



# **Administrative Law I for Assessment Review Board Clerks**

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January 2017

ADMINISTRATIVE LAW 1  
for ARB Clerks

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Municipal Government Board  
Alberta Municipal Affairs  
2<sup>nd</sup> Floor, Summerside Business Centre  
1229 – 91<sup>st</sup> Street SW  
Edmonton AB T6X 1E9  
P: 780-427-4864  
F: 780-427-0986  
[mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca)

Department forms, publications & resources can be found at  
[http://www.municipalaffairs.gov.ab.ca/mc\\_property\\_assessment\\_and\\_taxation](http://www.municipalaffairs.gov.ab.ca/mc_property_assessment_and_taxation)

Information about Assessment Review Boards and training requirements can be found at  
<http://www.municipalaffairs.alberta.ca/assessment-review-board-member-and-clerk-training>

CONTACT Web Portal  
<http://www.contact-elearn.ca>

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## **Caution on the Use of the Materials**

**These materials have been prepared for educational purposes and do not constitute legal advice.**

## Terminology

Words and acronyms used throughout this document have the following meanings unless specifically noted otherwise:

<b>ABQB</b>	– Court of Queen’s Bench of Alberta
<b>Agent</b>	– A party representing the Complainant, a Tax Agent or a lawyer for a fee
<b>ARB</b>	– Assessment Review Board
<b>Assessed Person</b>	– The person named on an assessment roll, usually the property owner
<b>Assessment Roll</b>	– List of assessed property in a municipality, created yearly
<b>Assessor</b>	– A qualified person who is appointed by a municipality as designated officer to carry out the duties and responsibilities of an assessor under the <i>Municipal Government Act</i>
<b>Bias</b>	– A lack of neutrality, real or perceived. Test for board members is whether a reasonable person would think that a board member will not decide fairly
<b>CARB</b>	– Composite Assessment Review Board
<b>Citation</b>	– The correct form of reference for legislation and case law, e.g. <i>Municipal Government Act</i> , RSA 2000, c M-26
<b>Clerk</b>	– The clerk appointed to an Assessment Review Board
<b>Complainant</b>	– Any assessed person, taxpayer, or person acting on behalf of an assessed person or taxpayer who files a complaint (also called the appellant)
<b>Condition Date</b>	– Assessed condition as of December 31 <sup>st</sup> of assessment year
<b>COPTER</b>	– <i>Community Organization Property Tax Exemption Regulation</i> , Alta Reg 281/1998
<b>Expert Witness</b>	– Provides professional opinion on the subject matter; expertise is based on credentials of education and experience
<b>Factual Witness</b>	– Provides information about what they know, does not provide opinions
<b>IA</b>	– <i>Interpretation Act</i> , Revised Statutes of Alberta 2000, chapter I-8
<b>Joint/Regional ARB</b>	– <i>Multiple municipalities may jointly establish Assessment Review</i>

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*Boards to share resources*

<b>Jurisdiction</b>	– ARBs only have power to do things their enabling legislation says they can do
<b>LARB</b>	– Local Assessment Review Board
<b>Legal Counsel</b>	– Lawyer representing one of the parties or provider of legal advice to the ARB
<b>Merit Hearing</b>	– The actual hearing where the complainant and respondent present their cases to the hearing panel
<b>MGA</b>	– <i>Municipal Government Act</i> , Revised Statutes of Alberta 2000, chapter M-26
<b>MGB</b>	– Municipal Government Board
<b>MRAC</b>	– <i>Matters Relating to Assessment Complaints Regulation</i> , Alta Reg 310/2009
<b>MRAT</b>	– <i>Matters Relating to Assessment and Taxation Regulation</i> , Alta Reg AR 220/2004
<b>Paper Hearing</b>	– A hearing that is conducted without the parties appearing in person. Also known as a desk hearing
<b>PO</b>	– Presiding Officer or “Chair”, the person “in charge” of the hearing
<b>Preliminary Hearing</b>	– A hearing that deals with administrative or jurisdictional issues, but does not hear any evidence that pertains to the full case
<b>Recuse</b>	– When a member is excused or removes themselves from a hearing for potential bias
<b>Representative</b>	– A spokesperson or advocate for a party that chooses not to present their own case for which there is no fee
<b>Respondent</b>	– The party that replies to a matter brought before the board, generally the municipality, as represented by the assessor
<b>Taxpayer</b>	– A person who pays taxes in a municipality
<b>Tax Roll</b>	– List of all properties in a municipality and taxes imposed upon them, created yearly
<b>Valuation Date</b>	– Assessed value of property at July 1 <sup>st</sup> of assessment year

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**Witness**

- Individual(s) called by the parties to present information in support of their case

## Course Overview

### Purpose

Assessment Review Board clerks play a key role in the assessment complaint process. Clerks are the face of the municipal government to its citizens who file complaints about matters shown on an assessment notice. To be successful in this role, you must not only understand your responsibilities, but also the principles of administrative law and natural justice and how these principles fit within the legislative framework of the assessment complaint system in Alberta.

This course will

- Give an overview of the complaint system.
- Examine the clerk's role in every step of the complaint process.
- Identify preferred practices throughout the complaint process.
- Explain the arm's length nature of the ARB.
- Identify common pitfalls and solutions.
- Apply the principles of natural justice to the assessment complaint process.
- Review the procedures and how they create a fair complaint process.

### Course Objectives

Upon completion of the course, you will be able to

- Describe your role and responsibilities in the assessment complaint process.
- Find and interpret legislation governing the complaint process.
- Apply the fundamentals of administrative law as guiding principles in your role.
- Outline the assessment complaint process and associated timelines.
- Outline the key principles of assessment complaints and the complaint system.
- Describe the types of Assessment Review Boards.
- Describe the ARB's role in the assessment complaint process.
- Facilitate the administration of complaints.

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## Evaluation and Certification

To become qualified as an Assessment Review Board clerk, full participation in the course and exercises is required and a passing grade (70%) on the final examination must be obtained.

A Certificate of Qualification will be awarded to each successful participant and will be available in **CONTACT**.

All participants must sign in twice daily (morning and afternoon) at every course to verify attendance. Attendance for each day of the course is required. Anyone who is not able to attend will not be allowed to write the online exam and will need to re-take the course.

### *In order to receive ARB Certification:*

- Attendance at the full course is required,
- Activities/exercises must be completed and submitted during the course, and
- A passing grade must be achieved on the online exam (70%).

Exams are open book and must be completed online within 7 days after the course date. Participants will be provided with their grade immediately upon submission of the online exam.

If your exam is incomplete, the course is considered incomplete.

If a participant's grade is less than 70%, he/she may re-write the exam. If the grade is still less than 70% on the re-write, he/she will be required to take the course again.

Participants will only be allowed one re-take, per course, per year. This option is dependent on another course running in the same ARB training year in addition to space being available in that course.

After taking the initial training, clerks are required to successfully complete refresher training every three (3) years in order to maintain their qualifications.

In order to recertify, the Clerk Refresher course must be successfully completed.

If you have any further questions about a course, exam or certification/recertification, please contact the Municipal Government Board at 780-427-4864 or [ma.arbadmin@gov.ab.ca](mailto:ma.arbadmin@gov.ab.ca).

## 1. Fundamentals of the Assessment Complaint System

***Lesson Objective: By the end of this chapter, you will be able to***

- Describe the property tax assessment complaint system in Alberta
- Demonstrate understanding of the roles of the ARB Clerks and Board Members
- Describe the different kinds of legislation
- Demonstrate how to read, interpret, and reference legislation

To ensure that property owners have a voice in the property assessment system, the *Municipal Government Act (MGA)* has set out an assessment complaint system for property owners who have concerns about their property assessment or about other matters on an assessment or tax notice. This system includes procedures to let taxpayers understand and challenge information used to prepare their assessment, to bring forward correct information and to make complaints about various matters on an assessment or tax notice.

The assessment complaint system in Alberta was built upon the following foundational principles:

- Taxpayers have the right to an understandable, effective, timely, efficient, objective and procedurally fair complaint and appeal process.
- Information must be accessible, transparent and complete while protecting confidentiality and privacy.
- Members and administrators of assessment tribunals must be impartial, competent and qualified.
- ARBs are quasi-judicial independent bodies that apply the legislated requirements and are subject to established principles of natural justice.
- ARB's are administered locally, with citizens at large making decisions at arm's length from the municipality.

ARB's receive support and policy direction from the Province to ensure fair application of the law to all Albertans. Although a person may make a complaint about numerous matters shown on an assessment or tax notice, most complaints are about property assessments. A property assessment is the estimated dollar value of a property calculated by the assessor for the purposes of taxation. The assessor multiplies this value by a tax rate to identify a tax amount. Alberta's legislation does not allow complaints about tax rates.

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The assessment complaint system in Alberta is intended to ensure the following:

- Taxpayers have access to assessment information and time to review the information and discuss issues with the assessor.
- Complaints are administered consistently throughout the province through the use of standardized forms and procedures.
- Complaints are heard and decisions are issued in a timely manner by a ARB.
- Qualified people who have completed mandatory training programs are administering and adjudicating the complaints consistently throughout the province.

The complaint process is initiated when a complaint is filed. Filing triggers a series of events including information disclosure, a hearing and a written decision.

## Assessment Review Boards (ARB)

### ARB Clerks

ARB clerks are appointed by municipal council and must have the training set out in the legislation. As key officials responsible for administering and processing complaints, ARB clerks should strive to achieve a fair, timely and unbiased complaint process in accordance with the requirements set out in the *MGA* and its regulations.

An ARB clerk must be appointed by council.

s. 455(1) – *MGA*

s. 49(1) – *MRAC*

ARB clerks must meet training requirements set by the Minister.

There are restrictions on who can be an ARB clerk.

s. 455(2) – *MGA*

Clerks have important obligations to implement procedures within specified time frames during the complaint process. The clerk is in contact with the parties both before and after the hearing and handles much of the complaint process. They interact often with the parties to complaints and are a valuable resource.

### ARB Members

It is ARB members who are responsible for adjudicating complaints. They attend hearings, receive evidence and arguments from the parties and make decisions. They must find facts, and interpret and apply the law to every complaint. In addition to the legislation, ARB members are subject to the principles of natural justice and must be free from bias or conflict of interest.

Like clerks, the *MGA* requires ARB members to be appointed and to meet certain requirements before they can sit on a panel. Some of the relevant provisions are considered on the following page.

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ARB members must be appointed by the municipality.

ss. 454.1(1) and  
454.2(1) *MGA*

s. 454.3 *MGA*  
s. 49(2) *MRAC*

ARB members must meet qualifications set by the Minister in order to perform their duties.

Legislation restricts who can be a board member.

s. 50 *MRAC*

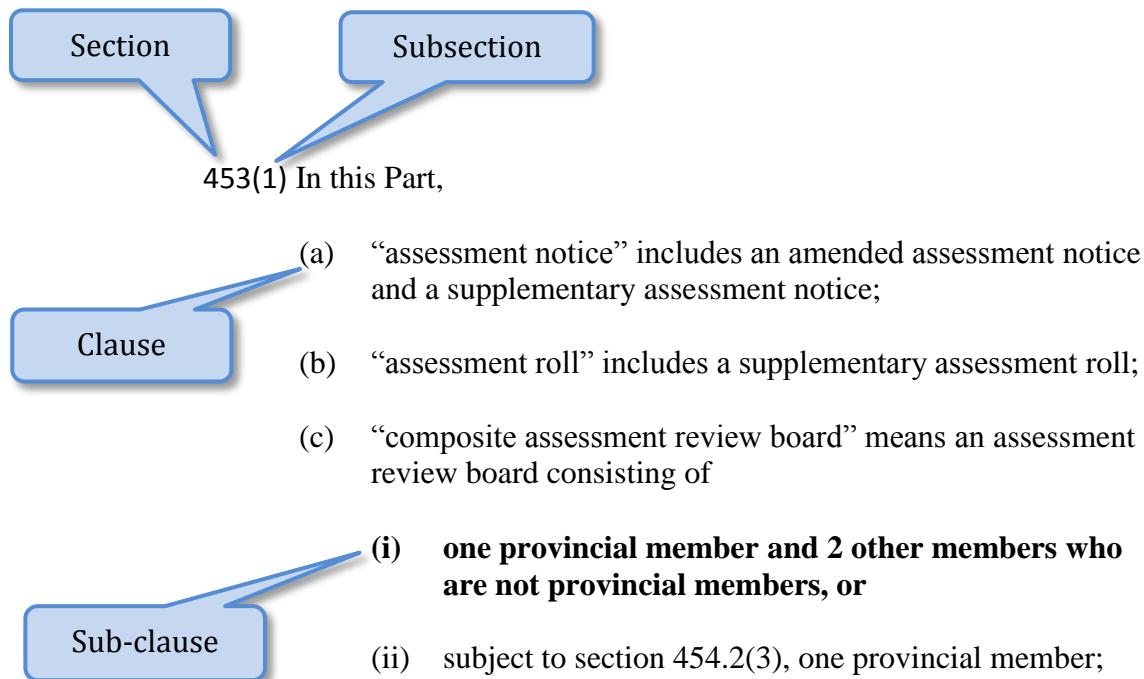
## Legislation

The law that applies to Assessment Review Boards comes from various sources. These sources explain each step of the complaint process, from before the clerk even receives a complaint, to circumstances where an ARB decision is appealed to the courts.

### Structure: How Acts and Regulations Are Divided Up

In Alberta, Acts and Regulations usually begin with a Table of Contents. Longer acts and regulations are often separated into different segments, called parts, based on topic. Those parts may be further separated into divisions.

Laws are structured so that individual points are listed numerically as sections. Where those points contain a list or different parts, they may be separated into subsections, clauses and sub-clauses, as described below.



The **bolded** section would be stated as “section 453, subsection 1, clause c, sub-clause i” and written as s. 453(1)(c)(i).

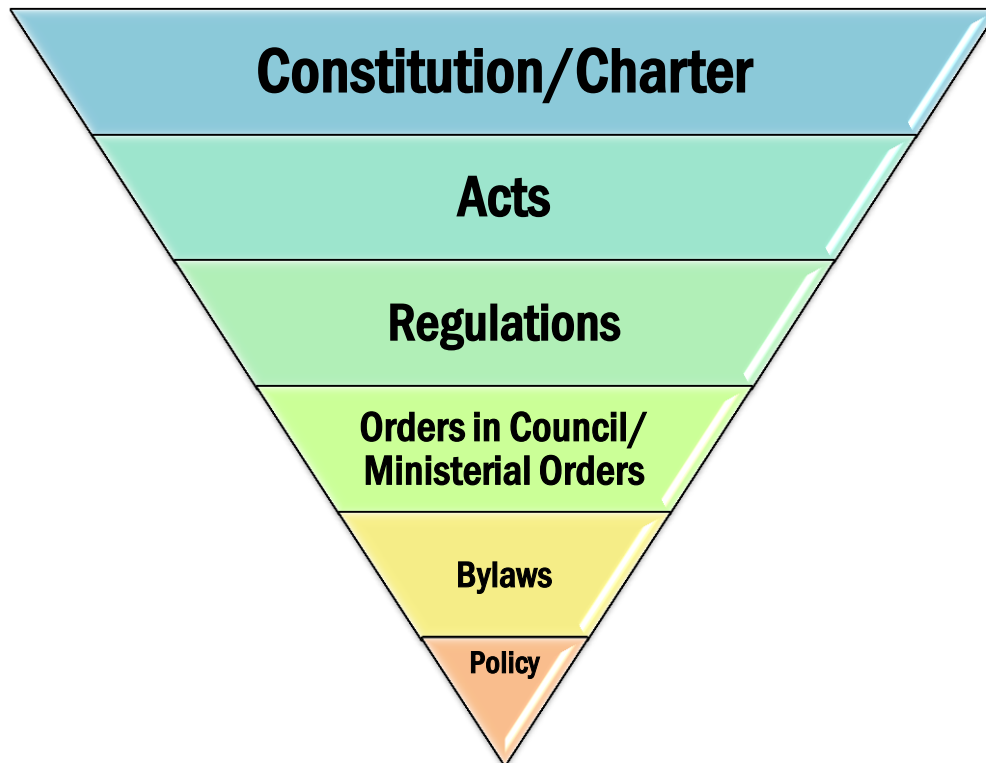


Acts and regulations usually contain a section of definitions that are important to be aware of. The definition section is usually contained at the beginning of the act or of each part or division.



*Lengthy acts, such as the MGA, also contain an index that may be useful when looking up a particular section*

## The Constitution and Charter of Rights and Freedoms



Legislation has a hierarchy. The Constitution Acts are at the top and outline what the federal and provincial governments in Canada can and cannot do. The Constitution gives the Alberta Legislature power to pass laws about various subject matters, including municipal government, direct taxation and property rights.

The Charter of Rights and Freedoms sets out certain rights and rules that provincial and federal government must abide by when exercising their authority.

In Alberta, Assessment Review Boards do not have the jurisdiction to decide constitutional issues.

## The Language of Legislation

A central characteristic of all legislation is consistency. If an idea is expressed in a specific way, the same language is used to express this idea throughout the legislation. If different language is used this indicates a difference or variation in the idea.

