

Request for Decision

Request for Decision to Delegate Tax Appeals Under Section 357(1)(d.1) to the Assessment Review Board

Presented To: Finance and
Administration
Committee

Presented: Tuesday, Feb 11, 2020

Report Date Wednesday, Jan 15,
2020

Type: Managers' Reports

Resolution

THAT the City of Greater Sudbury directs staff to prepare a by-law pursuant to subsection 357(11) of the Municipal Act, 2001, providing authority to delegate Council's authority to the Assessment Review Board only to exercise Council's powers and functions under subsections 357(1) and (5) with respect to applications made under subsection 357(1)(d.1) regarding an application for the cancellation, reduction or refund of taxes where the applicant is unable to pay taxes because of sickness or extreme poverty;

AND FURTHER THAT the City Clerk be directed to give a certified copy of the by-law to the registrar of the Assessment Review Board and to the Municipal Property Assessment Corporation, as outlined in the report entitled "Request for Decision to Delegate Tax Appeals Under Section 357(1)(d.1) to the Assessment Review Board", from the General Manager of Corporate Services, presented at the Finance and Administration meeting on February 11, 2020.

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Report Summary

Section 357 of the Municipal Act, 2001, provides authority for applications to be made for the cancellation, reduction or refund of all or part of the tax levied on land under certain circumstances. One of these circumstances relates to when the applicant is unable to pay taxes because of sickness or extreme poverty. Staff is seeking approval for a by-law that would delegate Council's authority under subsection 357(11) of the Municipal Act, 2001, to the Assessment Review Board regarding applications received for this circumstance.

Signed By

Report Prepared By

Kyla Bell
Manager of Taxation
Digitally Signed Jan 15, 20

Division Review

Ed Stankiewicz
Executive Director of Finance, Assets
and Fleet
Digitally Signed Jan 22, 20

Financial Implications

Apryl Lukezic
Co-ordinator of Budgets
Digitally Signed Jan 23, 20

Recommended by the Department

Kevin Fowke
General Manager of Corporate
Services
Digitally Signed Jan 28, 20

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Jan 28, 20

Financial Implications

There are very few applications received for sickness or extreme poverty annually. There is no anticipated financial impact of this proposed process change. Currently amounts relating to write-offs under Section 357 are accommodated within the existing tax write-off expense budgets.

Background

Section 357 of the *Municipal Act, 2001*, provides authority for the cancellation, reduction or refund of all or part of the taxes levied on land under certain circumstances. There are eight of these circumstances that enable a taxpayer to make application to the treasurer as set out in subsection 357(1):

- (a) *as a result of a change event, as defined in clause (a) of the definition of "change event" in subsection 34(2.2) of the Assessment Act, during the taxation year, the property or portion of the property is eligible to be reclassified in a different class of real property, as defined in regulations made under that Act, and that class has a lower tax ratio for the taxation year than the class the property or portion of the property is in before the change event, and no supplementary assessment is made in respect of the change event under subsection 34(2) of the Assessment Act;*
- (b) *the land has become vacant land or excess land during the year or during the preceding year after the return of the assessment roll for the preceding year;*
- (c) *the land has become exempt from taxation during the year or during the preceding year after the return of the assessment roll for the preceding year;*
- (d) *during the year or during the preceding year after the return of the assessment roll, a building on the land,*
 - (i) was razed by fire, demolition or otherwise, or*
 - (ii) was damaged by fire, demolition or otherwise so as to render it substantially unusable for the purposes for which it was used immediately prior to the damage;*
- (d.1) *the applicant is unable to pay taxes because of sickness or extreme poverty;*
- (e) *a mobile unit on the land was removed during the year or during the preceding year after the return of the assessment roll for the preceding year;*
- (f) *a person was overcharged due to a gross or manifest error that is clerical or factual in nature, including the transposition of figures, a typographical error or similar error but not an error in judgment in assessing the property;*
or
- (g) *repairs or renovations to the land prevented the normal use of the land for a period of at least three months during the year.*

