placed on the public record.⁸

⁵ See MGA, s. 464.1(1)

⁶ See MGA s. 464.1(2)

⁷ See MGA, s. 464.1 (3)

⁸ See MGA, s. 464.1(4)

- 37) The Board may exclude a document, or portion of a document from the public record on any terms it considers reasonable or necessary
- a) if the Board is of the opinion that disclosure of the document could reasonably be expected to disclose intimate personal, financial or commercial matters or other matters, and
 - b) the Board considers that a person's interest in confidentiality outweighs the public interest in the disclosure of the document.⁹

REQUEST FOR CONFIDENTIALITY

- 38) If a party before the Board wishes to keep confidential any information in a document it may, no later than 21 days before its deadline for disclosure in a Composite Assessment Review Board hearing, or seven days before its deadline for disclosure in a Local Assessment Review Board hearing, file a request for confidentiality in the matter before the Board.
- 39) The onus is on the party requesting confidentiality to demonstrate to the satisfaction of the Board that confidential treatment is warranted because the requirements of section 464.1(5) of the MGA have been met.
- 40) The request for confidentiality must
- (a) be in writing and addressed to the attention of the General Chair, email: arb@calgaryarb.ca, with subject line: 464.1 Request;
 - (b) describe the reasons for the request, including the specific harm that would result if the information for which confidentiality is requested were placed on the public record;
 - (c) state whether the information has previously been disclosed to the Board, and if so identify the file number(s) and the form in which the information has previously been disclosed;
 - (d) include one confidential, un-redacted copy of the document or portion thereof that includes the information for which the confidentiality is requested and is marked "Confidential"; and
 - (e) include either a non-confidential, redacted version of the document or portion thereof from which the information that is the subject of the confidentiality

⁹ See MGA, 464.1(5)

request has been redacted or deleted or, in the case where the request for confidentiality pertains to an entire document, a non-confidential summary of the document subject to the confidentiality request.

- 41) The un-redacted version of the document marked “Confidential” submitted under section 40(d) will be reviewed by the Board for the purpose of the Board issuing a ruling on the request.
- 42) If the Board grants a request for confidentiality it may establish or adopt any process or procedure the Board considers reasonable or necessary in the public interest for considering the confidential information, including directions on filing the confidential information as part of disclosure with the Board in accordance with MRAC.
- 43) The Board will issue a ruling on the confidentiality request within 14 days of receiving a request in a matter before a Composite Assessment Review Board and within three days of receiving a request in a matter before a Local Assessment Review Board.
- 44) Following the issuance of the Board’s ruling on the confidentiality request the Board shall delete the un-redacted version of the document marked “Confidential”.
- 45) If the party in possession of the information granted confidential treatment wishes to include the confidential information in its disclosure, the party shall disclose the confidential information in accordance with MRAC and as directed by the Board in its ruling.
- 46) Nothing in the above sections limits the operation of any statutory provision that protects the confidentiality of information or documents.¹⁰

WRITTEN SUBMISSIONS

- 47) Written submissions must be consecutively numbered by page starting at the title page (page 1), then increasing for each page to the end of the submission.
- 48) For greater clarity every page of each written submission must be identified with a page number including every tab and every page within appendices.
- 49) Page numbers should be identified in the upper right corner of every page.

¹⁰ See MGA, s. 464.1(6)

- 50) Failure to comply with the page numbering rules in sections 47 to 49 may result in the Panel directing the non-complying party to reproduce its written submission in accordance with these rules.
- 51) Written submissions should be organized in the following order:
- (a) table of contents for every submission greater than 25 pages in length;
 - (b) summary of testimonial evidence;
 - (c) assessment calculation and key evidence in support;
 - (d) supporting documentation; and
 - (e) a list of legal authorities (including legislation and Board decisions) the party intends to refer to.
- 52) At the beginning of a hearing, a party must provide the Panel with 3 paper copies of legal authorities (including legislation and Board decisions) to be referred to by the party in the hearing.
- 53) A party may provide disclosure of written submissions to the Board by submitting:
- (a) four paper copies of the disclosure to the Board office no later than 4:30 p.m. on the deadline for disclosure provided in the Notice of Hearing; or
 - (b) one electronic copy of the disclosure no later than 11:59 p.m. on the deadline for disclosure provided in the Notice of Hearing, in which case the disclosure will be printed in black and white and provided to the Panel for the hearing.
- 54) The Panel may at its discretion accept color copies of previously disclosed documents at the hearing.