The *Municipal Government Act* must be read closely to be interpreted correctly. Some words or expressions are used repeatedly to signal specific meanings. This is done to establish accepted legal meaning or usages for relevant terms.

### “May,” “Must” and “Shall”

The *Interpretation Act* provides general definitions for *may*, *must* and *shall*. They are defined as follows:

Section 28 (2) (c) provides that “*may*” shall be construed as permissive and empowering.

Section 28(2) (d) provides that “*must*” is to be construed as imperative.

Section 28 (2) (f) provides that “*shall*” is to be construed as imperative.

According to the definitions set out by the *Interpretation Act* “**may**” is permissive but allows for the exercise of discretion. Alternatively “**must**” and “**shall**” are mandatory.

### “And” and “Or”

“**And**” always signals the accumulation of the possibilities listed before and after the “and.” Every listed possibility is necessarily included: both a and b; all of a, b and c.

“**Or**” always indicates that the things listed before and after the “or” are alternatives.

### How to Cite Provisions of Legislation:

<b>MGA</b>	<b>s. 460</b>	<b>.1</b>	<b>(1)</b>	<b>(a)</b>	<b>(i)</b>
	<b>Section four hundred and sixty</b>	<b>Point one</b>	<b>Subsection One</b>	<b>Clause ‘a’</b>	<b>Sub-clause ‘1’</b>

## Provincial Legislation

In Alberta, the provincial legislature has passed legislation called the *Interpretation Act*, Revised Statutes of Alberta 2000, c I-8 [IA]. This legislation provides a general set of definitions and rules that apply to all provincial laws. Section 22 of the IA (computation of time) is important to clerks when calculating disclosure dates, hearing dates and deadlines. Section 23 (presumption of service) provides guidance on when a clerk can rely on a notice being received.

In Alberta, the *Municipal Government Act* governs the existence, powers and responsibilities of municipalities. The MGA is a large piece of legislation and is broken into parts. The following parts directly relate to assessment review boards:

Part 9 – Governs the assessment of properties

Part 10 – Regulates a municipalities' powers respecting taxation

Part 11 – establishes ARBs and their powers

Like other administrative and quasi-judicial tribunals, ARBs only have power to do things their enabling legislation says they can do. This is called a tribunal's **jurisdiction**. Part 11 of the MGA is the **enabling legislation** that gives ARBs the legal authority to make decisions. It tells municipalities how and when they must create LARBs and CARBs and – together with the MRAC regulation – defines the things they can do, including

- ✓ The matters they can decide,
- ✓ The remedies they can provide, and
- ✓ The timelines that apply.

## Regulations

In the same way that the constitution acts let the provincial legislature pass laws on certain topics, provincial statutes often delegate power to the Lieutenant Governor in Council, the Minister or other designated individuals to create additional legislation that will further the statutory intent. Examples of subsidiary legislation include regulations and guidelines. Regulations and bylaws are the next level down in the hierarchy. There are three important regulations that relate to assessment complaints:

- ✓ *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 [MRAC] – MRAC sets out the specific procedures that must be followed when administering and processing complaints. Clerks should be very familiar with MRAC.

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- ✓ *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004 [MRAT] – MRAT provides specific instructions to assessors and ARBs about how different properties are to be assessed.
- ✓ *Community Organization Property Tax Exemption Regulation*, Alta Reg 281/1998 [COPTER] – COPTER contains instructions for assessors and ARBs when determining whether or not a property is exempt from taxation.

Not all properties are assessed at market value. Farm land and machinery and equipment are assessed using specific formulas set out by the Minister. Depending upon the type of property that is the subject of the complaint, ARB members may require the following guidelines:

*Alberta Machinery & Equipment Assessment Minister's Guidelines*, Ministerial Order No. MAG:028/16

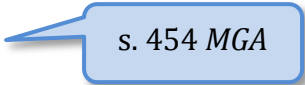
*Alberta Farm Land Assessment Minister's Guidelines*, Ministerial Order No. MAG:028/16

*Alberta Construction Cost Reporting Guide*, Ministerial Order No. MAG:028/16

### Municipal Bylaws

The MGA permits, or in some cases, requires municipalities to make bylaws. These bylaws must be consistent with provincial law.

Assessment review boards are created by bylaw.



s. 454 MGA

### Policies

Government organizations may establish policies to assist in circumstances not specifically governed by the legislation. Policies are generally not binding but are a set of guidelines aimed at achieving certainty and consistency. Examples of common ARB policies are:

- ✓ Policies outlining the general hearing process.
- ✓ Policies governing ARB member scheduling and honoraria.
- ✓ Policies respecting electronic recordings.
- ✓ Policies outlining procedures or forms where none are specifically mentioned in the legislation (for example, postponement requests).

### Decisions from the Courts

Decisions received from the Courts are commonly referred to as “case law”.

Parties can appeal to the Courts if they disagree with an ARB decision. After hearing the appeal, the Court will often issue a public written decision. The Court’s decision may include

guidance on how to interpret a particular section of legislation. This guidance should be applied in similar circumstances. For example, the Court has given guidance on the meaning of “exceptional circumstances” when an ARB grants a postponement, *The City of Edmonton v The City of Edmonton Assessment Review Board and Eco-Industrial Business Park Inc*, 2010 ABQB 634.

## Natural Justice

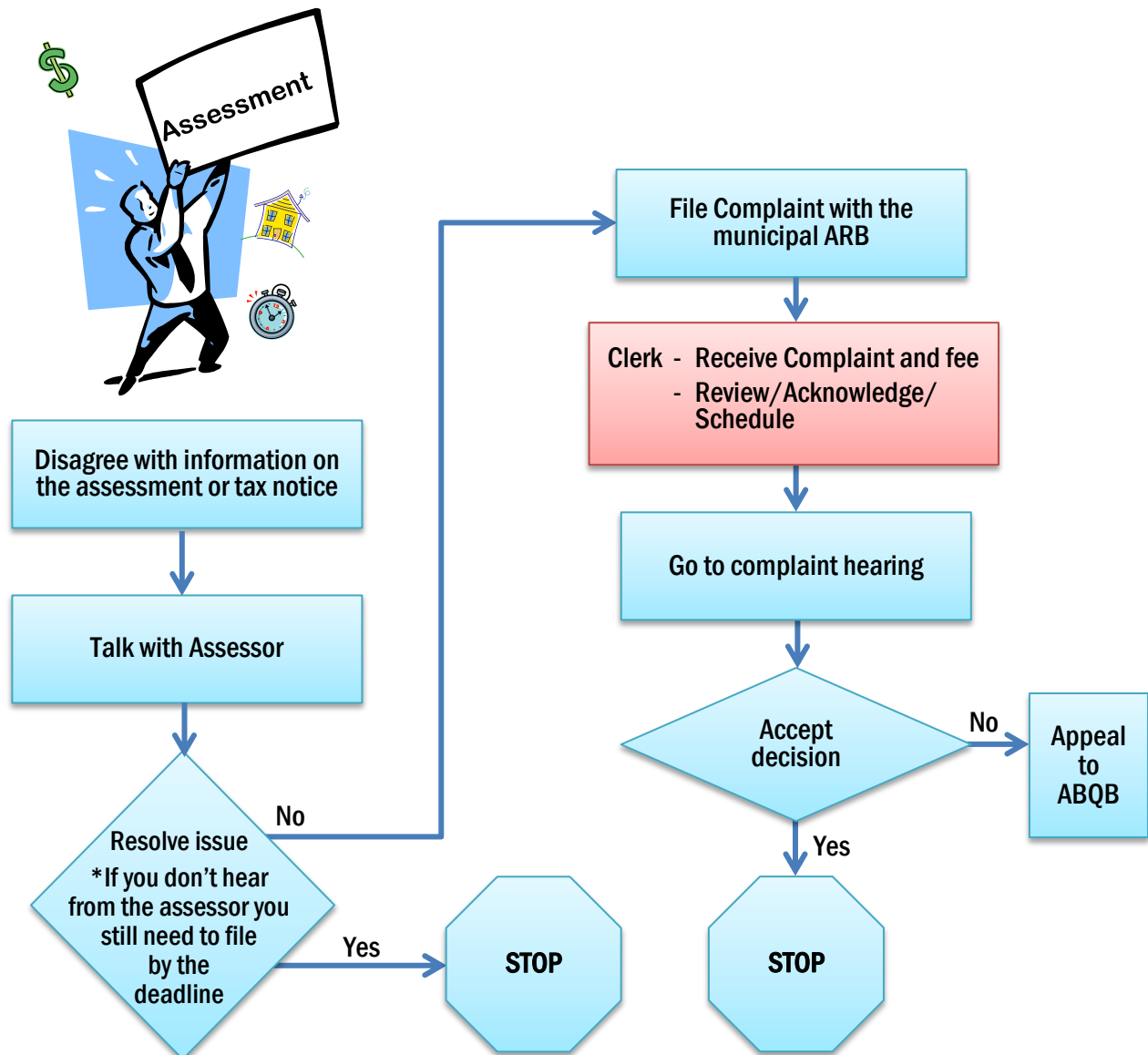
The rules of natural justice are legal principles created by the courts to guide administrative tribunals. Natural justice principles cannot overrule sections of the legislation that are clear. Instead, they are a list of general rules that tell someone how to apply legislation where that legislation can be interpreted in different ways, or is silent. Understanding the rules of natural justice will also help you understand and apply the assessment complaint process established under the *MGA* and *MRAC*.

## 2. The Assessment Complaint Process

**Lesson Objective:** By the end of this chapter, you will be able to demonstrate understanding of the complaint process and the deadline for submitting a complaint

### Property Assessment Notices

The complaint process begins with the property assessment notices and tax notices being sent to the assessed person. These notices tell assessed persons how to get information about their assessment and how to file complaints. If the assessed person does not agree with a matter on the assessment or tax notice, he or she can file a complaint with the clerk within the time specified on the notice – this triggers the formal complaint process outlined below.



## The Complaint Deadline

The *MGA* s. 309(1)(c) requires assessment notices to state the complaint deadline, which must be 60 days after the assessment notice is sent to the assessed person. It is important that clerks are aware of the complaint deadline in their municipality, as a complaint must be filed no later than this date (s. 461(1)).

Courts have found that a complaint is invalid and cannot be heard when it is filed with the clerk after the complaint deadline. See the next chapter for more information.

### 3. The Complaint Form (The Trigger)

***Lesson Objective: By the end of this chapter, you will be able to describe what triggers the complaint process, parties and other roles, types of ARBs and number of members for each***

To be heard by an ARB, the complainant must file a complaint with the ARB clerk in the form prescribed by MRAC along with any required fee.

s. 460(2) MGA  
s. 481(1) MGA  
s. 2 MRAC  
Schedules 1 & 2 MRAC



*The Complainant is ultimately responsible for filling in the form properly and filing a valid complaint. However, clerks can and should help facilitate the process by providing general guidance where possible and by reviewing forms to check for obvious deficiencies. If the clerk notices deficiencies prior to the complaint deadline, they may facilitate the form's completion with the Complainant. The clerk should look at each section of the form to see if it appears to meet the requirements of the Municipal Government Act (MGA) and its regulations. If there is a question about whether a complaint is invalid, this decision must be referred to an ARB panel.*

The complaint form begins with places for the municipality and tax year. The “tax year” is always the current year but the assessment is based on the previous year, or “assessment year”. Example: Tax year is 2016 and the assessment year is 2015 (valuation is as of July 1<sup>st</sup>).

The form then has seven sections covering:


1. Notice Type
2. Property Information
3. Complainant Information
4. Complaint Information
5. Reason(s) for Complaint
6. Complaint Filing Fee
7. Complainant Signature

These sections are discussed in more detail, following.



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**Section 1 – Notice Type:** The Assessment Review Board Complaint form identifies the type of assessment notice that an assessed person wishes to file a complaint about.

		<b>Assessment Review Board Complaint</b>	
Municipality Name (as shown on your assessment notice or tax notice)		Tax Year	
<b>Section 1 - Notice Type</b>			
Assessment Notice:	<input type="checkbox"/> Annual Assessment	Tax Notice:	<input type="checkbox"/> Business Tax
	<input type="checkbox"/> Amended Annual Assessment		<input type="checkbox"/> Other Tax (excluding property tax and business tax)
	<input type="checkbox"/> Supplementary Assessment		
	<input type="checkbox"/> Amended Supplementary Assessment	Name of Other Tax	

The most common type of assessment notice is an annual assessment notice. Other notices come out at different times of the year and sometimes have different rules. For example, *MRAC* s. 53 sets out decision times for supplementary and amended notices. Amended annual assessment notices are issued to correct errors in an original assessment, supplementary assessment notices capture the value of improvements to property completed during the tax year, and are not issued by every municipality. There are other types of complaints relating to different types of taxes (such as a local improvement tax) – For the different types of taxes, see Part 10 of the *MGA*.

**Section 2 – Property Information:** This section shows information about the property affected by the assessment under appeal.

<b>Section 2 - Property Information</b>		Assessment Roll or Tax Roll Number	
Property Address			
Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)			
Property Type <i>(check all that apply)</i>	<input type="checkbox"/> Residential property with 3 or fewer dwelling units	<input type="checkbox"/> Farm land	<input type="checkbox"/> Machinery and equipment
	<input type="checkbox"/> Residential property with 4 or more dwelling units	<input type="checkbox"/> Non-residential property	
Business Name (if pertaining to business tax)		Business Owner(s)	

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The Assessment Roll or Tax Roll Number, property address and legal land description and property type are all indicated on the Assessment Notice. The address and Roll number must match. The property type is especially important for the clerk, because he or she must use this information to decide which board must hear the appeal.

**Section 3 – Complainant (Property Owner) Information:** This area of the form provides information about the complainant.

<b>Section 3 - Complainant Information</b> Is the complainant the assessed person or taxpayer for the property under complaint? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted <u>with</u> this complaint form.			
Complainant Name (if the complainant, assessed person, or taxpayer is a company, enter the complete legal name of the company)			
Mailing Address (if different from above)		City/Town	Province
Postal Code			
Telephone Number	Fax Number	Email Address	
If applicable, please indicate any date(s) that you are not available for hearing			

If the complainant, assessed person or taxpayer is a company, then the complete legal name of the company is provided here, as well as the mailing address and other contact information. This section also asks the complainant to provide dates when they may **not** be available for a hearing.

### Complainant as Party

s. 460(3) &  
s. 304 MGA

Any assessed person or taxpayer who files a complaint is called a “complainant” and is a party to the proceedings. An assessed person or taxpayer can also have someone file a complaint on his/her behalf. In that case, the assessed person or taxpayer is still the true complainant and party – not the person who filed on his/her behalf.

### Paid Agents

Some parties will choose not to present their own case during the process or at the hearing and have a spokesperson, such as a lawyer or an agent, represent them. Under **section 51** of **MRAC**, if a complainant chooses to have representation during the complaint process or at the hearing – for which they are paying a fee or potential fee – they must complete and sign the Agent Authorization Form. The form is contained in **Schedule 4** of **MRAC** and must be made available at the municipal office.

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## Unpaid Representatives

Often, parties will want a family member or friend to represent them at the hearing. The legislation does not require an agent authorization form where the representative is not being paid. However, a best practice may be to obtain written confirmation from the complainant that the person is allowed to represent them, especially if the complainant does not attend the hearing in person.

## Respondent

The party that responds to a complaint is called the Respondent. Usually, the Respondent is the municipality and is represented by the municipal assessor; however, some municipalities also hire legal counsel to represent them.

As a clerk, you are likely an employee of the Municipality. When you are doing the work of the ARB, you are considered to belong to a separate organization that is arm's length from the Municipality.

**Section 4 – Complaint Information:** This section outlines

- (1) Details about the various matters on the assessment notice that the complaint is about, and
- (2) Whether the complainant has requested information about how the municipality prepared the assessment.

<b>Section 4 - Complaint Information</b>	Check the matter(s) that apply to the complaint (see reverse for coding)								
<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6	<input type="checkbox"/> 7	<input type="checkbox"/> 8	<input type="checkbox"/> 9	<input type="checkbox"/> 10
<b>Note: Some matters or information may be corrected by contacting the municipal assessor prior to filing a formal complaint.</b>									
If information was requested from the municipality pursuant to sections 299 or 300 of the <i>Municipal Government Act</i> , was the information provided? <input type="checkbox"/> Yes <input type="checkbox"/> No									

## Matters for Complaint

The *MGA* allows assessed persons and taxpayers to file complaints about any of the following ten items listed on the assessment or tax notice:

s. 460(5) *MGA*

1. The description of the property or business
2. The name or mailing address of an assessed person or taxpayer
3. Assessment amount
4. Assessment class
5. Assessment sub-class

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6. The type of property
7. The type of improvement
8. School support
9. Whether the property or business is assessable
10. Whether the property or business is exempt from taxation

At least one of these matters should be checked off on the form. An ARB cannot hear a matter that has not been checked on the form.

*MRAC* also specifies that an ARB cannot hear a matter in support of an issue that was not identified on the complaint form. Tax amounts and tax rates are **not** on the above list. ARBs cannot hear complaints about these matters, nor can ARBs change the rates or the services provided by municipalities. If a property owner has specific concerns about these issues, he or she should discuss them with the municipality's administration or council.