With the exception of claims under 357(1)(d.1), based on sickness or extreme poverty, the applications are related to change events that occur during the year and can be dealt with administratively. In these instances, staff evaluates the applications for completeness and accuracy and based on recommendations by the Municipal Property Assessment Corporation (MPAC) as to changes (if any) in the assessment of the property resulting from the identified events determine

whether a tax adjustment is required. The amount of any tax adjustment is dictated by the change to the assessed value. Any proposed tax adjustments arising from applications under s. 357 are approved by Council before processing. Applicants have an opportunity to attend a hearing before the Hearing Committee to resolve any disputes regarding their application(s).

Applications under Subsection 357(1)(d.1) for cancellation, reduction or refund of all or part of the taxes levied on the land are based on the applicant's claim of inability to pay taxes because of sickness or extreme poverty. These applications are based on compassionate grounds and cannot be determined in the same manner as the remaining sections which are based on whether a specified event resulted in a change in the assessed value of the land. While applications under this clause are rarely received, staff wish to ensure that there is a policy framework for addressing such applications.

Council may choose one of two paths moving forward.

The *Municipal Act, 2001*, subsection 357(11), provides Council with the ability to delegate to the Assessment Review Board, its decision making authority for claims for tax cancellation, reduction or refund, found in subsections 357(1) and 357(5), based on claims under 357(1)(d.1), of sickness or extreme poverty.

Alternatively, if Council wishes to retain the authority to remain the decision maker with respect to applications under 357(1)(d.1), a framework for decision making should be established. This is important as The *Municipal Act, 2001*, provides no definition or specific criteria as to what constitutes "sickness or extreme poverty" and does not establish the evidentiary requirements to successfully support such applications. To provide a level playing field to applicants, guidelines should be established.

Options/Discussion:

Delegate Authority to ARB

The Assessment Review Board is an independent adjudicative tribunal established under the Assessment Act, with a mandate to hear appeals about property assessment and classification that also deals with some Municipal Act appeals. Members hear appeals and make decisions based on the law and the evidence presented at the hearing. Decisions by the ARB are final and binding, subject only to appeal to Divisional Court on questions of the law when the Court grants leave to appeal.

A by-law delegating authority to the Assessment Review Board to make decisions regarding tax cancellation, reduction or refund based on sickness or extreme poverty [357(1)(d.1)] allows for applicants to make application directly to the ARB. The ARB has experience as a hearing body, so applicants can expect:

- a consistent approach by an independent body that has experience with this particular type of appeal
- a set of strict evidentiary standards, including the administration of oaths
- effective guidelines for confidentiality of personal information and
- formal rules for proceeding to be applied in accordance with legislation related to the ARB

Information from the Assessment Review Board regarding tax relief due to sickness or extreme poverty is attached to this report as Appendix 'A' and a guide to the Assessment Review Board is Appendix 'B'.

Staff have researched and determined that this is a standard practice by municipalities around the Province such as the City of Toronto, City of Mississauga, City of Hamilton, Town of New Market and many more to have authority delegated to the Assessment Review Board to evaluate and decide on behalf of the municipality whether a property owner(s) should receive tax relief due to sickness and extreme poverty.

If this is Council's preferred approach, Council will need to pass a by-law to delegate its decision making authority under s. 357(1)(d.1) to the Assessment Review Board.

It is important to note that there are no fees to the applicant associated with applications under subsection 357(1)(d.1) to the Assessment Review Board should Council choose to delegate its authority as described.

A by-law delegating authority to the Assessment Review Board can always be repealed by Council, and its authority under 357(1)(d.1) restored.

Retain Authority

If Council's preference is to retain its decision making authority under 357(1)(d.1) regarding appeals for tax relief based on sickness and extreme poverty, it is recommended that a policy and guidelines be developed to establish the requirements and supporting material to be submitted by the applicant; a process to be followed; and guidelines to assist Council in assessing entitlement to relief, the amount of relief to be granted, and any conditions.