EVIDENCE

- 55) The Board is not bound by the rules of evidence or any other law applicable to court proceedings and has power to determine the admissibility, relevance and weight of any evidence.
- 56) A Panel may require any person giving evidence before it to do so under oath.¹¹
- 57) The Panel must not hear any matter in support of an issue that is not identified on the complaint form, or any evidence that has not been disclosed in accordance with MRAC.¹²

¹¹ See MGA, ss. 464 (1)(2)(3)

¹² See MRAC, ss. 6 & 10

EXHIBITS

- 58) Written submissions, documents, or records may only be evidence and marked as evidence in a hearing if the submissions, documents, or records are provided and disclosed as required by MRAC.¹³
- 59) No submission, document or record is evidence at a hearing until marked as an exhibit by the Panel.
- 60) The Presiding Officer at a hearing is responsible for marking exhibits and for keeping all exhibits in good order.
- 61) Exhibits accepted from a complainant shall be numbered in sequential order with each exhibit prefaced by a “C” (i.e., C1, C2, C3), and exhibits accepted from a respondent shall be numbered in sequential order with each exhibit prefaced by “R” (i.e. R1, R2, R3).
- 62) The following documents shall be considered by the Panel without being marked as exhibits:
- (a) a complaint form under section 460 of the MGA;
 - (b) a Property Assessment Notice or Business Tax Notice.

CONDUCT OF THE HEARINGS

- 63) All parties shall demonstrate respect for the Board, other parties, representatives, witnesses, and for the hearing process itself through their demeanour, timeliness, dress and conduct throughout the proceeding.
- 64) No person shall, during a hearing, use or employ any electronic device that causes disruption to, or unacceptable distraction in proceedings of the Board unless
- (a) the use of the electronic or wireless device at a complaint hearing is to aid or assist in the representation or conduct of hearing; and
 - (b) the Presiding Officer has, in his or her discretion, allowed the use of the electronic or wireless device.
- 65) A Panel shall attempt to ensure that parties who are unrepresented by an agent or counsel are not unduly disadvantaged at the hearing by briefly explaining in clear and simple language the procedures to be followed during the hearing, and the relevant evidentiary procedures.

¹³ See MRAC, ss. 5(2), 9(2), 43(2).

66) Hearings before a Panel commence at 9:00 a.m. or 1:30 p.m., and if a party is not in attendance when the matter is scheduled to commence the Panel may grant a 15 minute grace period before commencing the hearing.

MAINTENANCE OF ORDER

67) A Panel may make an order or direction that it considers necessary for the maintenance of order at a hearing.

68) Without limitation the Panel may by order:

- a) impose restrictions on a person's continued participation in or attendance at a hearing; or
- b) exclude a person from further participation in or attendance at a hearing until the Panel orders otherwise.

69) If a person disobeys or fails to comply with any order or direction given by a Panel the Panel may call for a peace officer to assist in dealing with a continuing disturbance of the hearing.

ORDER OF COMPLAINTS TO BE HEARD

70) Complaints will be heard in numerical order of file number as printed on the Panel's day sheet, subject to the discretion of the Panel.

CONSOLIDATION OF HEARINGS

71) Where two or more proceedings are pending before the Panel and involve the same or similar questions of fact, issues or law the Panel may, with the consent of the parties, direct that the proceedings or any part of them:

- (a) be consolidated;
- (b) be combined or heard at the same time;
- (c) be heard immediately one after the other; or
- (d) be stayed until the determination of any one of the proceedings or matters.