LARB: s. 5 *MRAC*  
CARB: s. 9 *MRAC* &  
s. 460(6) *MGA*

### Access to Information – Complainant

The *MGA* entitles an assessed person to see or receive information about his or her property assessment as well as the assessments of other property in the municipality. It also requires municipalities to provide notice of this right along with the assessment notice.

Access to information and complete data for all parties promotes openness and transparency, leading to greater confidence and trust in assessments. People who understand clearly how their assessments were prepared are less likely to file complaints. Therefore, ARB clerks should recommend to assessed persons that they discuss their issue with the assessor, even before filing a complaint.

If the assessed person wishes to do so, they can make a formal request for information showing how the assessor prepared the assessment of their property and/or a summary of assessment on any property in the municipality. The municipality has 15 days to provide this information to the assessed person.

ss. 299 & 300 *MGA*  
ss. 27.4 & 27.5 *MRAT*

Note: Sections 5 and 9 of *MRAC* state that an Assessment Review Board must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the *MGA*, but was not provided to the complainant. If no request is made, the box at the bottom of section 6 of the form may be left blank. Since it is not

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mandatory for an assessed person to discuss issues with their assessor before filing a complaint, leaving this section blank has no impact on the complaint's validity.

### Access to Information – Assessor

The *MGA* also gives certain powers to obtain information to assessors, so that they can have all the information required to make accurate property assessments. Assessors can, after giving reasonable notice:

- ✓ Enter and inspect a property.
- ✓ Request information be produced.
- ✓ Make copies of anything necessary to the inspection.

s. 294 *MGA*

A person must provide any information necessary to prepare an assessment to the assessor within 60 days of the assessor's request. *MGA* s. 295(4) states that if a person fails to provide the information requested, they cannot make a complaint in the year following the request. When this section is an issue, it is usually discussed at a preliminary hearing, or as a preliminary matter at the merit hearing.

**Section 5 – Reason(s) for Complaint:** The Complainant uses this section to explain their appeal.

<b>Section 5 - Reason(s) for Complaint</b>	<b>Note: An assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.</b>
A complainant must:	
<ul style="list-style-type: none"><li>● indicate what information shown on an assessment notice or tax notice is incorrect,</li><li>● explain in what respect that information is incorrect,</li><li>● indicate what the correct information is, and</li><li>● identify the requested assessed value, if the complaint relates to an assessment.</li></ul>	
	Requested assessed value: <input type="text"/>
<input type="text"/>	
(a) include a statement that the complainant and the respondent have discussed the matters for complaint, specifying the date and outcome of that discussion, including the details of any issues or facts agreed to by the parties, <b>or</b>	
(b) include a statement, if the complainant and the respondent have not discussed the matters for complaint, specifying why no discussion was held.	
<b>Note: If necessary, additional pages or documentation required to complete this section may be submitted with this complaint form.</b>	

The items listed in the bullets in section 5 of the form repeat those specified in the *MGA*, which stipulates that a complainant must:

s. 460(7) *MGA*

- a) Indicate what information shown on an assessment notice or tax notice is incorrect.
- b) Explain in what respect that information is incorrect.

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- c) Indicate what the correct information is.
- d) Identify the requested assessed value if the complaint relates to an assessment.

Often, a complaint form summarizes these points, leaving the detailed evidence and argument to be exchanged on the disclosure dates.



*If these spaces are left blank, the clerk may wish to ask the Complainant to consider completing them to avoid questions arising later about the validity of the complaint.*

A Complainant is limited to the issues they submit on the complaint form.

**Section 6 – Complaint Filing Fee:** There may be fees associated with filing LARB or CARB assessment complaints.

s. 481(1),  
s. 484.1(q) MGA

**Section 6 - Complaint Filing Fee**

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form, or the complaint will be invalid and returned to the person making the complaint.

If the assessment review board makes a decision in favour of the complainant, or if all the issues under complaint are corrected by agreement between the complainant and the assessor and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

MRAC s. 11(1) addresses filing fees. MRAC Schedule 2 provides the maximum that a municipality may apply depending on the Category of Complaint, which ranges from \$30 to \$650, depending upon the type of complaint.

Filing fees must be paid before the complaint deadline. There is no complaint without the fee, and failure to file fees before the complaint deadline will very likely result in an invalid appeal.

s. 2(1) & (2)  
MRAC

### Filing Fees – Refund

Fees must be refunded if the ARB changes an assessment or if the complaint is withdrawn on agreement with the assessor to correct any matter or issue under complaint. A good practice is to use a form such as a *Withdrawal to Correct (see example in Appendix A)*, which requires signed agreement from both parties.

s. 11(2) MRAC and  
s. 305(6)(a) MGA

If the complainant withdraws and there is no agreement, or the assessment is confirmed, then the municipality has discretion as to whether or not to issue a refund.

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**Section 7 – Complainant Signature:** The complaint form should be signed and dated by the complainant.

Section 7 - Complainant Signature		
Signature	Printed Name of Signatory Person and Title	Date (yyy-mm-dd)
<b>Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee, are invalid.</b>		



***Assessment Review Board Clerk Use Only:** Completion of this section by the ARB clerk is not mandatory and will depend on your board's practice. However, the items listed in this section make a useful checklist. If the answer to any of the questions is "no" the clerk may consider asking the complainant if he or she wishes to provide the missing information. In cases where the appeal is filed late or appears to be a complaint about something an ARB cannot hear (e.g. a complaint about tax rate), the clerk may consider setting a preliminary hearing for a panel to decide the issue*

**\*\*\* ARB clerks cannot decide if a complaint is invalid as a result of non-compliance; this must be a decision by an ARB.**

Assessment Review Board Clerk Use Only				
Was the complaint filed on time?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Is the required information included on or with the complaint form?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Was the required filing fee included?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Date received <input type="text"/>
Was a properly completed authorization form attached?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	
Complaint to be heard by:	<input type="checkbox"/> LARB	<input type="checkbox"/> CARB		

For a more exhaustive checklist, please refer to the Appendices.

## Types of ARBs

The MGA enabling provisions determine which assessment complaints go where based on the type of property involved. It is the clerk's role to schedule a complaint to the most appropriate board. Most of the time, it is clear whether a complaint must go to a LARB or a CARB. However, if a question about jurisdiction arises, an ARB may decide it either at a preliminary hearing or as a preliminary matter at the beginning of a merit hearing. It is the board's role to decide whether it is the right board to hear the appeal.

### LARBs

s. 454.1(1) – MGA

LARBs usually have three members – all appointed by the municipality. They hear complaints about assessment notices for residential property with three or fewer dwellings and farm land, plus some types of tax notice.

<b>LARB</b> <b>s. 460.1(1)</b>	<p><i>A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on</i></p> <p><i>(a) an assessment notice for</i></p> <p style="padding-left: 40px;"><i>(i) residential property with 3 or fewer dwelling units, or</i></p> <p style="padding-left: 40px;"><i>(ii) farm land,</i></p> <p style="padding-left: 40px;"><i>or</i></p> <p><i>(b) a tax notice other than a property tax notice.</i></p>
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Examples of residential property assessments heard by LARBs include:

- Detached homes, including acreages and farm residences
- Duplexes
- Triplexes
- Manufactured housing units
- Individual condominium units
- Vacant residential land

If the property is multi-use, and both LARBs and CARBs have jurisdiction, the complaint must be heard by a CARB –  
s. 12 MRAC

Or

A municipality may impose taxes other than property taxes. For these, a LARB may hear complaints about specific matters shown on the tax notice. Some examples may include the following:



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- Business tax
- Business revitalization zone tax
- Community revitalization levy
- Special tax
- Well drilling equipment tax
- Local improvement tax
- Community aggregate payment levy

s. 460.1(1)(b) – MGA

If the complaint is not about one of the matters listed in s. 460.1(1), then it goes to a CARB panel.

### CARBs

Like LARBs, CARBs usually have three members; however, the Presiding Officer is an MGB member appointed by the Province and the two side-panel members are appointed by the municipality (usually existing LARB members). The Presiding Officer or Chair for each CARB must be the provincial member.

s. 454.2(2) – MGA  
s. 454.2(4) – MGA  
s. 48(4) – MRAC

CARBs hear all complaints about municipal assessment notices that are not dealt with by LARBs. In practice, this means CARBs hear complaints about residential properties with four or more dwelling units and non-residential assessments.

#### CARB s. 460.1(2)

*Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection 1(a).*

Examples of properties with four or more dwelling units include:

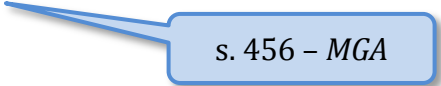
- Four-plex housing
- Apartment buildings
- Townhouse projects

Some examples of non-residential properties include:

- Office buildings
- Retail stores
- Shopping centers
- Warehouses
- Vacant commercial, industrial, mixed-use and multi-residential land
- Railways
- Industrial plants or special purpose properties (e.g., pulp mills)
- Machinery and equipment

### Joint Assessment Review Boards

Municipal councils may agree to establish joint boards enabling them to share their municipal resources.



s. 456 – MGA

## How Many Members?

A municipality may appoint any number of ARB members. Merit hearings are usually heard by a panel of three members. In certain circumstances, the legislation allows for fewer members.

### Quorum

LARB: s. 458(1) – *MGA*  
CARB: s. 458(2) – *MGA*

The *MGA* allows a merit hearing to proceed with less than three members, so long as there is quorum. A quorum for a LARB consists of any two members. A quorum for a CARB consists of the provincial member and one other member.

### One-member Review Boards

*MRAC* permits certain administrative and preliminary matters to be heard by a one-member panel. While these same matters can be heard by a three-member panel, the legislation permits an ARB to use only one member to deal with procedural and other preliminary matters quickly so the merit hearing can proceed smoothly. This means tighter notice and disclosure timelines apply when hearings that could be presided over by a one-member panel are scheduled.

LARB: s. 454.1(2) – *MGA*  
s. 30(1) – *MRAC*  
CARB: s. 454.2(3) – *MGA*  
s. 36(1) – *MRAC*

LARB: s. 30(2) – *MRAC*  
CARB: s. 36(2) – *MRAC*

Where a municipality has established a one-member LARB, that LARB may also hear complaints about matters on a tax notice.

s. 48(4) – *MRAC*

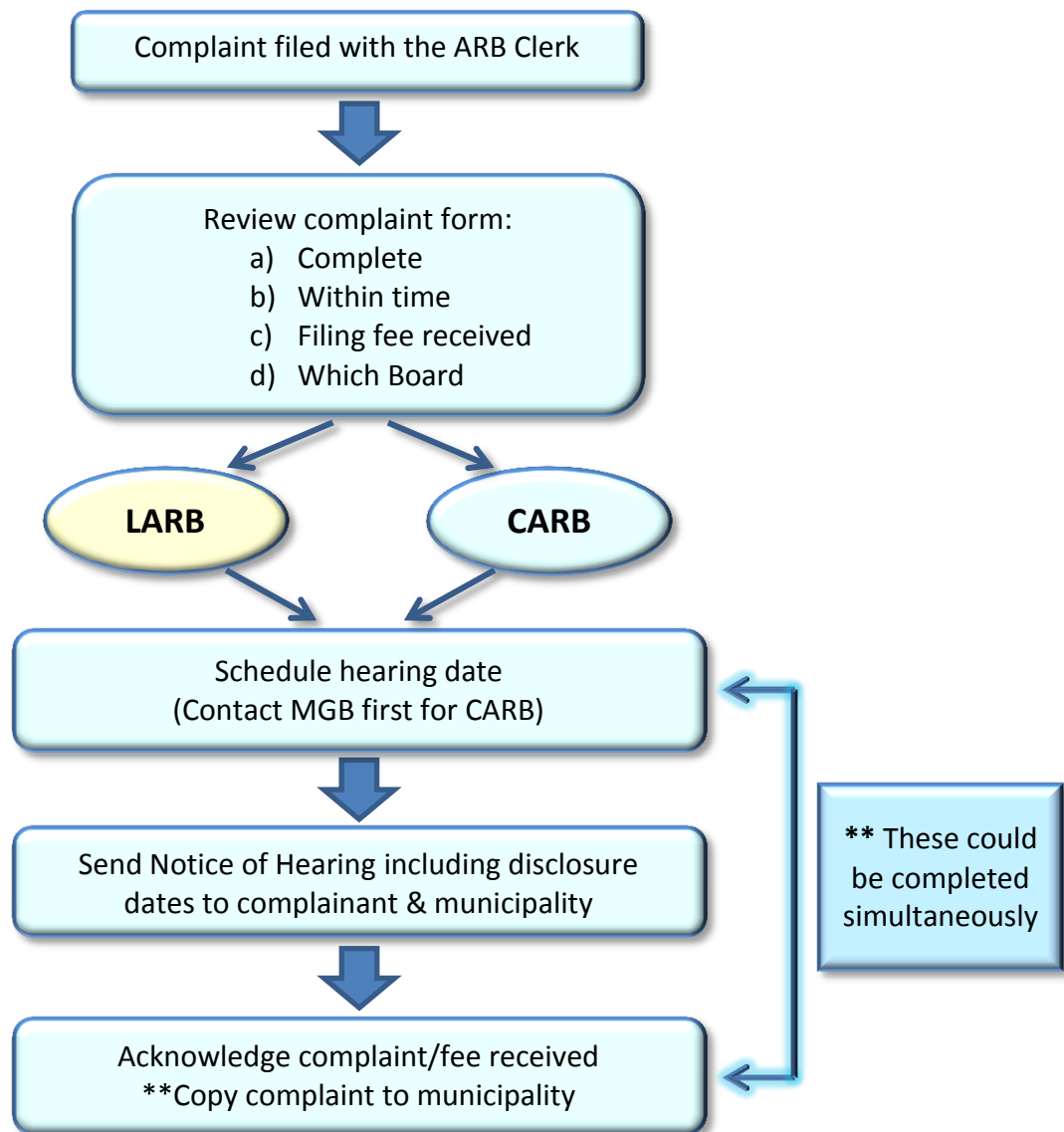
The person appointed to a one-member CARB must be the provincial member.

## 4. Complaint Administration – Next Steps

**Lesson Objective:** *By the end of this chapter, you will be able to demonstrate*

- The ARB clerk's administration of the complaint (6 steps)
- Determining hearing dates and scheduling of the hearing
- Setting disclosure dates
- Hearing preparation procedures

### After Reviewing the Complaint Form



## Step 1 - Provide a Copy of the Complaint to the Municipality (and Minister)

Legislation requires that the municipality be provided with a copy of a complaint within **30 days** of the complaint being filed with the ARB.

s. 462 – MGA

In the case of a CARB, the clerk must send a copy of the complaint to the Minister (Municipal Government Board) at the same time as the municipality.

**\*\*\*The clerk should be aware of the proper municipal authority to notify.**

LARB s. 3 – MRAC  
CARB s. 7 – MRAC

## Step 2 - Acknowledge Receipt of the Complaint

The clerk must provide written acknowledgement to the complainant that the complaint has been received.



*\*\*\* In the interests of efficiency, clerks may wish to send one letter, within 30 days of receiving the complaint*

- Sending the Assessment Complaint Form to the municipality and MGB (if CARB);
- Acknowledging receipt of the complaint to the complainant; and
- Notifying the complainant, municipality, MGB (if a CARB), and any assessed person other than the complainant affected by the complaint, of the date, time, location of the hearing, and disclosure deadlines.

## Step 3 – Choose a Hearing Date

When choosing a date for a hearing, the clerk should consider the following:

- a) Which board should hear the complaint.
- b) Whether board members are available to hear the matter.
- c) The physical resources required to hold the hearing are available.
- d) The availability of the parties.
- e) The effect of holidays and office closures on disclosure dates (discussed below).
- f) The decision must be rendered by December 31 of the complaint year.



*For CARBs, the clerk should contact the MGB and confirm that a member will be available on the proposed hearing date, as there are certain days throughout the year in which MGB members are unavailable for hearings.*

## Determining Disclosure Dates

Before the hearing, there is a formal process for exchange of information, called disclosure, between the complainant and the respondent. Once the hearing date is chosen, the clerk must determine the disclosure exchange dates as set out in *MRAC*.

LARB s. 4 – *MRAC*  
CARB s. 8 – *MRAC*

Disclosure consists of the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written arguments.

The clerk does not have the authority to set disclosure dates different than what are contained in *MRAC*, as such changes would not be ‘fair’ as giving one party more time to file their disclosure gives the other party less time

The *MRAC* disclosure timelines differ for LARBs and CARBs but are generally arranged so that:

- The complainant files its submissions.
- The respondent reviews the complainant’s submissions before filing its own.
- The complainant reviews the respondent’s submissions before filing a “rebuttal” containing submissions that reply to any new matters raised by the respondent.

The legislated disclosure timelines are very important, because ARBs cannot look at evidence that is not disclosed in accordance with the rules set out in *MRAC*. ARBs must make their decisions using only the information presented in accordance with the procedures set out by legislation. Parties have an obligation to provide complete disclosure, to each other and the ARB, within the timeframes set out in *MRAC*.