Past experience with applications of this type has shown that applicants have not provided the additional information requested to assess the applications. It is possible that even with a detailed policy and guidelines, applicants may be hesitant to make application and/or provide their personal information due to the sensitive nature of their circumstances. Since all applications are brought forward to the Hearing Committee for recommendation to Council, reports are prepared and certain information (property roll numbers) may be made public or the applicant may have to attend an open public meeting to have their application heard.

Decisions on applications would have to be made by Council by September 30 of each year in accordance with statutory guidelines.

The applicant would be entitled to file an appeal with the Assessment Review Board if the applicant disagreed with Council's decision or if Council failed to make a decision by September 30th. Unlike the situation where the applicant applies directly to the ARB, fees could be applicable where the applicant appeals to the Assessment Review Board regarding a decision of Council or Council's failure to make a decision by the deadline.

Summary:

It is recommended that in accordance with Subsection 357(11) of the *Municipal Act, 2001*, Council delegate their powers and functions under subsections 357(1) and (5) to the Assessment Review Board relating to applications made under subsection 357(1)(d.1) and that the appropriate by-law be passed.



Tax Relief Due to Sickness of Extreme Poverty

What is a sickness or extreme poverty appeal?

Both the Municipal Act, 2001 and the City of Toronto Act, 2006 permit municipalities to cancel, reduce or refund all or part of taxes if you are unable to pay your taxes because of sickness or extreme poverty. If you believe you are entitled to tax relief for a particular tax year, you must apply before February 28 of next year. Applications are made to the municipality, unless the municipality has passed a by-law that gives the power to grant this tax relief to the Assessment Review Board (ARB).

How do I file this appeal?

If you are unable to pay your taxes because of sickness or extreme poverty you should contact your municipality for information on how to apply for tax relief. They will let you know the process to follow.

In some cases you will have to apply to the municipality and then, if you are not satisfied with the outcome, you can appeal to the ARB. In other cases you may be able to apply directly to the ARB.

In either case the deadline for applying for tax relief for each tax year is February 28 of the following year. For example, if you are seeking tax relief from your 2016 taxes, you would need to file your application on or before February 28, 2017.

File your appeal using the Sickness or Extreme Poverty Appeal Form, available [here](#).

After filling out the correct form, send it to the ARB **before the deadline**, there is no filing fee for Sickness or Extreme Poverty Appeals. Send your appeal:

By fax: 416-314-3717 or 1-877-849-2066, or

By mail: 655 Bay Street, 15th Floor, Toronto ON, M5G 1E5, or

In person: 655 Bay Street, 15th Floor, Toronto (on Bay, north of Dundas)

You will be mailed a letter letting you know that the ARB has received your appeal and that a hearing will be scheduled. You will also be provided with a date to start working on your appeal, which will be heard by summary proceeding.

For more information, see the General and Summary Proceedings information sheet, available [here](#).

How do I prepare for my hearing?

To prepare for your hearing, bring **two** photocopies of all documents you plan on presenting as evidence. Your evidence should:

- relate to the tax year of your appeal, and
- relate to all adults living with you.

Some examples of the kinds of evidence you should bring to prove your claim include:

- income statements from any source, including an employer, long term disability, spouses income, income from a tenant, or any other source,
- personal income tax assessments from the Canada Revenue Agency,
- documentation related to the Ontario Disability Support Program,
- personal bank statements for all of your bank accounts,
- a listing of all your assets and their value, including the value of the property, any other properties, vehicles, investments, RRSP's, Canada Savings Bonds, and any other assets,
- copies of monthly bills, and a detailed list of expenses, including items such as medications, medical supplies, transportation, loan payments, mortgage payments, groceries, personal expenses, child care, housing, life insurance, and any other expenses,
- supporting documents from doctors or other medical professionals for any medical care,
- supporting documents to show that you were unable to work because of sickness, such as documents from the Workplace Safety and Insurance Board, and
- any other evidence that you feel will support your position.