ORDER OF PROCEEDING

72) The hearing of a complaint shall be conducted in the following order:

- (a) Introductions and preliminary matters;
- (b) Presentation of complainant evidence and argument, followed by
 - (i) questions from the respondent;
 - (ii) questions from the Panel;
- (c) Presentation of respondent evidence and argument, followed by
 - (i) questions from the complainant;
 - (ii) questions from the Panel;
- (d) Rebuttal evidence and argument of complainant (if any), followed by
 - (i) questions from the respondent;
 - (ii) questions from the Panel;
- (e) Complainant's summary of position;
- (f) Respondent's summary of position;
- (g) Panel conclusion of hearing.

73) Notwithstanding the above, the order of the hearing is subject to the Panel's discretion.

POSTPONEMENT OR ADJOURNMENT OF HEARING

74) A Panel may not grant a postponement or adjournment of a hearing except in exceptional circumstances.¹⁴

75) A request for a postponement or an adjournment of a hearing must be in writing and contain reasons for the postponement or adjournment, as the case may be.¹⁵

76) Subject to the timelines specified in section 468 of the MGA, if a Panel grants a postponement or adjournment of a hearing, the Board must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.¹⁶

¹⁴ See MRAC, s. 18(1)

¹⁵ See MRAC, s. 18(2)

¹⁶ See MRAC, s. 18(3)

77) If a postponement or adjournment of a scheduled hearing is granted and the original deadlines for disclosure of documents have passed, no further disclosure will be permitted for the hearing that is postponed or adjourned.

DECISIONS

78) A Panel may, with respect to any matter referred to in section 460(5) of the MGA, make a change to an assessment roll or decide that no change is required.¹⁷

79) A Panel must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.¹⁸

80) A decision of a Panel must include

- (a) a brief summary of the matters or issues contained on the complaint form,
- (b) the Panel's decision in respect of each matter or issue,
- (c) the reasons for the decision, including any dissenting reasons, and
- (d) any procedural or jurisdictional matters that arose during the hearing, and the Panel's decision in respect of those matters.¹⁹

81) Decisions shall be written by the Presiding Officer of a Panel unless the General Chair authorizes that a member of the Panel other than the Presiding Officer write the decision.

82) In circumstances where a member of a Panel is unable to agree with the proposed decision of a majority of the Panel, the member must prepare dissenting reasons.

83) When a Panel, constituted by only two members, is unable to reach a majority decision on the merits of a complaint, the hearing will be declared a nullity and a new hearing will be scheduled before a different Panel.

84) A Panel may correct any error or omission in its decision.²⁰

¹⁷ See MGA, s. 467(1).

¹⁸ See MGA, s. 467(3).

¹⁹ See Regulation, s. 15 (1)

²⁰ See MGA, section 471(2).

TRANSITIONAL

85) The Calgary Assessment Review Board Policies and Procedural Rules issued on April 2015 are repealed.

ISSUED at Calgary, Alberta
this 20th day of April, 2018.



J. Mathias
General Chair
Calgary Assessment Review Board

City of Calgary BYLAW NUMBER 15M2018, s. 4(3).

SCHEDULE 1

Confidentiality Undertaking for Hearings Conducted in Private

Whereas _____
requested the Calgary Assessment Review Board (the “Board”) to conduct in private all or part of the hearing of the complaint filed against the assessment of Roll/BID _____, identified as Board File Number _____ (the “Proceeding”);

And whereas, in accordance with section 464.1 of the *Municipal Government Act*, R.S.A. 2000 c. M-26, the Panel considers it necessary to conduct all or part of the Proceeding in private to prevent the disclosure of confidential information:

I _____, hereby declare that:

1. I will maintain the confidentiality of any information or evidence that I hear or receive during the course of the portion of the hearing conducted in private; and
2. I will not use any information or evidence that I hear or receive during the course of the portion of the hearing conducted in private for any purpose other than for participating in the Proceeding.

DATED at the City of Calgary, in the Province of Alberta this _____ day of _____, 2018.

Signature: _____

Agency or Firm: _____