LARB s. 6 – *MRAC*  
CARB s. 10 – *MRAC*

The purpose of this disclosure is to let each side understand and prepare for the case

against them, thereby avoiding unfair surprises or delays. *MRAC* recognizes the disclosure dates it sets out may need to be adjusted in some circumstances. Therefore, it gives ARBs discretion to **expand** the time for disclosing evidence or other documents; likewise, ARBs may also shorten (**abridge**) this time with the written consent of the persons entitled to the evidence or other documents.

LARB s. 5 – *MRAC*  
CARB s. 9 – *MRAC*

**‘expansion’** means the disclosure is due earlier, expanding the time between the disclosure and the hearing

**‘abridgement’** means the disclosure is due later, reducing the time between the disclosure and the hearing



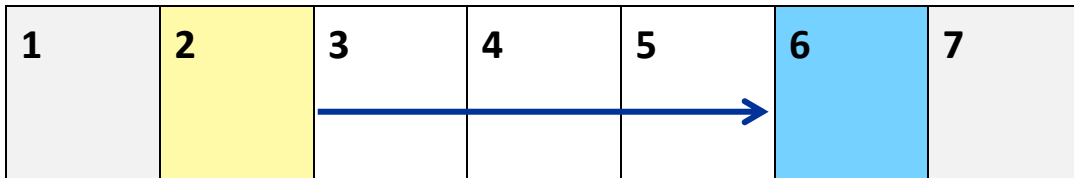
It is important to note that the clerk, other than scheduling and monitoring disclosure dates and receiving disclosure information from the parties on behalf of the ARB, does not become involved in the disclosure exchange process between the parties.

### The *Interpretation Act*

Section 22(4) of the *Interpretation Act* is important for clerks when determining disclosure dates. This section explains how to count dates depending on the wording used in the legislation.

#### “At Least”

MRAC says that disclosure must be provided ‘at least’ a certain number of days before a hearing. This is interpreted to mean that the days must be ‘clear days’, that do not count the day the disclosure is due, or the hearing day. For example, if the LARB merit hearing is on Friday the 6<sup>th</sup> and rebuttal must be filed at least three days before the hearing, the rebuttal must be filed on Monday the 2<sup>nd</sup>.



### Weekends and Holidays

Section 22 of the *Interpretation Act* also explains how to factor in weekends, holidays and office closures into determining deadlines:

- **Weekend** – Disclosure is due on the next business day.
- **Holidays** – Disclosure is due the next day that isn’t a holiday.
- **Office closures** – Disclosure is due on the next day the office is open.

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For example, if the LARB merit hearing is scheduled on Thursday the 5<sup>th</sup>, rebuttal would also be due on Monday, because Sunday is a weekend.

1 X	2	3	4	5	6	7
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If Monday happens to be a holiday and the ARB is closed, rebuttal would be due on Tuesday the 3<sup>rd</sup>.

1 X	2 X	3	4	5	6	7
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### LARB disclosure dates

The following disclosure dates apply to LARBS:

- The complainant must submit their disclosure to the ARB and the respondent **at least 21 days** before the hearing.
- The respondent must submit their disclosure to the ARB and the complainant **at least 7 days** before the hearing.
- The complainant then has an opportunity to respond to the respondent's submission. This means they must submit their response to the ARB and respondent **at least 3 days** before the hearing.



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For the purposes of disclosure, “at least” means that the timelines **cannot be less** than what is legislated, applying the Interpretation Act.

<i>Hearing Notice Date</i>	<i>Complainant Disclosure</i>	<i>Respondent Disclosure</i>	<i>Complainant Rebuttal</i>	<i>Hearing</i>
(on or before) April 23 <sup>rd</sup>	May 7 <sup>th</sup>	May 21 <sup>st</sup>	May 25 <sup>th</sup>	May 29 <sup>th</sup>

**\*\*\*NOTE:** these dates may change due to holidays and weekends, depending on the year.

### CARB Disclosure Dates

The following disclosure dates apply to CARBs:

- The complainant must submit their disclosure to the ARB and the respondent **at least 42 days** before the hearing.
- The respondent must submit their disclosure to the ARB and the complainant **at least 14 days** before the hearing.
- The complainant then has an opportunity to respond to the respondent’s submission. This means they must submit their response to the ARB and respondent **at least 7 days** before the hearing.

For the purposes of disclosure, “at least” means that the timelines **cannot be less** than what is legislated, applying the Interpretation Act.

<i>Hearing Notice Date</i>	<i>Complainant Disclosure</i>	<i>Respondent Disclosure</i>	<i>Complainant Rebuttal</i>	<i>Hearing</i>
(on or before) March 30 <sup>th</sup>	April 27 <sup>th</sup>	May 25 <sup>th</sup>	June 1 <sup>st</sup>	June 9 <sup>th</sup>

**\*\*\* NOTE:** these dates may change due to holidays and weekends, depending on the year.

## Step 4 – Send the Hearing Notice

Once the merit hearing dates have been determined, the clerk must notify the parties. The notice of hearing must contain:

- The date, place and time of the hearing.
- The disclosure timelines and requirements for the parties.
- If not yet completed, acknowledgment of the complaint to the complainant, and a copy of the complaint form to the municipality and MGB if CARB.

**\*\*\* The clerk must send the hearing notice to the parties more than 35 days before a LARB and more than 70 days for a CARB.**

LARB & CARB: s. 462 – MGA  
LARB: ss. 3(c) & 4 – MRAC  
CARB: ss. 7 (d) & 8 – MRAC

Both the MGA and MRAC state that the clerk must notify additional interested parties of the hearing, in addition to the parties.



*Clerks should consider if any additional parties must be notified of the hearing, for example:*

- Where the property has changed ownership while a complaint is in progress, both the complainant and the new owner should be notified;
- Where there are multiple property owners, but only one is listed as a complainant, all property owners should be notified; and
- Where the complainant is not the property owner/assessed person, but is a taxpayer in the Municipality.

Where multiple complaints have been filed on a single property (roll number), they should be heard together to ensure that only one decision is issued by the ARB that year

## Step 5 – Pre-Hearing Monitoring

Following distribution of the hearing notice, the clerk will monitor the disclosure dates and submissions for each party.

The clerk may follow up with either of the parties that have not made submissions by the due dates to confirm that nothing was submitted. The clerk receives the disclosure of information and notes if it has been provided within the timelines specified in the regulations. The process then moves to the next stage – the hearing – where the parties can present their information to the panel.

Depending on the ARB's procedures, the clerk may distribute disclosure to the ARB panel in advance of the hearing for their preparation.

## Hearing Preparation

Every ARB establishes its own procedures, which may require the clerk to do all or some of the following:

- Prepare a hearing agenda that identifies the complainant, respondent.
- Distribute copies of the complaint and disclosure submissions to the hearing panel (3 copies for merit hearing; 1 copy for a one-member hearing).
- Meet with panel members immediately before the hearing to discuss procedures.
- Set up the hearing room with tables for panel, parties and witnesses.
- If recording the hearing, ensure the recording equipment is functioning.
- Provide note-taking tools (which could include templates) to the board for use during the hearing.
- Ensure that a Bible or other sacred text is available should the board procedures include a swearing-in process for witnesses.

## Other Aspects of Procedure

The *MGA* and *MRAC* are very specific about some aspects of what ARBs can do but give them leeway to choose some aspects of procedure. In cases where parties disagree with a clerk's directions or understanding of how a matter should proceed, the clerk should refer the matter to an ARB panel to make a final determination.

## Step 6. Pre-Hearing Events

Preliminary matters are generally dealt with at the start of a hearing. Sometimes certain events may cause the merit hearing to be moved, extended, cancelled or require a hearing to be scheduled prior to the merit hearing. Depending upon the ARB's practice, a one-member panel can deal with preliminary matters.

## Preliminary Hearings

It may become necessary for the board to make rulings about any number of procedural or other administrative matters before the merit hearing. For example, there may be questions about:

- Adjusting the disclosure deadlines set out in *MRAC* or the scheduled hearing date.
- The jurisdiction or authority of the ARB to consider a matter under complaint.

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for ARB Clerks

- Whether a complaint was filed in time, or whether it is otherwise valid.
- Whether the parties have made adequate disclosure.

MRAC allows single-member CARBs or LARBs to make decisions about such matters.

Preliminary hearings may be requested by either party, or scheduled on the clerk's own initiative.



*When it is the clerk requiring a preliminary hearing, the notice of hearing should clearly explain to the parties why that hearing has been scheduled.*

### Timelines

The legislated timelines for a preliminary hearing are the same for LARBs and CARBs.

LARB ss. 30, 33 – MRAC  
CARB ss. 36, 39 – MRAC

- The notice of hearing must be sent 15 days before the hearing; and
- The parties must file their disclosure at least 7 days before the hearing. Note both parties file their disclosure at the same time.

**\*\*\* NOTE: these dates may change due to holidays and weekends, depending on the year.**

<i>Preliminary or Administrative Issue identified and notice sent (must have 15 days' notice)</i>	<i>Disclosure by Complainant</i>	<i>Disclosure by Respondent</i>	<i>Preliminary Hearing</i>
April 1 <sup>st</sup>	April 9 <sup>th</sup>	April 9 <sup>th</sup>	April 17 <sup>th</sup>

### Postponement/Adjournment of Hearings

Realistically, hearings cannot always be expected to proceed and be completed at the first sitting. From time to time hearings must be “postponed” or “adjourned”. Postponements are requested prior to the hearing, and delay the beginning of the hearing, whereas adjournment refers to an interruption during the hearing. Postponements and adjournments can only be granted in “exceptional circumstances” determined by the ARB.

s. 15 MRAC -  
LARB & CARB

The courts have tied the notion of “exceptional circumstances” to procedural fairness. In other words, circumstances where refusing an adjournment or postponement would stop one party

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from responding to the other party's case or otherwise preparing for the hearing are likely "exceptional". When the board is considering a postponement and/or adjournment, they must remember that the decision must be rendered by December 31 of the complaint year.

**Postponements**

All postponement requests must be submitted in writing with reasons. The decision whether to postpone a hearing must be made by an ARB panel. If the ARB agrees with the request, it must reschedule the date, time and location of the hearing at the time that the postponement is granted. ARBs should be clear as to whether or not their decision includes changing disclosure deadlines to correspond with the new hearing date.

LARB & CARB  
s. 15(3) MRAC

If the parties agree, the postponement request may be decided by an ARB panel without the parties attending a hearing (a paper hearing). If the parties do not agree, the clerk should schedule a preliminary hearing, with the required 15 days' notice.

If the postponement request is received less than 15 days before the hearing, both parties must agree to shorten the notice time for a preliminary hearing, or it will have to be considered at the beginning of the merit hearing.

	Parties <b>agree</b> to a paper hearing	Parties do <b>not</b> agree to a paper hearing
More than 15 days before hearing	ARB can issue decision without oral hearing	Clerk should schedule preliminary hearing
Less than 15 days before hearing	ARB can issue decision without oral hearing (provided parties agree to shorten notice time)	Preliminary may be scheduled if parties agree to reduce notice time, otherwise, request should be considered as a preliminary matter at the merit hearing

## Adjournment

If an ARB panel agrees to an adjournment request during a hearing, it must reschedule the date, time and location of the hearing at the time that the adjournment is granted. The same panel members must continue to sit on the complaint when the hearing resumes.

**\*\*\* Note: If a complaint cannot be heard and decided by December 31 of the complaint year, the clerk must request a time extension from the Minister of Municipal Affairs.**



*The clerk should ensure that the board set a new hearing date and disclosure timelines, if applicable, during the hearing. Failure to do so may create difficulties meeting the December 31st timeline.*

## Reaching an Agreement Prior to the Hearing

At any point during the complaint process, the assessor and the complainant may reach an agreement regarding the issues. There are two types of agreement: a joint recommendation, and Assessor and complainant agree to Withdraw to Correct (*MGA s. 305(6)(a)*).

### Joint Recommendation

When the parties agree to provide the panel with a joint recommendation, the ARB panel must still open a hearing to hear the recommendation, as well as issue a written decision.

### Withdraw to Correct

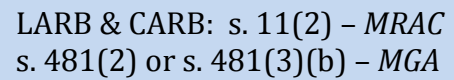
The legislation specifically contemplates that the parties may agree to Withdraw to Correct (*MGA s. 305(6)(a)*). A Withdraw to Correct involves a written agreement signed by both parties and filed prior to the merit hearing, where the complainant agrees to withdraw their complaint and the assessor agrees to reduce or change the assessment, as required.

When a Withdraw to Correct is filed, no merit hearing is required and the scheduled hearing is cancelled.

**\*\*\*NOTE: A complainant can withdraw their complaint at any time prior to or during the merit hearing.**

## Agreements – Refunding Fees

If the complainant withdraws a complaint on agreement with the assessor to correct any matter or issue under complaint, the complaint filing fee must be refunded to the complainant.



LARB & CARB: s. 11(2) – *MRAC*  
s. 481(2) or s. 481(3)(b) – *MGA*

If the complainant withdraws the complaint with no change to the matter or issue under complaint, it will be the decision of the municipality on whether the complaint fee is refunded.

## 5. Natural Justice and Procedural Fairness

*Lesson Objective: By the end of this chapter, you will be able to demonstrate understanding of the principles of natural justice and procedural fairness*

### Background

It is clear that many of the legislative provisions referenced so far are designed to ensure fair process. However, the courts have developed the concept of procedural fairness over many years to guide administrative and adjudicative decision making. These apply where the legislation is silent or can be interpreted in different ways. A basic understanding of these concepts should give a deeper appreciation of the complaint system and help interpret relevant legislative provisions.

The *MGA* and its regulations provide the clerks with many procedural rules. The legislation is binding and takes precedence over the principles discussed below. However, it is helpful to keep the principles of natural justice in mind when interpreting the legislation and when responding to parties.

The principles of fairness and natural justice involve two central ideas.

- (1) The right to be heard  
by an
- (2) Unbiased decision maker(s).

Some implications of these principles are as follows:

**Notice:** Parties must have a right to adequate notice of a hearing, since without notice there is no realistic opportunity to be heard.

**Disclosure:** Parties must have access to enough information to prepare their case and respond to the case against them if they are to have a meaningful opportunity to be heard.

**Communication with the panel:** Parties should not discuss their case with the panel members unless the other parties are present (or at least have had a reasonable opportunity to do so); otherwise, the other parties may be deprived of a fair opportunity to respond.

**Decision to be made by panel:** The decision must be made by the panel. Allowing outsiders to influence the decision deprives the parties of their right to be heard by the decision



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maker and to respond to the case against them. Board members must be present for the entire hearing.

**Decision to be based only on evidence presented at the hearing:** If outside evidence influences a decision, parties do not have a fair opportunity to understand and respond to the case against them.

**Decision maker(s) must give reasons:** Without reasons, parties will not know if the panel heard and understood their position before making a decision. Also, parties will have no record of why the decision was made, and it will be difficult to exercise any right of appeal.

## 6. The Hearing

***Lesson Objective: By the end of this chapter, you will be able to describe***

- The ARB hearing style
- The hearing process

### The Adversarial Process

ARBs use an “adversarial” hearing style where the parties present their cases to the board. The ARB acts much like a judge in a trial and lets the parties make their own cases as they see fit. The board does not act as an advocate for any party. Board members may ask questions, but these are generally to clarify points made by the parties rather than to fill in major gaps in the evidence or introduce arguments beyond what the parties have presented.

### Overview of a Typical Hearing Process

Some ARBs have published formal rules of procedure. The panel may also give specific instructions about procedures to suit the individual case before them. The format for hearings is generally similar to the following:

1. Call to order and welcome by the Chair
  - Confirming the right appeal is being heard, and that everyone is in attendance.
2. Introductions of the panel, parties and other persons in the room
  - Name, organization and role in the hearing (agent, representative, witness, observer, etc.).
3. Opening comments by the Chair
  - A general explanation of the ARB complaint process, and how the hearing will proceed.
  - Housekeeping issues such as break times and expectations.
  - If the parties are to be giving sworn testimony, they are usually sworn in by the panel at the beginning of the hearing. If there are any preliminary matters to be decided, they are addressed at this time.
4. The parties present their cases based upon the evidence disclosed before the hearing. The typical format is as follows:
  - (a) Complainant’s Evidence

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- i. Respondent's Questions
    - ii. Board's Questions (if any)
  - (b) Respondent's Evidence
    - i. Complainant's Questions
    - ii. Board's Questions (if any)
  - (c) Complainant's rebuttal evidence (if any)
    - i. Questions from Respondent (if any)
    - ii. Board's Questions (if any)
- 5. Closing comments. Providing a summary of the key points of their case.
  - (a) Complainant
  - (b) Respondent
  - (c) Last word by Complainant
- 6. Closing Comments by the Chair
  - Thanking the parties and letting them know the next steps in the process.



*The board may ask the clerk to attend the hearing to ensure the record is complete, record the hearing, take notes, assist with numbering/tracking of submissions and other administrative duties, depending on board procedures. Where the clerk doesn't attend, the board is responsible for ensuring all required information is complete*

See the Appendix for helpful templates.