Under the ARB's Rules of Practice and Procedure, you are required to disclose to the municipality **all** documents in your possession, control or power, that are relevant to the matters raised in your appeal, even if you do not intend to rely on a particular document at the hearing.

Note: Send one copy of all your evidence to the municipality before your hearing date. Contact the Revenue or Tax Department of your municipality to find out their mailing address.

Where will my hearing take place?

You will be sent a letter in the mail with the date, time and location of your hearing. The hearing will be held in the municipality you live in or as close to the municipality as possible.

Can anyone watch my hearing?

No. Appeals that deal with sickness or extreme poverty are private. These hearings only involve the person who filed the appeal, the municipality, and the ARB.

What if I am going to be late to my hearing?

Please call the ARB as soon as you realize you may be late. Call toll-free 1-866-448-2248 or (416) 212-6349 and ask to speak to a Case Coordinator. Make sure you have your hearing notice with you when you call, so you can provide the information needed to direct you to the right person.

Will the hearing venue be accessible?

ARB hearings are held in municipal sites throughout Ontario. The ARB's offices are accessible and the Accessibility Standards for Customer Service applies to municipalities. The ARB strives to schedule hearings at accessible facilities. If you have any questions about accessibility, please call the ARB and ask to speak to the Accessibility Coordinator.

What if I need an interpreter?

Most hearings are held in English. The ARB can hold hearings in French or have a sign language interpreter at your hearing if you request it at least 25 days before your hearing date. If you would like to bring someone to your hearing to interpret for you in any other language, you may bring them with you for that purpose.

Where can I find more information?

For more information please refer to the ARB's *Rules of Practice and Procedure* which can be found on [our website](#) or by calling us at (416) 212-6349 or toll free 1-866-448-2248.

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible at (416) 212-6349 or 1-866-448-2248.

Please Note

The information contained in this sheet is not intended as a substitute for legal or other advice, and in providing this information, the ARB assumes no responsibility for any errors or omissions and shall not be liable for any reliance placed on the information in this sheet. Additional information, including the ARB's *Rules of Practice and Procedure*, is available at www.elto.gov.on.ca, or by calling (416) 212-6349 or toll free 1-866-448-2248.



The **Environment and Land Tribunals Ontario (ELTO)** includes the Assessment Review Board, Board of Negotiation, Conservation Review Board, Environmental Review Tribunal, Ontario Municipal Board, Niagara Escarpment Hearing Office and the Office of Consolidated Hearings. The Tribunals operate under specific legislative requirements and share resources and best practices. The Assessment Review Board hears appeals from persons who believe there is an error in the assessed value or classification of a property and also deals with some types of property tax appeals under the Municipal Act and City of Toronto Act. For more information contact us at:

Environment and Land Tribunals Ontario
655 Bay Street, Suite 1500, Toronto, ON M5G 1E5
Telephone: (416) 212-6349 or toll free: 1-866-448-2248
Website: www.elto.gov.on.ca



Environment and Land Tribunals Ontario

Your Guide to the Assessment Review Board

Contents	Pages
<u>PART I - Overview</u>	1-2
1. About the ARB	
a. Contact information	
b. History	
c. Jurisdiction	
d. ARB Rules of Practice and Procedure	
2. Property assessment system in Ontario	
3. Matters heard at the ARB	
a. Annual assessment appeals	
b. Tax appeals	
<u>PART II – ARB process</u>	3-6
1. Filing assessment appeals	
2. How to file your assessment appeal	
a. E File	
b. Forms	
c. Filing fees	
3. Filing tax applications or appeals	
4. After filing	
a. E Calendar	
b. E Status	
5. Adjournments	
6. Withdrawals	
7. Case Managed Stream	
8. Hearings	
9. Decisions	
<u>PART III – Preparing for a hearing</u>	6-7
1. Using a representative	
2. Gathering evidence	
<u>Part IV – After the hearing</u>	7-8
1. Decisions	
a. At the Hearing	
b. Written Reasons	
2. Request a Review of a Decision	
3. Appeal a Decision	

Part I – Overview

About the Assessment Review Board

The Assessment Review Board (ARB) is an independent adjudicative tribunal that hears appeals about property assessments and classification. The ARB also deals with some Municipal Act and City of Toronto Act appeals. In a court-like setting, ARB Members hear appeals and makes decisions based on the law and the evidence presented at the hearing.