## Hearing Curve Balls

### 1. **Costs**

Only CARBs and MGB have authority in *MRAC* to award costs when there is an abuse of the complaint process by a party. Costs may be dealt with at the end of the merit hearing or in a separate hearing.

s. 468.1 – *MGA* &  
s. 52(2) &  
Schedule 3 – *MRAC*

### 2. **Independent Legal Counsel**

If an ARB needs legal counsel, that counsel must be independent from the municipality.

### 3. **Postponements/Adjournments**

It may be necessary to reschedule the hearing for exceptional circumstances.

### 4. **Party No-Shows/Written Submissions**

A hearing will proceed in the absence of a party who has received the proper notice and has chosen not to come.

s. 463 – *MGA*  
s. 16 – *MRAC*

## After the Hearing – The Decision-making Process

After a hearing, the panel members will meet privately to make a decision about what they have heard. Most members prefer to hold a decision meeting as soon as possible after the hearing so that the presentations are still fresh in their minds.

## 7. After the Hearing

***Lesson Objective: By the end of this chapter, you will be able to demonstrate understanding***

- The clerk's role in the ARB decision process
- The required components of a written decision
- Decision distribution requirements
- Record of hearing requirements
- The process for appealing an ARB decision

### ARB Decisions – The Clerk's Role

The decision-making process is the responsibility of the ARB members. It is important that the clerk support them, yet not influence (or bias) their decision in any way.

The clerk may be asked to support the panel by:

- Providing helpful templates for the board to keep track of their reasoning as they deliberate.
- Providing transcripts, information and notes taken during the hearing.
- Providing administrative advice/expertise for formatting, editing or advice to make language clear and concise.
- Asking the board to thoroughly review any draft decision a clerk has transcribed or edited to ensure the intent, voice, reasons and decision are solely the board's decision.
- Ensuring the final decision is in the proper format and meets the requirements set out in *MRAC* s.13.
- Making sure the board is aware of the decision timelines it must meet.

### The Decision

*MRAC* requires the ARB to issue a written decision, which includes:

- A brief summary of the matters or issues contained on the complaint form,
- The ARB's decision on each matter or issue,
- The reasons for decision, including any dissenting reasons, and
- Any procedural or jurisdictional matters that arose during the hearing and the

LARB & CARB  
s. 13(1) – *MRAC*

ARB's decision on each.

## Basic Pieces of a Written Decision

Generally, ARB decisions have common formats, headings and style. Below are the typical pieces of a well-written decision. A panel need not use these labels and may change the order to make the most sense for a particular case. The decision should tell the story of the hearing, and be an easy read, making the board's decision and reasons on each issue clear.

The following is a list of the sections commonly seen in a decision. They can be arranged to make the decision easy to read and understand.

### Heading/Introduction

A decision usually begins with a combination of identifiers that are specific to the property, complaint and hearing. These may include:

- Decision number
- Assessment roll number
- Municipal address or legal description of property
- Party names and representation
- Names of board members

**\*\*\* NOTE: First initials and last names only of parties, representatives and board members should be used.**

### Background

The background provides the reader with a quick picture of what the decision is about, particularly:

- Physical description of the property (which may or may not include location).
- The "matters" under appeal (as noted on the complaint form).
- Any relevant facts that are not in dispute.

### The Issue(s)

This section of a decision contains a list of the questions the ARB must answer. These are the particular points the parties disagree about and are often framed as questions. For example, one of the most common issues to be addressed in assessment hearings is

**"Is the assessment fair and equitable?"**

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### Legislation

This section contains a list of all the relevant legislation that the ARB will consider in making its decision. The legislation should be reproduced exactly as it is written and contain the relevant citations. Occasionally, legislation is found in an appendix to the decision, especially when the list of legislation is long.

### Party Positions

This section contains an explanation of what each party said about the issues identified previously. It is not a regurgitation of what the parties said but a summary of the evidence and arguments. For clarity, it is often separated into the “Complainant’s Position” and “Respondent’s Position.”

### Decision

This section contains a clear and concise statement of what the ARB has decided. For example;

**“The Assessment is confirmed (or varied to \$\_\_\_\_\_).”**

### ARB Findings and Reasons

This section explains what the panel found to be facts, and the reasons supporting why they found what they did. It should explain why the ARB favoured one party’s evidence over the other’s, and why it interpreted the legislation or regulation in a particular way.

There are many ways to organize this section, including chronologically or by issue.

### Summary/Conclusion

This section is often used in longer decisions and summarizes in a paragraph or two the essence of the case including a sentence or two per issue.

### Signature

ARB decisions are usually signed and dated by the presiding officer. If he/she is unavailable, it is appropriate for a side-panel member to sign for him/her as long as the presiding officer has agreed with the final written version.

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Decision 1 – An example – Chronological	Decision 2 – An example – Sorted by Issue
<p><b>Heading/Introduction</b></p> <ul style="list-style-type: none"> <li>- Decision number</li> <li>- Decision date</li> <li>- Roll number</li> <li>- Municipal address of property</li> <li>- Names of parties</li> <li>- Names of board members</li> </ul> <p><b>Background</b></p> <ul style="list-style-type: none"> <li>- The type of property, including location and square footage</li> <li>- The assessment value at issue</li> <li>-</li> </ul> <p><b>Issue</b></p> <ul style="list-style-type: none"> <li>- Is the assessment fair and equitable?</li> </ul> <p><b>Party Positions</b></p> <ul style="list-style-type: none"> <li>- Complainant’s Position</li> <li>- Respondent’s Position</li> <li>- Complainant’s Rebuttal</li> <li>- Decisions</li> <li>- Findings and Reasons</li> </ul> <p>Summary/Conclusion</p> <p>Signature</p> <p>Appendix A – List of Exhibits and Attendees</p> <p>Appendix B – Legislation</p>	<p><b>Heading/Introduction</b></p> <ul style="list-style-type: none"> <li>- Decision number</li> <li>- Hearing date</li> <li>- Roll number</li> <li>- Municipal address of property</li> <li>- Names of parties and attendees</li> <li>- Names of board members</li> </ul> <p><b>Background</b></p> <ul style="list-style-type: none"> <li>- The type of property, including location and square footage</li> <li>- The assessment value at issue</li> </ul> <p><b>Legislation</b></p> <p><b>Issues</b></p> <ul style="list-style-type: none"> <li>- Is the assessment fair and equitable?</li> <li>- What portion of the property is exempt from taxation?</li> </ul> <p><b>Party Positions</b></p> <p><b>Issue 1</b></p> <ul style="list-style-type: none"> <li>- Complainant’s Position</li> <li>- Respondent’s Position</li> <li>- Decision</li> <li>- Findings and Reasons</li> </ul> <p><b>Issue 2</b></p> <ul style="list-style-type: none"> <li>- Complainant’s Position</li> <li>- Respondent’s Position</li> <li>- Decision</li> <li>- Findings and Reasons</li> </ul> <p>Summary/Conclusion</p> <p>Signature</p> <p>Appendix A – List of Exhibits and Attendees</p>



## Reviewing the Draft Decision

All the panel members should review and approve the decision before it is signed and sent to the parties. The panel may also request someone else to review the draft for style and flow.



*If you are asked to review a decision, keep the following points in mind:*

- Respect the final decision but look for the way the written document conveys that decision.
- Look at the decision from the parties' perspective – will they (especially the “loser”) understand the decision and reasons for decision?
- Provide feedback on accuracy, clarity, comprehension, logic, flow and structure.
- Flag where the decision does not include pieces required by *MRAC* s. 13.
- Provide suggestions on grammar but respect that the final choice may rest with someone else.
- Compare the decision to any style guide adopted by the ARB to see that the style guide has been followed, and if not, make suggestions for improvement.
- Point out gaps in logic or flow but leave the final alteration to the writer and final choices to the panel.
- Respect that writing is difficult work, often done in a time crunch and that your writing style and choice of words may not be the same as the writer's.
- The decision belongs to the panel, not the reviewer. Be careful not to insert your own ideas or reasoning into the decision.
- Ensure legislation and case law is cited correctly.

## After Hearing Timelines

After the hearing, the board must render its decision with reasons, in writing, no later than **30 days** after the hearing date or before the end of the year in which the complaint has been made, whichever is earlier.

s. 468(1)– MGA

s. 469 – MGA

The ARB clerk must, within **7 days** of the decision being rendered, send notice of the decision, including reasons, to the parties notified of the hearing. CARB decisions must also be sent to the MGB on behalf of the Minister.

## Record of Hearing

An Assessment Review Board must make and keep a record of each hearing.

### The Record of Hearing must include:

- (a) The complaint form.
- (b) All documentary evidence filed in the matter.
- (c) Lists of witnesses who gave evidence at the hearing,
- (d) Transcripts or recordings of the hearing or, in the absence of a transcript or recording, a summary of all testimonial evidence given at the hearing.
- (e) All written arguments presented at the hearing.
- (f) Written lists that are prepared at the end of the hearing that identifies those matters or issues from the complaint form about which evidence was given or argument was made at the hearing.
- (g) The decision of the ARB, as set out in s. 13 MRAC.

LARB & CARB  
s. 14(2) – MRAC

A municipality must retain a record of all decisions of a local Assessment Review Board for at least five years.

s. 13(3) – MRAC

## Appeal of the ARB Decision

If any party affected by the decision disagrees with the decision, they may file an application for leave to appeal to the Alberta Court of Queen’s Bench. The appeal can only be on a question of law or jurisdiction. The application must be made within **30 days** of the parties being notified of the decision.

s. 470(3) – MGA

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It may also be possible for a party to ask the court to complete a judicial review of a decision. This is a different process from the appeal set out in the *MGA*, and an application can be filed within **6 months** of the decision.

An application for leave to appeal will be served on the ARB, at which time the clerk should consult with their own independent legal counsel. The ARB and the Municipality are separate parties before the Court.

In the event of a leave to appeal being granted by the Court of Queen's Bench, the record of hearing must be forwarded to the Court within **30 days**.



*The ARB's lawyer should assist the ARB in the appeal and judicial review processes*

## 8. Provincial Member Scheduling (CARBs)

***Lesson Objective: By the end of this chapter, you will be able to describe the process for scheduling a Composite Assessment Review Board Provincial Member and demonstrate understanding of the role and requirements of the Municipal Government Board***

### Coordinating with the MGB

The MGB provides the presiding officer to all CARBs in all municipalities in Alberta. This requires a co-ordinated effort between ARB clerks and the MGB Administration. Clerks are responsible for keeping track of the status and scheduling of hearings, and keeping the MGB informed so that provincial members can be arranged.

Once the clerk has received a complaint that is to be heard before a CARB, the following communications should be made with the MGB.

### Scheduling a CARB Preliminary or Merit Hearing

- Contact the MGB to confirm the availability of an MGB member to sit as a presiding officer on the chosen hearing date(s). There are several dates throughout the year when no MGB members are available.
- Forward a copy of the complaint(s) to the MGB.
- Two months before the hearing, the MGB will provide the clerk with the provincial member(s) contact information. The clerk can then contact the provincial member directly.
- If a municipality has more than nine hearings, they may be charged for the board member's time.

### When a CARB Complaint is Withdrawn

- Contact the MGB to cancel the provincial member. The MGB needs to know if the whole day is cancelled, or the time of the hearing has changed. If the MGB is not notified in time, the ARB may be charged for the member's time.

### When a CARB is Adjourned or Postponed

- Inform the MGB when a particular provincial member is required to continue presiding over a hearing that has been adjourned or postponed. Provincial members sit on hearings in various different subject matters, which may result in conflicting

schedules.

**When CARB decisions are issued**

- Provide the MGB with a copy of the decision after it has been signed by the Presiding Officer. The MGB does not administer the complaints so may not be aware of the number of ARB decisions that are written. The MGB posts all CARB decisions in the province on its website.

## Who to Contact?

### MGB Resources

To forward copies of complaints, request a board member or to notify the MGB of withdrawals/cancellations, please e-mail [mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca). This e-mail address has the capacity to receive unlimited attachments and is monitored closely by MGB staff.

For general inquiries, assistance with complaint questions, clerk process/procedures or to discuss the board member requirements, please contact

CARB Administrator, phone 780-427-4864 or e-mail at [mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca)



*Although municipalities are responsible for administering their assessment complaints, the MGB is often able to draw on its experience with appeals across the Province to provide information or insight that ARB clerks may find helpful in scheduling their complaints*

*The Board also employs staff with legal and administrative expertise who can provide information*

### Time Extensions

If you are seeking an extension of time into the new year to complete your complaints, a written request for extension must be submitted to the Executive Director of Assessment Services at Municipal Affairs. For information on submitting your written request, please contact

Executive Director  
Assessment Services Branch  
780-422-1377

## APPENDICES

Flow Chart of Appeal Process

LARB vs. CARB – Who Hears What?

ARB Clerk's Process Checklist

Assessment Complaint Form

Agent Authorization Form

Complaint Acknowledgement & Notice of Hearing – Sample 1

Complaint Acknowledgement & Notice of Hearing – Sample 2

Complaint Acknowledgement & Notice of Hearing – Sample 3

Agenda – Sample 1

Agenda – Sample 2

ARB Hearing Procedure – Sample 1

ARB Hearing Procedure – Sample 2

Swearing in Testimony

Assessment Review Board – Form Examples

- Merit Hearing Exhibits
- Summary of Oral Evidence - Complainant
- Summary of Oral Evidence – Respondent