The ARB does not prepare or send out property assessment notices. The Municipal Property Assessment Corporation (MPAC) assesses all properties in Ontario.

ARB contact information:

The ARB 's address:

655 Bay Street, Suite 1500
Toronto, ON M5G 1E5

Website: www.elto.gov.on.ca

E-mail:

assessment.review.board@ontario.ca

To fax the ARB:

Toll Free: 1-877-849-2066 –

From Toronto: (416) 314-3717

To call the ARB:

Toll Free: 1-800-263-3237

From Toronto: (416) 314-6900

The ARB 's office hours:

Monday-Friday 8:30 a.m. – 5 p.m.

*Excluding statutory holidays

History

In 1970, the Province began issuing property assessments and replaced the Courts of Revision with the Assessment Review Court (ARC). ARC was renamed the Assessment Review Board (ARB) in 1983. When the Fair Municipal Finance Act, 1997, came into affect, the ARB became the Province's only adjudicative tribunal for property assessment appeals. Before 1998, ARB decisions could be appealed to the Ontario Municipal Board (OMB).

Decisions by the Board are final and binding, subject only to appeal to Divisional Court on a question of law when the Court grants leave to appeal. The Board also may review its decisions.

New legislation has been introduced for the 2009 tax year. This legislation introduced several changes to the assessment appeal process. This Guide has been produced to help you better understand some of the changes.

Jurisdiction

The Board's jurisdiction and its authority are defined by the Assessment Review Board Act, the Assessment Act, the Municipal Act, 2001, the City of Toronto Act, 2006, The Provincial Land Tax Act, 2006, the Education Act and the Statutory Powers Procedure Act.

ARB's Rules of Practice and Procedure

Made under section 25.1 of the Statutory Powers Procedure Act, the ARB's Rules of Practice and Procedure apply to all proceedings before the Assessment Review Board. It is recommended that any person who has dealings with the Board, review the Rules before attending a Board proceeding. The Rules can be viewed and printed from the ARB website free of charge. A hard copy of the Rules can be requested from the ARB's Public Inquiry office. There is a fee for a hard copy version of the rules.

Property assessment system in Ontario



The above diagram illustrates the major participants in the property assessment system of Ontario. The provincial government, through the Ministry of Finance, sets the laws on property assessment. Municipalities are responsible for setting tax rates and collecting property taxes. The Municipal Property Assessment Corporation (MPAC) assesses and classifies all properties in Ontario. When MPAC makes a decision about a property assessment that the owner does not agree with, the owner may file an appeal with the Assessment Review Board (ARB). MPAC and the ARB are two different organizations. The ARB process is described in this Guide.

Matters heard at the ARB

1. Assessment Act appeals

These appeals are made under sections 32, 33, 34 and 40 of the Assessment Act. Usually, reasons for these appeals include:

- A wrong property assessment (for example, if you believe your assessment is too high)
- A wrong property classification (for example, if you believe the current use of your land is not correctly classified)
- To correct factual errors in the assessment roll

2. Tax appeals

These appeals deal with the amount of taxes for a property. If the property is in the City of Toronto, the appeal is made under the City of Toronto Act, 2006. If the property is in any other municipality in the province, the appeal is made under Municipal Act, 2001. For properties outside of municipalities such as in unorganized territories, the appeal is made under the Provincial Land Tax Act, 2006. Usually, these appeals are against a decision made by the municipality about a tax

matter. In some cases, the municipality has passed a bylaw directing applications to be filed directly with the ARB. Ask your municipality about their process before filing with the ARB.