Decision Model

LARB/CARB Decision Template

Withdrawal to Correct

Quick Tips for Clerks

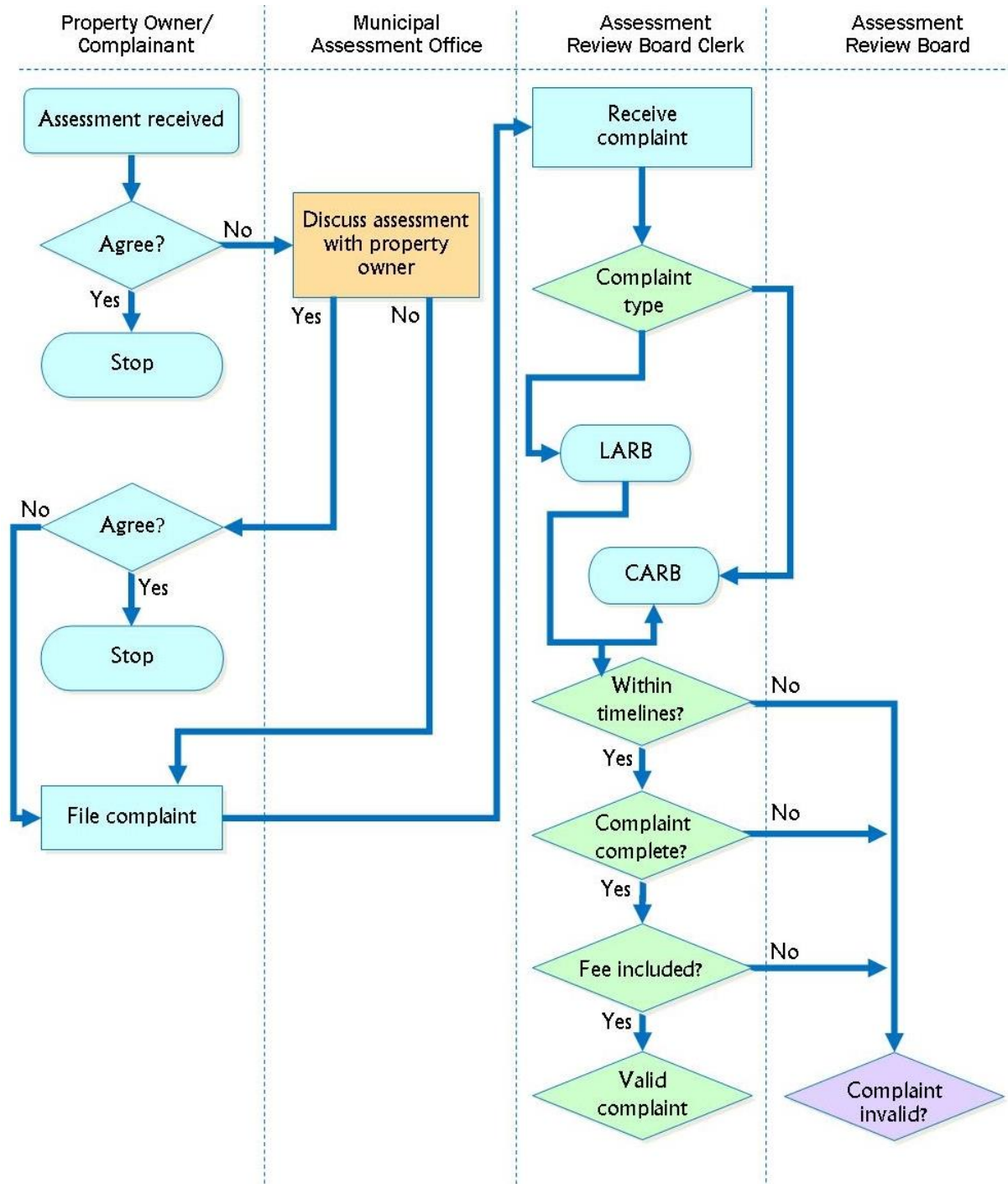
Typical Hearing Room Set Up

Security

Quick List of Decisions

## Flow Chart of Appeal Process

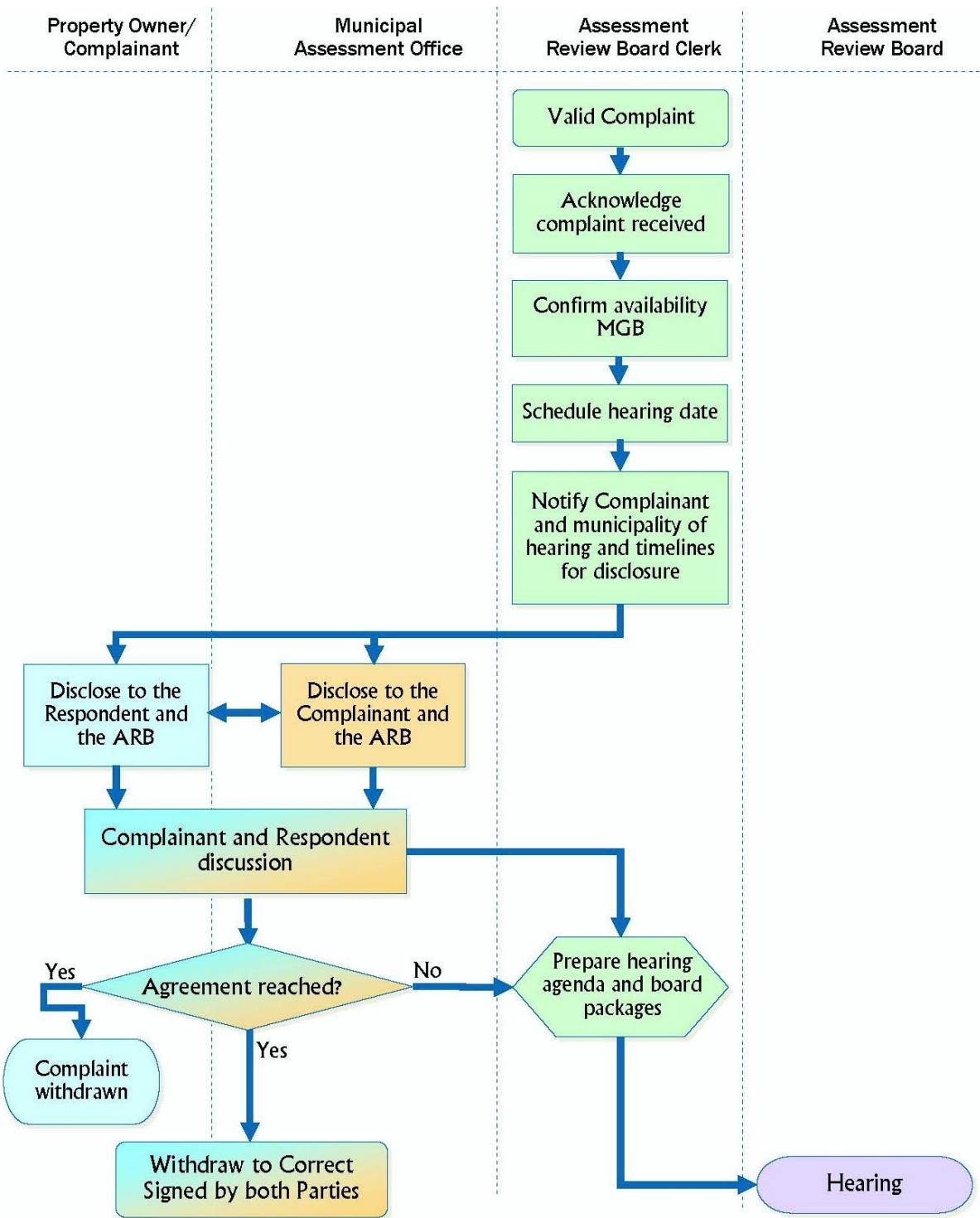
### Pre-Complaint and Receiving Complaints





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Schedule hearing and Disclosure



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LARB vs. CARB – Who Hears What?

<p><b>LARBs Hear s. 460.1(1)</b></p>	<p><b>Complaints about residential property assessments such as:</b></p> <ul style="list-style-type: none"><li>■ Detached homes, including acreages and farm residences</li><li>■ Duplexes</li><li>■ Triplexes</li><li>■ Manufactured housing units</li><li>■ Individual condominium units</li><li>■ Vacant residential</li></ul> <p><b>A municipality may impose taxes other than property taxes. For these, a LARB may hear complaints about specific matters shown on the tax notice.</b></p> <ul style="list-style-type: none"><li>■ Business tax</li><li>■ Business revitalization zone tax</li><li>■ Community revitalization levy</li><li>■ Special tax</li><li>■ Well drilling equipment tax</li><li>■ Local improvement tax</li><li>■ Community aggregate payment levy</li></ul> <p><b>If the complaint is not about one these, then it goes to a CARB panel.</b></p>
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<p><b>CARBs Hear s. 460.1(2)</b></p>	<p><b>Complaints about properties with four or more dwelling units such as:</b></p> <ul style="list-style-type: none"><li>▪ <b>Four-plex housing</b></li><li>▪ <b>Apartment buildings</b></li><li>▪ <b>Townhouse rental projects</b></li></ul> <p><b>Complaints about non-residential properties which include:</b></p> <ul style="list-style-type: none"><li>▪ <b>Office buildings</b></li><li>▪ <b>Retail stores</b></li><li>▪ <b>Shopping centers</b></li><li>▪ <b>Warehouses</b></li><li>▪ <b>Vacant land</b></li><li>▪ <b>Railways</b></li><li>▪ <b>Industrial plants or special purpose properties (e.g., pulp mills)</b></li><li>▪ <b>Machinery and equipment</b></li></ul>
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**ARB Clerk's Process Checklist**

Prior to Complaint				
Assessment/Tax Notice Inquiry	Yes	No	N/A	Comments
1. Ask the person to speak with municipal assessor – issue may be resolved without filing a complaint.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Confirm date complaint must be filed by so that they can file within the deadline date.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>MGA s. 309(1)(c)</i>
3. Let them know where they can find the complaint form and advise them of the filing fee if there is one.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>MRAC s. 54</i>
Notice of Complaint				
Notice of Complaint Form - Review	Yes	No	N/A	Comments
4. Was the complaint filed in accordance with <i>MGA s. 460</i> (is it complete, fee, etc?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Clerks may assist complainants if some of the information required is missing, but must not influence the content of a complaint. Note that the complaint must be <b>IN</b> the form of, not on the form.
5. Notify Municipality (assessment dept.) within 30 days that a complaint has been filed. For CARB complaints, the MGB (on behalf of the Minister) must also be notified - <i>MGA s.462</i> Acknowledge receipt of the complaint to the complainant. <i>MRAC 7(a)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Often sent to the CAO or the Assessment Department, depending on directions given by the municipality  Acknowledgement to the complainant that the complaint was received must be made before or at the same time as the hearing notice is sent.
6. Was the complaint filed in time – <i>MGA s. 309(1)(c); IA ss. 22(1) &amp; 23</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Ensure <i>MGA s. 605(1)</i> has been considered when checking to see if the complaint was filed within time

ADMINISTRATIVE LAW 1  
for ARB Clerks

7. Is the complainant the assessed person or taxpayer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Complies with <i>MGA</i> ss. 304 and 331. If property is sold then <i>MGA</i> s. 478 may apply.
8. If the complaint has been filed by an agent (for a fee or potential fee), an Agent Authorization form must be completed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Agent Authorization form may be provided before or at the beginning of the hearing. Flag for the board if it is an issue.
9. If the complaint has been filed by a representative (i.e. not for a fee, or potential fee), they should identify their role in the complaint.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Written confirmation from the assessed person or taxpayer should be provided noting their authorization for such representation.
10. Assessed persons must be notified that a complaint has been filed on their property.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	An assessed person or taxpayer can file on <b>any</b> property in the municipality. <i>MGA</i> ss. 460(3) and (4)
11. Determine which board will hear the complaint – LARB or CARB? Based on property type ➔ LARB – s. 460.1(1) <i>MGA</i> ➔ CARB – s. 460.1(2) <i>MGA</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Scheduling the wrong board to hear the complaint causes delays.
12. Is a hearing on preliminary matters required? Are there non-assessment matters or administrative matters that need to be dealt with? Should a one-member panel hear it or all 3 board members? ➔ LARB s.30(2) <i>MRAC</i> ➔ CARB s.36(2) <i>MRAC</i>  For CARB complaints, the MGB (on behalf of the Minister) must also be notified - s.462 <i>MGA</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Clerks cannot make decisions with respect to validity of complaints. They can flag complaints for the board's consideration. All decisions must be made by the board.  If two hearings are required, you may schedule the preliminary hearing with at least 15 days' notice, and at the same time, send out the merit hearing notice.  The merit hearing can be cancelled if it is not required.

ADMINISTRATIVE LAW 1  
for ARB Clerks

ARB Hearing				
<p>13. Set hearing date:</p> <ul style="list-style-type: none"> <li>- Are board members available?</li> <li>- Are board members certified?</li> <li>- Be mindful of               <ul style="list-style-type: none"> <li>➔ Hearing minimum requirements – <i>MRAC</i> ss. 3 &amp; 7</li> <li>➔ Disclosure timelines specified in <i>MRAC</i> ss. 4 and 8</li> <li>➔ Timelines specified in <i>MGA</i> s. 468(1)</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Not following the legislated timelines may result in an appeal to the courts.</p> <p>Count all dates to see if holidays or office closures affect the exchange dates – <i>IA</i> s. 22.</p> <p>Certification requirements <i>MRAC</i> s. 49(2)</p>
<p>14. Prepare and Send Notice of Hearing:</p> <ul style="list-style-type: none"> <li>➔ Depending on the type and structure of the board, in accordance with the timelines specified in <i>MRAC</i> ss. 3, 7, 32, and 38</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Ensure notice of hearing is sent to all affected parties to a complaint as required under <i>MGA</i> s. 462.</p> <p>Acknowledge receipt of the complaint if you have not already done so - <i>MRAC</i> s. 7(a).</p>
<p>15. Disclosure of Evidence Schedule</p> <p>The exact dates for disclosure of evidence should be included in the notice of hearing.</p> <p>Depending on the type and structure of the board, in accordance with the timelines specified in <i>MRAC</i> ss. 4, 8, 33, and 39</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>If the schedule is unknown by the parties, they risk missing the deadlines set forth in the regulations. Their evidence may be disqualified under <i>MRAC</i> ss. 5, 9, 34, and 40.</p> <p>Disclosure is done between the parties with a copy to the ARB.</p>
<p>16. If Withdraw to Correct is done by the assessor and the complainant prior to the hearing, cancel the hearing and notify all board members and parties that the hearing has been cancelled.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Withdraw to correction also triggers a refund of the fee to the complainant. <i>MGA</i> s. 305(5) and (6) <i>MRAC</i> s. 11(2)</p>
<p>17. Prepare agenda</p> <p>Ensures that board members are aware of the overall schedule for the hearing</p> <ul style="list-style-type: none"> <li>➔ Identify the parties</li> <li>➔ What they will be hearing</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ADMINISTRATIVE LAW 1  
for ARB Clerks

<p>18. Prepare board documents. Documents could include</p> <ul style="list-style-type: none"> <li>Writing materials</li> <li>Copy of Completed Complaint Form</li> <li>Disclosure of Evidence Submitted</li> <li>Summary of Exhibits Form</li> <li>Summary of Oral Evidence</li> <li>Complainant Form</li> <li>Summary of Oral Evidence</li> <li>Respondent Form</li> <li>Witness list</li> <li>Decision-making Template</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>If the hearing is being recorded the clerk may need to set up and test the recording equipment</p> <p>Provide the board with copies of written presentations if they are not appearing in person <i>MRAC</i> s. 16</p>
<p>19. If a party is not attending in person and wishes to file a written presentation, make a copy for the board members</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>MRAC</i> s. 16 They must file a copy with all the parties at least 3 days before the hearing for a LARB and 7 days for a CARB</p>
<p>20. If a party does not appear at the hearing, it will proceed based on the information that was in the complaint and any disclosure</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>MGA</i> s. 463</p>
<p>21. Attend the Hearing (depending on board's practice)</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>ARB clerk/other staff may attend the hearing to assist the board with the completion of forms noted above.</p>
<p>22. If a postponement of the hearing is requested, decide if there is enough time before the hearing to convene a one-member panel.</p> <p>If the 15-day notice is not possible, obtain the consent of the complainant and respondent to waive the 15-day notice in order for a panel to consider the postponement request.</p> <p>The decision must include the date time and place of the hearing so additional notice is not required.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Can be done with written submissions.</p> <p>If postponement is granted notify all parties of the decision (including board members) as soon as possible. The board should also consider if the postponement changes the disclosure dates.</p> <p><i>MRAC</i> s. 15</p>

ADMINISTRATIVE LAW 1  
for ARB Clerks

<p>23. If at any time the board requires legal advice or interpretation they cannot use the Municipality's lawyer, the ARB must use their own independent lawyer.</p>				<p><i>MRAC s. 17.</i> The Municipal Government Board has a lawyer on staff who may be able to assist.</p>
<b>After the Hearing</b>				
<p>24. Assist in the decision-making process.</p> <ul style="list-style-type: none"> <li>➤ Ensure that the written submissions from the board members are properly recorded and supported in their documentation.</li> <li>➤ The final draft of a decision must be approved by the board before it is sent to the parties.</li> </ul> <p>The decision of a board must contain specific information as required in <i>MRAC s. 13.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Clerk must ensure that the final decision is that of the board and that the clerk has not injected any personal opinion or had any influence in the final draft. Read the decision to see if it is understandable and has flow, grammar and spelling are correct, and if the decision is clear.</p> <p>Improperly written decisions are subject to appeal to the courts: i.e. not providing reasons for a decision is grounds for appeal of the decision.</p> <p>Use <i>MRAC s. 13</i> as a checklist</p>
<p>25. Distribute decision to Complainant and Respondent and forward a copy of all CARB decisions to the MGB</p> <p>The decision must be made within 30 days from the date of the hearing and distributed within 7 days of signing.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>MGA ss. 468, 469 and MRAC s. 13</i></p>
<p>26. Produce the record of the hearing</p> <ul style="list-style-type: none"> <li>The Complaint form</li> <li>Complainant's disclosure</li> <li>Respondent's disclosure</li> <li>List of Witnesses &amp; people who spoke</li> <li>Summary of Evidence</li> <li>Copy of the decisions</li> </ul> <p>Retention is for 5 years</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>MRAC s. 14</i></p> <p>Board's decision is part of the record of hearing. Clerk should ensure that decision appendices list Exhibits.</p> <p>Depending on board practice, hearings may be recorded. A copy of the recording should be kept on file with the decision in case it is requested at a later date.</p> <p><i>MRAC s. 13(3)</i></p>



ADMINISTRATIVE LAW 1  
for ARB Clerks

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27. Fees ▶ Refund complaint fee if applicable.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>MGA s. 481, MRAC s. 11</i>
28. If the decision is appealed to the Court of Queen's Bench, contact the ARB lawyer for advice on filing the return and the next steps.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The decision must be appealed within 30 days of the parties being notified of the decision, and can only be appealed on a question of law or jurisdiction.

ADMINISTRATIVE LAW 1  
for ARB Clerks

Assessment Complaint Form



Assessment Review Board Complaint

Municipality Name (as shown on your assessment notice or tax notice)	Tax Year
--	----------

Section 1 - Notice Type

Assessment Notice:  Annual Assessment  
 Amended Annual Assessment  
 Supplementary Assessment  
 Amended Supplementary Assessment

Tax Notice:  Business Tax  
 Other Tax (excluding property tax and business tax)

Name of Other Tax: \_\_\_\_\_

Section 2 - Property Information

Assessment Roll or Tax Roll Number: \_\_\_\_\_

Property Address: \_\_\_\_\_

Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer): \_\_\_\_\_

Property Type (check all that apply):  Residential property with 3 or fewer dwelling units  
 Residential property with 4 or more dwelling units  
 Farm land  
 Non-residential property  
 Machinery and equipment

Business Name (if pertaining to business tax): \_\_\_\_\_

Business Owner(s): \_\_\_\_\_

Section 3 - Complainant Information

Is the complainant the assessed person or taxpayer for the property under complaint?  Yes  No

Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted with this complaint form.

Complainant Name (if the complainant, assessed person, or taxpayer is a company, enter the complete legal name of the company): \_\_\_\_\_

Mailing Address (if different from above): \_\_\_\_\_ City/Town: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

If applicable, please indicate any date(s) that you are not available for hearing: \_\_\_\_\_

Section 4 - Complaint Information

Check the matter(s) that apply to the complaint (see reverse for coding)

1  2  3  4  5  6  7  8  9  10

Note: Some matters or information may be corrected by contacting the municipal assessor prior to filing a formal complaint.

If information was requested from the municipality pursuant to sections 299 or 300 of the Municipal Government Act, was the information provided?  Yes  No

Section 5 - Reason(s) for Complaint

Note: An assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

A complainant must:

- indicate what information shown on an assessment notice or tax notice is incorrect,
- explain in what respect that information is incorrect,
- indicate what the correct information is, and
- identify the requested assessed value, if the complaint relates to an assessment.