Part II – ARB Process

Filing assessment appeals

The Municipal Property Assessment Corporation (MPAC) assesses all properties in Ontario. MPAC is responsible for sending out the Property Assessment Notice. This notice tells you the assessed value of your property and your property class. **The process of filing an assessment appeal to the ARB depends on your property class.**

If your property, or a portion of it, is classified as **residential, farm*, conservation land* or managed forest***:

- 1) You **MUST** file a Request for Reconsideration (RFR) with MPAC first.
- 2) You **MUST** receive a RFR decision **BEFORE** filing an appeal with the ARB.
- 3) Your deadline to file with the ARB is 90 days from the mailing date of MPAC's Notice of Decision.

*Properties that are classed as farms, managed forests or conservation lands, may be eligible for special tax class programs. If you have issues with eligibility for these programs, you must first file a RFR with the Program Administrator. MPAC does NOT administer these programs. After you receive a RFR decision from the Program Administrator, you may appeal that decision to the ARB. See the ARB website for information on these property tax class programs.

If your property, or a portion of it, is classified as **any other property class**:

- 1) You may file a RFR with MPAC **or** you may file an appeal with the ARB.
- 2) If you file a RFR with MPAC first and do not agree with the RFR decision from MPAC, you may then file an appeal with the ARB. Your deadline to file with the ARB is 90 days from the mailing date on the RFR decision.
- 3) If you file with the ARB first, your deadline to file with the ARB is March 31 of the tax year.

If you are **not the property owner**, you must file your appeal with the ARB first and send a copy of the appeal form to the property owner by the filing deadline.

How to file your appeal

E File

You can file your appeal online using **E File** on the ARB website, www.elto.gov.on.ca. E Filing is a quick and easy way to file your ARB appeal. After you submit the online form, you will receive an e-mail confirming your appeal has been received. Processing time is also quicker since all the necessary information is automatically stored in the ARB's database. You must have a credit card to file online. E Filed appeals receive a \$10 discount to the filing fee.

Forms

If you are not E Filing your appeal, you may fill out a form and send it to the Board. This form is available on the ARB website (and at its office) and may be available through some MPAC offices, municipal offices and Government Information Centres.

Once the form has been filled out, you can send the form by fax or mail, or deliver it in person to the Assessment Review Board (see the beginning of this Guide for ARB contact information).

Filing Fees

There is a fee to file an ARB appeal. Please contact the Board or check the Board's website for the current fee amount.

Fees are payable by cheque, money order or major credit card (VISA, Master Card) and must be in Canadian funds. Cheques and money orders should be made payable to the "Minister of Finance" and should include the roll number of the property on the front of the cheque or money order. If hand-delivering an appeal, payment can also be made by cash or by debit. **There are no refunds of filing fees.**

Filing tax applications or appeals

To file a tax application or appeal, make sure to use the right form. The forms are available at ARB's offices and on the ARB website. They may also be available through some Government Information Centres and municipal offices.

These types of appeals can be sent to the Board via mail, fax or in person. Tax appeals cannot be E Filed. Filing fees for these types of appeals depend on the type of appeal being filed. The forms used for filing tax appeals indicate the correct filing fee. A listing of the ARB's filing fees may be found on the ARB website or by contacting the ARB.

After filing with the ARB

After filing your appeal, the ARB will send you an acknowledgment letter in the mail. If the appeal is E Filed, the acknowledgment of receipt is sent by e-mail immediately after submitting. A Notice of Hearing will be sent to you in the mail once your hearing date has been scheduled. Hearings are normally held in the municipality closest to the location of the property.

E Calendar

E Calendar allows you to search for ARB hearing dates on the website www.elto.gov.on.ca. Using E Calendar, you can view the hearings scheduled in a particular month and municipality. Only current information is available. Previous months hearing dates are not listed on E-Calendar.

E Status

E Status is a feature on the ARB website that allows you to find out the status of an appeal. Using the 19-digit roll number, you can view information such as the date, time and location of a hearing, as well as and what parties are involved in the hearing.

Adjournments

An adjournment is a delay of a hearing date. After receiving a Notice of Hearing, you should be prepared to attend the hearing. However, if you cannot attend, you may request that the hearing be adjourned (delayed) to a later date. Your request should:

- Be sent to the Board, in writing, as soon as you know an adjournment is needed;
- Include the reasons for the adjournment;
- Include proof that the other parties involved (i.e. MPAC and the municipality) agree to the adjournment.

Just sending your request to the Board does NOT mean that your hearing will be adjourned. The Board does not always grant adjournment requests. The Board will inform you of its decision on your request. You are expected to attend your hearing unless the Board informs you of any changes to your hearing date. Failure to show up for your hearing could result in your case being dismissed.

If you must make a last minute request to adjourn, please contact the Board right away to discuss your reasons. For more information about adjournments, please see the ARB's Rules of Practice and Procedure.

Withdrawals

To withdraw an ARB appeal, you must send a letter or fill out a withdrawal form and send it to the Board by fax, mail or e-mail. In the letter, include your name, address, the property roll number, and the reason for the withdrawal. A withdrawal form is available for download on the ARB website. After the withdrawal request is received the ARB will review it. If the request is granted, the Board will forward an acknowledgement of withdrawal to everyone involved in the matter and the file will be closed.

Case Managed Stream

If you did not file a Request for Reconsideration (RFR) with the Municipal Property Assessment Corporation (MPAC) and your property is above a certain assessed value, your appeal will be scheduled into the case managed stream. This process is meant to clarify issues and procedures before a full hearing of an appeal begins.

For more information about the case managed stream, please see the ARB's Rules of Practice and Procedure. The Rules are available on the Board's website.

Hearings

It is important that you come prepared to your ARB hearing. The hearing is your opportunity to explain why you think your property assessment is wrong. Although it is MPAC's responsibility to explain its valuation of your property, **you should still bring evidence to support your case.**

Appeals are usually called on a first come, first-served basis. When you arrive to the hearing, you must sign an attendance sheet. The order of the sign-in sheet is the order the appeals are called. Once your appeal is called, the hearing will usually follow the process outlined below.

1. MPAC will describe the property, explain how the assessment was made and present evidence.
2. You may question MPAC about their evidence.
3. You will have a chance to present your evidence and explain why you think the assessment is wrong.
4. MPAC may question you or any of your witnesses.
5. If the municipality is taking part in the hearing, its representative will also be given the opportunity to give evidence and question witnesses.
6. MPAC will summarize their case.
7. You will summarize your case.
8. MPAC will give their closing statement.
9. You will give your closing statement. As the appellant, you have the right to make the final closing statement.
10. The ARB Member gives an oral decision OR reserves the decision (meaning the Member will make the decision at a later date. In this case, an explanation of the decision called **Written Reasons** will be mailed to you.)
11. If you own a farm, managed forest or conservation land properties and are seeking a special tax classification, the ARB Member will refer the appeal for a further hearing. Your appeal is sent to the Agriculture Food Rural Affairs Appeals Tribunal (AFRAAT) if the property is a farm, or to the Mining and Lands Commissioner if the property is a managed forest or a conservation land.

For more information on hearings, please see the ARB's *Rules of Practice*.

PART III – Preparing for a hearing

Using a representative

When you come to the Board for your appeal, you can represent yourself or have someone else represent you. If you choose to have someone else represent you, you must provide the Board with your representative's name, address, telephone number, fax number and e-mail. ARB appeal forms include a section for collecting this information. It is your responsibility to make sure that the Board receives your authorization of representation before the hearing.

Note: anyone in Ontario providing legal services requires a licence, unless the person is not captured by the Law Society Act or is exempt by a Law Society by-law. By-law 4 exempts persons who are not in the business of providing legal services and occasionally provide assistance to a friend or relative for no fee. For information on licensing please refer to the Law Society of Upper Canada's website www.lsuc.ca or call 416-947-3315 or 1-800-668-7380.