Requested assessed value: \_\_\_\_\_

ADMINISTRATIVE LAW 1  
for ARB Clerks

- (a) include a statement that the complainant and the respondent have discussed the matters for complaint, specifying the date and outcome of that discussion, including the details of any issues or facts agreed to by the parties, or  
(b) include a statement, if the complainant and the respondent have not discussed the matters for complaint, specifying why no discussion was held.  
**Note: If necessary, additional pages or documentation required to complete this section may be submitted with this complaint form.**

**Section 6 - Complaint Filing Fee**

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form, or the complaint will be invalid and returned to the person making the complaint.  
If the assessment review board makes a decision in favour of the complainant, or if all the issues under complaint are corrected by agreement between the complainant and the assessor and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

**Section 7 - Complainant Signature**

Signature	Printed Name of Signatory Person and Title	Date (yyyy-mm-dd)

**Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee, are invalid.**

Assessment Review Board Clerk Use Only			
Was the complaint filed on time?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Is the required information included on or with the complaint form?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Was the required filing fee included?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Was a properly completed authorization form attached?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Complaint to be heard by:	<input type="checkbox"/> LARB	<input type="checkbox"/> CARB	
		Date received	

### MATTERS FOR A COMPLAINT

A complaint to the assessment review board may be about any of the following matters shown on an assessment notice or on a tax notice (other than a property tax notice).

- |  |  |
|--|--|
| 1. the description of the property or business                   | 6. the type of property                                      |
| 2. the name or mailing address of an assessed person or taxpayer | 7. the type of improvement                                   |
| 3. an assessment amount  | 8. school support  |
| 4. an assessment class   | 9. whether the property or business is assessable            |
| 5. an assessment sub-class                                       | 10. whether the property or business is exempt from taxation |

**Note:** To eliminate the need to file a complaint, some matters or information shown on an assessment notice or tax notice may be corrected by contacting the municipal assessor. It is advised to discuss any concerns about the matters with the municipal assessor prior to filing this complaint.

If a complaint fee is required by the municipality, it will be indicated on the assessment notice. Your complaint form will not be filed and will be returned to you unless the required complaint fee indicated on your assessment notice is enclosed.

### ASSESSMENT REVIEW BOARDS

A Local Assessment Review Board will hear complaints about residential property with 3 or less dwelling units, farm land, or matters shown on a tax notice (other than a property tax notice).

A Composite Assessment Review Board will hear complaints about residential property with 4 or more dwelling units or non-residential property.

ADMINISTRATIVE LAW 1  
for ARB Clerks

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## DISCLOSURE

**Disclosure must include:**

- All relevant facts supporting the matters of complaint described on this complaint form.
- All documentary evidence to be presented at the hearing.
- A list of witnesses who will give evidence at the hearing.
- A summary of testimonial evidence.
- The legislative grounds and reason for the complaint.
- Relevant case law and any other information that the complainant considers relevant.

**Disclosure timelines:**

- For a complaint about any matter other than an assessment, the parties must provide full disclosure at least 5 days before the scheduled hearing date.
- For a complaint about an assessment - Local Assessment Review Board:
  - Complainant must provide full disclosure at least 21 days before the scheduled hearing date.
  - Respondent must provide full disclosure at least 7 days before the scheduled hearing date.
  - Complainant must provide rebuttal at least 3 days before the scheduled hearing date.
- For a complaint about an assessment - Composite Assessment Review Board:
  - Complainant must provide full disclosure at least 42 days before the scheduled hearing date.
  - Respondent must provide full disclosure at least 14 days before the scheduled hearing date.
  - Complainant must provide rebuttal at least 7 days before the scheduled hearing date.

## DISCLOSURE RULES

Timelines for disclosure must be followed;  
Information that has not been disclosed will not be heard by an assessment review board; and  
Disclosure timelines can be reduced if the disclosure information is provided at the time the complaint form is filed. Both the complainant and the assessor must agree to reduce the timelines.

## PENALTIES

A Composite Assessment Review Board may award costs against any party to a complaint that has not provided full disclosure in accordance with the regulations.

## IMPORTANT NOTICES

Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice, prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee, are invalid.

An assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

The assessment review board clerk will notify all parties of the hearing date and location.

For more details about disclosure please see the *Matters Relating to Assessment Complaints Regulation*.

To avoid penalties, taxes must be paid on or before the deadline specified on the tax notice even if a complaint is filed.

The personal information on this form is being collected under the authority of the *Municipal Government Act*, section 460 as well as the *Freedom of Information and Protection of Privacy Act*, section 33(c). The information will be used for administrative purposes and to process your complaint. For further information, contact your local Assessment Review Board.

ADMINISTRATIVE LAW 1  
for ARB Clerks

**Agent Authorization Form**

**Government  
of Alberta** ■

**Assessment Complaints Agent Authorization**

<b>SECTION 1 - Assessed Person / Taxpayer Information</b>		Tax Year	<input type="text"/>
Assessed Person(s) or Taxpayer(s) <i>(if the assessed person or taxpayer is a company, enter the complete legal name of the company)</i>			
Business Name (if pertaining to business tax)		Business Owner(s)	
<b>SECTION 2 - Municipal and Property Information</b>		<i>(for linear property go to Section 3)</i>	
Municipality Name (as shown on your assessment notice or tax notice)		Assessment Roll or Tax Roll Number	
Property Address		Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)	
Property Type <input type="checkbox"/> Residential property with 3 or less dwelling units <input type="checkbox"/> Farm land <input type="checkbox"/> Machinery and equipment <i>(check all that apply)</i> <input type="checkbox"/> Residential property with 4 or more dwelling units <input type="checkbox"/> Non-residential property			
<b>SECTION 3 - Agent Information</b>			
Note: Agent means a person or company who for a fee or potential fee acts for an assessed person or taxpayer during the assessment complaint process or at a hearing before an assessment review board or the Municipal Government Board.			
Agent Name		Contact Name (if different) and Position Held	
Mailing Address (if different from above)		City/Town	Province Postal Code
Telephone Number <i>(include area code)</i>	Fax Number <i>(include area code)</i>	Email Address	

**SECTION 4 - Acknowledgement and Certification**

By signing below, I acknowledge and certify that:

1. I am the assessed person or taxpayer identified in section 1, or a legally authorized officer of the assessed person or taxpayer.
2. To initiate the processing of this agent authorization, I am attaching this agent authorization form to:
  - (a) the complaint form if the agent is authorized to file the complaint on my behalf, or
  - (b) a letter, signed by me on my personal or company letterhead, and the letter is submitted to the municipality's assessment review board clerk or to the Municipal Government Board administrator, as the case may be, before the hearing of the complaint.
3. I provide authority to the agent, as identified in section 3, to represent the assessed person or taxpayer, identified in section 1, to:
  - (a) file a complaint on behalf of the assessed person or taxpayer for the property described on this form,
  - (b) discuss the issues or matters of the complaint with the municipality's assessor (or the assessor designated by the Minister for linear property),
  - (c) prepare and submit disclosure regarding the complaint,
  - (d) represent the assessed person or taxpayer at hearings before the assessment review board (or before the Municipal Government Board for linear property),
  - (e) reach an agreement with the assessor to correct a matter under complaint, and
  - (f) to withdraw the complaint at any time.
4. I understand that the assessed person or taxpayer continues to be subject to all provisions required by the *Municipal Government Act* and its attendant regulations, and any authorization of agency is not a substitute for any of those provisions.
5. I understand that this document does not act as an authorization of agency for the purposes of Section 299 or Section 300 of the *Municipal Government Act*.
6. I understand that the assessed person or taxpayer is liable for any costs awarded against the agent by an assessment review board (or by the Municipal Government Board for linear property), or for any change in assessment that may result from a hearing.
7. I understand that this authorization is only applicable to the tax year entered on this form.
8. The agent has disclosed the qualifications, professional designations, certifications, or affiliations of the agent, if any, with respect to property assessment or appraisal.
9. I may revoke authorization at any time in writing to the assessment review board clerk, or the Municipal Government Board administrator.

Signature of the Assessed Person or Taxpayer

Printed Name of Signatory Person and Title

Date (mm/dd/yyyy)

LGS1405 (2009/08)

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## Complaint Acknowledgement & Notice of Hearing - Sample 1

LETTERHEAD – [LOCAL/COMPOSITE] ASSESSMENT REVIEW BOARD  
(IMPORTANT – DO NOT USE MUNICIPAL LETTERHEAD)

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Complaint ID#: «ComplaintId»

**Complainant**

«MAILINGNAME»  
«MAILINGADDRESS», «MAILINGADDRESS2»  
«MAILINGCITY», «MAILINGPROVINCE»  
«MAILINGPOSTALCODE»

- AND- **Respondent**

«RESPONDENTNAME»  
«RESPONDENTADDRESS1»,  
«RESPONDENTADDRESS2»

Email: «ComplainantEmail» (paper copy to follow)

Email: «RespondentEmail»  
(paper copy to follow)

### **RECEIPT OF COMPLAINT / NOTICE OF HEARING**

Dear Sir/Madam:

**RE: [Year] ASSESSMENT COMPLAINT / ROLL # «Roll» / «PropertyAddress»**

The [Local/Composite] Assessment Review Board has received a complaint with respect to the above property. The complaint hearing has been scheduled. The information for the hearing is as follows:

<b>HEARING INFORMATION</b>	
<b>(HEARINGS ARE OPEN TO THE PUBLIC - SEE REVERSE SIDE OF NOTICE FOR MORE INFORMATION)</b>	
Date of Hearing: «HearingDate»	Time of Hearing: «HearingTime»
Hearing to be held at: «HearingLocationName», «HearingLocationAddress», «HearingLocationAddress2», «HearingLocationCity»	

You are required to file all evidence that will be presented at the hearing on or before the date(s) indicated below. The [Local/Composite] Assessment Review Board is not permitted to hear any matter that was not identified on the Complaint Form. Please note that no new evidence may be introduced at the hearing.

ADMINISTRATIVE LAW 1  
for ARB Clerks

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**Complaint Acknowledgement & Notice of Hearing - Sample 1 (cont'd.)**

<b>IMPORTANT DATES - YOU MUST COMPLY WITH THE LEGISLATION (SEE REVERSE SIDE OF NOTICE FOR MORE INFORMATION)</b>		
Complainant's Disclosure Date:	Respondent's Disclosure Date:	Complainant's Rebuttal Date:
«ComplainantDisclosureDate»	«RespondantDisclosureDate»	«RebuttalDate»

Six (6) copies to:

Name of  
Assessment Review Board  
Street Address/PO Box  
City, Province, Postal Code  
Email address

**AND**

One (1) copy to:

The opposing party as identified above.

If you require additional information or have any questions concerning these matters please contact the Regional Assessment Review Board Clerk at [780-555-1234](tel:780-555-1234).

Best regards,

[clerk's signature]

[Clerk's Name]

Clerk, Assessment Review Board

xc:



## Complaint Acknowledgement & Notice of Hearing - Sample 1 (cont'd.)

### LEGISLATION FOR THE LOCAL ASSESSMENT REVIEW BOARD

The *Matters Relating to Assessment Complaints* Regulation 310/2009 states that complaints regarding [property type i.e. residential, commercial, industrial] property require disclosure of evidence and any written argument to be filed with the Assessment Review Board and the Assessor **at least [xx] days** before the hearing date. The Assessed Person (the Complainant) and the Assessor (the Respondent) are required to disclose evidence to each other as set out in Regulation 310/2009.

The *Matters Relating to Assessment Complaints* Regulation 310/2009 Section [x(x)] states that:

- 8(2) If a complaint is to be heard by a [local/composite] assessment review board, the following rules apply with respect to the disclosure of evidence:
- (a) the complainant must, at least [xx] days before the hearing date,
    - (i) disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and
    - (ii) provide to the respondent and the local assessment review board an estimate of the amount of time necessary to present the complainant's evidence;
  - (b) the respondent must, at least [xx] days before the hearing date,
    - (i) disclose to the complainant and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and
    - (ii) provide to the complainant and the local assessment review board an estimate of the amount of time necessary to present the respondent's evidence;



## Complaint Acknowledgement & Notice of Hearing - Sample 1 (cont'd.)

- (c) the complainant must, at least [xx] days before the hearing date, disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

### **PUBLIC HEARING NOTICE**

Central Alberta Regional Assessment Review Board (Board) hearings are open to the public.

The personal information on submissions to the Board is collected under the authority of the *Municipal Government Act*, section 460 and the *Alberta Freedom of Information and Protection of Privacy Act* (FOIP), section 33(c).

The agendas and decisions of the Board will be publicly available in accordance with section 40(1) of the FOIP Act and may be posted on The City of Red Deer's website.

If you have any questions regarding the collection and/or use of this information please contact the Access and Privacy Coordinator at 403-342-8133.

*Sample shared courtesy of Red Deer Regional ARB*

## Complaint Acknowledgement & Notice of Hearing - Sample 2

LETTERHEAD – [LOCAL/COMPOSITE] ASSESSMENT REVIEW BOARD  
(IMPORTANT – DO NOT USE MUNICIPAL LETTERHEAD)

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[Date]

Parties before the Board:

Complainant:

[Street/PO Box]  
[City, AB Postal Code]

Respondent:

[Street/PO Box]  
[City, AB Postal Code]

### Notice of Hearing

[Year] Assessment Complaint for Tax Roll Account xxxxx  
Property Located at 123 Middle Road, Plan 123456, Block 1, Lot 1

Hearing Date: [moth/day/year]

Hearing Time: [hour a.m./p.m.]

Location: [building name, street address, city]

---

Your complaint was received by the Assessment Review Board on [month/date/year]. A hearing will be held by the [Local/Composite] Assessment Review Board (LARB/CARB) to determine the merits of your complaint.

### Disclosure of Evidence

This complaint is subject to the *Matters Relating to Assessment Complaints Regulation, AR 310/09*. Prior to the hearing, there is a formal process for the exchange of information, otherwise known as disclosure, between the complainant and the respondent. Both parties have an obligation and are accountable for providing complete disclosure within the time frames set out in the regulation.

Complainant's disclosure: You are required to file all documentary evidence, a summary of testimonial evidence (including any signed witness reports for each witness), and any written argument that will be presented at the hearing

---

## Complaint Acknowledgement & Notice of Hearing - Sample 2 (cont'd.)

with both the [LARB/CARB] and the [Municipality Name] ("the Respondent")  
on or before [month/date/year].

...2

[Date]

Page 2

Respondent's disclosure: The Respondent must provide you and the  
[LARB/CARB] with its disclosure of evidence on or before [month/date/year].

Complainant's Rebuttal Disclosure: If after reviewing the Respondent's  
disclosure package you wish to provide evidence in rebuttal, you must do so  
on or before [month/date/year]. Once again, you are required to file all  
documentary evidence, a summary of testimonial evidence (including any  
signed witness reports for each witness), and any written argument that will  
be presented at the hearing with both the [LARB/CARB] and the Respondent.

The [LARB/CARB] must not hear any evidence that has not been disclosed in  
accordance with the *Matters Relating to Assessment Complaints Regulation, AR  
310/09*.

Ways to File your Disclosure

You may file your disclosure on paper, on CD, or by email.

By mail: Send one copy to each of the following addresses:  
(Please allow time for delivery. Disclosure must be received on or  
before the disclosure deadline.)

Local Assessment Review  
Board

[Street/PO Box, City, AB  
Postal Code]

Municipality Name

[Street/PO Box, City, AB  
Postal Code]

## Complaint Acknowledgement & Notice of Hearing - Sample 2 (cont'd.)

In person: Drop off one copy for the LARB at [building name,  
room/office number, street address, city]

Email:

...3

[Date]

Page 3

At the Hearing:

You must provide the Board with [#] paper copies of your evidence at your hearing. This is in addition to your disclosure of evidence. If you do not attend the hearing, the Board may proceed in your absence.

For further information on how to prepare for your hearing, please review the Filing Guide previously sent to you. Should you have any other questions, please contact the undersigned at [780-555-1234](tel:780-555-1234).

[Name] ASSESSMENT REVIEW BOARD

[clerk's signature]

[Clerk's Name]

Assessment Review Board Clerk

---

## Complaint Acknowledgement & Notice of Hearing - Sample 3

### EDMONTON

Assessment Review Board

10019 103 Avenue, Edmonton, AB T5J 0G9

Ph: 780-496-5026 Fax: 780-496-8199

Email: [assessmentreviewboard@edmonton.ca](mailto:assessmentreviewboard@edmonton.ca)

Web: [www.edmontonarb.ca](http://www.edmontonarb.ca)

#### Parties before the Board:

Complainant's Name

Address 1

Address 2

City, Province Postal Code

City of Edmonton

Assessment and Taxation Branch

Main Floor, Chancery Hall

3 Sir Winston Churchill Square

Edmonton AB T5J 2C3

[Date]

#### Notice of Hearing

2014 Assessment Complaint for Account Number [Tax Roll Number]  
Property Located at [Address or Legal Description if Address Unavailable]

---

The Assessment Review Board (ARB) received your complaint on [Date]. The ARB will hear your complaint on:

**Date(s):** Month Day, Year

**Time:** Time AM or PM

**Location:** Churchill Building, 10019 103 Avenue

The Assessment Review Board (ARB) received your complaint on [Date]. The ARB will hear your complaint on:

**Date(s):** Month Day, Year

**Time:** Time AM or PM

**Location:** Churchill Building, 10019 103 Avenue

We strongly suggest you attend this hearing.