Gathering Evidence

A hearing is **your** chance to explain **why you think your property assessment is wrong**. Your evidence and the evidence presented by the other parties will be used by the Board to **make a decision on your appeal**. Some examples of evidence that would be useful for you to bring are listed below (this is not an exclusive list, you may bring other evidence that you think would best support your case).

- ☐ Your property's location, lot size, square footage, number of stories and building age, amenities, condition, etc.
- ☐ Comparable properties' lot sizes, square footages, number of stories and building ages
- ☐ Sales information for your property and the comparable properties*
- ☐ Assessed values of your property and comparable properties
- ☐ Photographs of your property and comparable properties

* If current sales information is not available, the ARB may consider sales figures from other years.

It is important that ALL documents you plan to use as evidence be exchanged between parties AT LEAST 21 days before the hearing date. You must also make sure to bring **two extra** copies of all documents to the hearing.

These are some suggestions on where to find evidence to support your case:

- Through MPAC – call 1-866-296-6722 or visit online at www.mpac.ca
- Your municipal office (town hall or city hall)
- Land registry offices

See the ARB brochure “Preparing for your Hearing” for more information.

Part IV – After the Hearing

Decisions

At the Hearing

After all parties have had a chance to provide the Member with their evidence, the Member will summarize the evidence and give an oral decision. In some cases, the Member may need more time to consider the evidence and may reserve the decision to a later date. If the decision is reserved, a decision with Written Reasons will be mailed to the parties.

If an oral decision is given at the hearing, a written confirmation of the decision will be mailed to the parties after the hearing. If a request for Written Reasons is made, the decision will be sent with the Written Reasons.

Written Reasons

Any party may request Written Reasons for a Member's decision. Written Reasons outline why the Member made his or her decision. To request Written Reasons, you must ask for them at the hearing or make a request, in writing, to the Board within 14 days of the hearing date.

Review a Decision

The Board's Rules of Practice and Procedure provide guidelines for reviewing decisions. It is not an opportunity to rehear or reargue an appeal. For the Board to consider reviewing a decision, it may take into consideration:

- Whether a material error of law or fact was made, which, if corrected, would have a significant effect on the decision;
- Whether any other person has relied upon or acted on the decision; and
- Whether the rights of a party other than the requester will be prejudiced if the decision is changed.

To request a Review of Decision, a party must have requested Written Reasons for the decision. When you send in your request to the ARB for a review of your decision, you must include:

1. A copy of the Written Reasons;
2. An affidavit of the facts and reasons for your request;
3. A \$125 filing fee, per property (this fee is not refundable).

Appeal a Decision

A decision of the Board may be appealed to the Superior Court of Justice (Divisional Court) only on a question of law. To start the process of appealing, you must apply to the Court and seek leave to appeal. People usually consult legal counsel to explore this option.

Please Note

The information contained in this Guide is not intended as a substitute for legal or other advice, and in providing this information, the Assessment Review Board (ARB) assumes no responsibility for any errors or omissions and shall not be liable for any reliance placed on the information in this Guide. Additional information, including the ARB's Rules of Practice and Procedure, is available at www.elto.gov.on.ca, or by calling (416) 314-6900 or 1-800-263-3237.



The Assessment Review Board (ARB) is an independent adjudicative tribunal established by the Province of Ontario to hear appeals from persons who believe there is an error in the assessed value or classification of a property. The ARB, which operates under a variety of legislation including the Assessment Act, also deals with some types of property tax appeals under the Municipal Act and City of Toronto Act, 2006 and the Provincial Land Tax Act, 2006.

Produced by:

Assessment Review Board
655 Bay Street, Suite 1500, Toronto, ON M5G 1E5
Tel (416) 314-6900 or toll free 1-800-263-3237
Fax (416) 314-3717 or toll free 1-877-849-2066