#### Disclosure of Evidence:

Before your hearing, both you and the the City of Edmonton Assessment and Taxation Branch (the Respondent) must share with each other **and** the ARB all information you plan to present at the hearing. This is referred to as *disclosure of evidence*. Disclosure must be in sufficient detail to allow the other party to respond to or rebut the evidence at the hearing.

## Complaint Acknowledgement & Notice of Hearing - Sample 3 (cont'd.)

Disclosure must include:

- all documentary evidence
- a summary of testimonial evidence (including a signed witness report for each witness)
- any written argument
- an estimate of the time needed to present the evidence at the hearing

**Complainant's disclosure:** You must disclose your evidence to **both** the Respondent **and** the ARB on or before [\[Complainant's disclosure deadline\]](#).

**Respondent's Disclosure:** The Respondent must disclose its evidence to **both** you **and** the ARB on or before [\[Respondent's disclosure deadline\]](#).

**Complainant's Rebuttal Disclosure:** If a new issue is raised in the Respondent's disclosure package, you may provide further evidence in response to the new issue. You must disclose your rebuttal evidence to **both** the Respondent **and** the ARB on or before [\[Complainant's rebuttal disclosure deadline\]](#).

The timelines for disclosure must be followed.  
The Board will not hear evidence that has not been properly disclosed.

### Filing Disclosure:

You must file **two copies** your disclosure package: one with the ARB **and** one with the Respondent. Keep the originals for your records.

#### How to file with the ARB

*You may file your disclosure at:*

<https://arb.edmonton.ca>

*by mail or in person:*

Assessment Review Board  
Churchill Building  
10019 103 Avenue  
Edmonton, AB T5J 0G9

*by fax or e-mail:*

Fax: 780-496-8199

E-mail:

[assessmentreviewboard@edmonton.ca](mailto:assessmentreviewboard@edmonton.ca)

#### How to file with the Respondent

*You may file disclosure by mail or in person:*

City of Edmonton  
Assessment and Taxation Branch  
Main Floor, Chancery Hall  
3 Sir Winston Churchill Square  
Edmonton, AB T5J 2C3

*by fax:* 780-498-7085

## Complaint Acknowledgement & Notice of Hearing - Sample 3 (cont'd.)

In order to file disclosure online, log-on information is required. If you require log-on information please contact our office.

*Please note that disclosure must be **received** on or before the disclosure deadline.  
If filing by mail, please allow time for delivery.*

### The Hearing:

You must bring **5 paper copies** of your disclosure to the hearing. This is in addition to the copies filed prior to the hearing.

If you do not attend this hearing, the Board may proceed in your absence.

Your complaint is subject to the *Matters Relating to Assessment Complaints Regulation*, AR 310/09 (MRAC). MRAC is available on our website at [edmontonarb.ca](http://edmontonarb.ca).

*To ensure a comfortable environment for everyone, kindly refrain from wearing scented products at the hearing.*

---

cc:

*Sample shared courtesy of Edmonton Assessment Review Board*

ADMINISTRATIVE LAW 1  
for ARB Clerks

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**Agenda - Sample 1**

Date:  
Time:  
Place:

Agenda No.

---

Panel 1 – (type ie Residential)

---

9:00 a.m. Roll No.	Year	Municipality	
	Appellant: Owner:		
	Property Address		
Under Appeal	Assessment Total		\$0,000,000.00

---

10:00 a.m. Roll No.	Year	Municipality	
	Appellant: Owner:		
	Property Address		
Under Appeal	Assessment Total		\$0,000,000.00



## Agenda - Sample 2

**Date:**

**Agenda:**

**Hearing Room:**

**Board Members:**

**Board Officer:**

Scheduled Start/End Date	Time	Hearing type	Roll Number	Year	Assessment Type	Valuation Group	Property Address	Property Owner	Complainant	Board	Status
		Merit		2014		Industrial				CARB	
		Prelim		2014		Residential				LARB	

*Sample shared courtesy of City of Edmonton ARB*

## ARB Hearing Procedure – Sample 1

### Sample opening/closing remarks

Good morning and welcome to the \_\_\_\_\_ LARB/CARB hearing for Agenda # \_\_\_\_\_. I will start by introducing the panel, and then ask the parties to introduce themselves. After that, I will explain our usual hearing procedure and ask for comments in that regard.

My name is \_\_\_ and I am the Presiding Officer appointed to this panel. The other panel members with me are \_\_\_\_\_ - to my left, and \_\_\_ - to my right.

Does anyone have any objection to the panel as constituted? *[Deal with any objection as necessary]*

OK – I am now going to have the parties introduce themselves, starting with the Complainant. Would you please state your name for the record and indicate whether you are the owner of the property under complaint? *[Complainant introduces self - if anyone else seated with them, have them introduce themselves too.]*

Thank you – now to the Respondent’s representative – would you please state your name for the record, and your position with the municipality? *[Respondent introduces self – if anyone seated with them, have them introduce themselves too.]*

Thank you. The LARB/CARB’s usual practice is to have the Complainant present all their evidence first, followed by questions from the Respondent and the panel. Next, the Respondent presents their evidence, followed once again by questions from the Complainant and panel. Finally, both parties will have an opportunity to present their argument and summarize their evidence for the panel.

Is everyone satisfied with this procedure today, or are there any questions about it? *[Parties have opportunity for comment]*

If anyone needs a break or problems come up, please let the panel know as soon as possible and we can address those things as we go.

I see both parties have exchanged documents before the hearing. To save time, I propose we mark all the documents for the record now. That won’t stop anyone raising questions about admissibility later. If any such questions arise, we can still deal with them and strike material from the record later if necessary. Is everyone comfortable with that procedure? *[Parties have opportunity to comment – Panel and parties then mark exchanged documents C1, C2, etc. for*

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---

*complainant and R1, R2 etc for the Respondent.]*

And are there any other preliminary issues for the panel to address? *[Panel deals with any issues as necessary]*

OK, Mr./Ms. \_\_\_\_\_ *[for Complainant]*, we are ready to hear your evidence if you are set to go ahead ...

*[Hearing proceeds as described in Manual*

*Complainant evidence*

*Questions (Respondent and Panel)*

*Respondent Evidence*

*Questions (Respondent and Panel)*

*Rebuttal evidence if necessary, followed by questions (Complainant and Panel)*

*Complainant Summary*

*Respondent Summary]*

Thank you everyone for your co-operation and for your helpful presentations. The hearing is now closed.

The Act requires a written decision within 30 days, and gives the clerk an additional seven days to issue it. We will make every effort to meet or beat those requirements, and the clerk will forward our decision to you as soon as it is ready to go.

*Shared courtesy of Central Alberta Regional Assessment Review Board.*

## **ARB Hearing Procedure – Sample 2**

### **Lacombe County Local Assessment Review Board Hearing Procedures**

---

- Local Assessment Review Board Clerk to read the complaint
  - The Complainant presents his evidence and argument
    - Questions of clarification to the Complainant by Board members
    - Questions of clarification to the Complainant by the County's Assessment staff
  - The County's Assessment staff presents the evidence and argument filed on behalf of Lacombe County
    - Questions of clarification to the County's Assessment staff by Board members
    - Questions of clarification to the County's Assessment staff by the Complainant
  - The Complainant to rebut the County's Assessment staff evidence and argument filed on behalf of Lacombe County
    - Board members questions of clarification of the rebuttal and response
  - The County's Assessment staff to rebut the Complainant's evidence and argument
    - Board members questions of clarification of the rebuttal and response
  - Closing comments by the parties in the following order:
    - the County's Assessment staff, and
    - the Complainant
    - the Board members will be given an opportunity to ask questions of clarification of the Complainant and the County's Assessment staff
  - Chairperson to determine whether all parties have been heard
  - Chairperson to ask the persons who have made representations if they feel that they have had a fair hearing
  - Chairperson may declare the hearing closed. If the hearing is declared closed no further submissions or evidence may be received by the Board
  - If the Board deems it requires additional information or evidence, a date will be established for the Board to receive this information or evidence and the parties will be notified
  - Once the hearing has been closed, the Board will provide a written decision, with reasons, prior to December 31<sup>st</sup> of this year
-

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- All parties, excepting the Local Assessment Review Board and administrative staff leave the room and the Board will meet in private to deliberate the decision
- Subject to any questions arising during deliberations, this hearing is closed.

*Shared courtesy of Lacombe County Assessment Review Board.*

## Swearing in Testimony

The oath is administered by asking the witness to raise his or her right hand (or place it on a sacred text) and assent to the following question –

*Do you swear that the evidence you give about the matters before this Board shall be the truth, the whole truth and nothing but the truth. So help you God.*

For an affirmation, there is no sacred text and the question becomes –

*Do you affirm that the evidence you give about the matters before this Board shall be the truth, the whole truth and nothing but the truth.*



The oath must be administered by a board member, except where the clerk is a Commissioner for Oaths

### **Translators**

Occasionally, witnesses require a translator. In such cases, the panel must be satisfied that the translator is competent. If the witness testifies under oath, the translator is usually sworn in as well.

A typical translator's oath is –

*Do you swear that you will truthfully and accurately interpret from the English language to the [ \_\_\_\_\_ ] language and from the [ \_\_\_\_\_ ] language to the English language, the oath to the Complainant and all questions put to him/her and the answers thereto, to the best of your skill and ability. So help you God.*

## **Assessment Review Board – Form Examples**

Merit Hearing Exhibits

Summary of Oral Evidence – Complainant

Summary of Oral Evidence - Respondent

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for ARB Clerks

**ASSESSMENT REVIEW BOARD  
MERIT HEARING EXHIBITS**

**Complaint Information**

Roll Number	Assessment Type	Assessment Year	Assessment
Legal Description		Municipal Address	

Complainants Exhibits		Respondents Exhibits	
Exhibit #		Exhibit #	
C-1		R-1	
C-2		R-2	
C-3		R-3	
C-4		R-4	
C-5		R-5	
C-6		R-6	
C-7		R-7	
C-8		R-8	
C-9		R-9	
C-10		R-10	
C-11		R-11	
C-12		R-12	
C-13		R-13	
C-14		R-14	
C-15		R-15	

Cross-reference to roll no. \_\_\_\_\_



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ASSESSMENT REVIEW BOARD  
SUMMARY OF ORAL EVIDENCE - COMPLAINANT

**Complaint Information**

Roll Number	Assessment Type	Assessment Year	Assessment
Legal Description		Municipal Address	

Complainant's Evidence	Cross Reference to roll # _____
Complainant's Witness	Evidence

ADMINISTRATIVE LAW 1  
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ASSESSMENT REVIEW BOARD  
SUMMARY OF ORAL EVIDENCE - RESPONDENT

**Complaint Information**

Roll Number	Assessment Type	Assessment Year	Assessment
Legal Description		Municipal Address	

Respondent's Evidence	Cross Reference to roll # _____
-----------------------	---------------------------------

Respondent's Witness	Evidence

ADMINISTRATIVE LAW 1  
for ARB Clerks

**Decision Model**

Agenda No.: \_\_\_\_\_ Date of Hearing: \_\_\_\_\_ Time of Hearing: \_\_\_\_\_

**Decision Model**

<i>Presiding Officer</i>	<i>Complainant</i>	<i>Order to be Drafted By</i>
<i>Member</i>		<i>Property Description</i>
<i>Member</i>	<i>Respondent</i>	<i>ASSESSMENT UNDER COMPLAINT</i>
<i>Clerk</i>	<i>Roll No.</i>	<i>DECISION</i>

Issues	Legislation	Arguments/Evidence	Findings	Reasons
<b>1.</b>		Appellant		
		Respondent		
<b>2.</b>		Appellant		
		Respondent		
<b>3.</b>		Appellant		
		Respondent		

## LARB/CARB Decision Template

**[Name of CARB/LARB] BOARD ORDER [enter Number]**

**IN THE MATTER OF A COMPLAINT** filed with the [insert name of Assessment Review Board] (CARB/LARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**BETWEEN:**

[Complainant's name] - Complainant

- a n d -

[Municipality's name] - Respondent

**BEFORE:**

Members:

[Name], Presiding Officer

[Name], Member

[Name], Member

This is the decision of the [Municipality] Composite/Local Assessment Review Board (CARB/LARB) from a hearing held on \*\* respecting the 20\*\* assessments for the following properties.

Roll No.

Assessed value

Owner

[delete this column if the only owner is the single named complainant]

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[Enter

(1) a brief description of the property under complaint, including type, location, and any known relevant agreed physical characteristics – eg square footage, number of suites, and so on.

(2) any other relevant agreed facts that will make it easier for the reader to grasp the issues in dispute ]

ADMINISTRATIVE LAW 1  
for ARB Clerks

---

CARB order template

**[Name of CARB/LARB] BOARD ORDER [enter Number]**  
**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The parties raised no specific procedural or jurisdictional issues, and the CARB proceeded to hear the merits of the complaint, as outlined below.

**OR**

The parties raised the following [procedural and/or jurisdictional matters], which are addressed below.

- Preliminary issue 1
- Preliminary issue 2 [*List the jurisdictional or procedural issues raised.*]

*[For each procedural or jurisdictional issue listed above,*

*(1) Explain the key points made by the parties,*

*(2) State the CARBs ruling and*

*(3) Address all relevant legislative tests and explain why they were or were not met. State all the key findings that the Board made. If there is any conflicting evidence on a relevant point, then explain how the Board weighed the evidence and why some got more weight. Remember the loser needs to understand why he or she lost.].*

*If this is a preliminary hearing and no merit issues were raised, then delete the balance of the template up to the signature.]*

**PART C: MERIT ISSUES**

The complaint form lists the following matters for complaint.

1: [*List the matters raised on the assessment complaint form.*

2: etc

*If applicable, note anything the parties resolved themselves or withdrew at the hearing.]*

The issues that remain in dispute are as follows:

1: [*List issues raised explicitly or implicitly on the complaint form that are still in dispute. Try to identify the deeper issues that the parties still disagree about rather than just repeating the “matters” already listed above.*]

2: etc]

CARB order template

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ADMINISTRATIVE LAW 1  
for ARB Clerks

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**[Name of CARB/LARB] BOARD ORDER [enter Number]**

**ISSUE 1:** *[Enter issue 1 as noted above. If the issue needs to be reframed, then reframe it.]*

*(1) Party Positions: Explain what it is the parties had to say about this issue.*

*(2) Analysis: Explain what the Board thought of the evidence and argument brought forward by the parties. Address all relevant legislative tests and explain why they were or were not met. State all the key findings that the Board made. If the evidence conflicts on a relevant point, then explain how the Board weighed the evidence and why some got more weight. Remember the loser needs to understand why he or she lost.*

*Consider whether the issue involves subissues that are easier or more logically dealt with individually. If so, list each subissue separately and give it the same treatment described above.*

**Decision: Issue 1**

The CARB finds as follows with respect to Issue 1:  
*[Briefly state the CARB's final conclusion with respect to the issue]*

**ISSUE 2:** *[Enter issue 2 as noted above]*

*Repeat steps done for Issue 1]*

**PART D: FINAL DISPOSITION OF COMPLAINT**

The complaint is allowed (or denied) and the assessments are set (or confirmed) as follows.

Roll No.	Value as set by the CARB	Owner
		<i>[delete this column if the only owner is the single named complainant]</i>

Dated at the *[enter location]* in the Province of Alberta, this *[enter date of signature]*.

---

Presiding Officer

---

ADMINISTRATIVE LAW 1  
for ARB Clerks

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CARB order template

**[Name of CARB/LARB] BOARD ORDER [enter Number]**  
**APPENDIX "A"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE ARB:

<b>NO.</b>	<b>ITEM</b>
1.	<i>[describe document entered]</i>
2.	etc

**APPENDIX 'B'**

ORAL REPRESENTATIONS

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
1.	<i>[Describe person appearing – witness, counsel for x, etc]</i>
2.	etc

CARB order template

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ADMINISTRATIVE LAW 1  
for ARB Clerks

**Withdrawal to Correct**

**WITHDRAWAL and/or AGREEMENT TO CORRECT**

**Tax Roll Number:** \_\_\_\_\_ **Hearing Date:** *(if scheduled)* \_\_\_\_\_

Municipal Address or Legal Description: \_\_\_\_\_

Check only **ONE** of the following assessment types that applies to your withdrawal:

- Annual
  Amended Annual
  Supplementary
  Revised Supplementary

**WITHDRAWAL OF ASSESSMENT COMPLAINT**

I withdraw my complaint about the assessment of property designated by the above roll number, and agree the assessment will be in the amount of \$ \_\_\_\_\_ as shown on the **current** assessment notice.

\_\_\_\_\_  
*Complainant / Representative (Print name here)*
   
 \_\_\_\_\_  
*Complainant / Representative (Sign here)*
   
 \_\_\_\_\_  
*Date*

**WITHDRAWAL and AGREEMENT TO CORRECTION OF ASSESSMENT**

	Original Assessment	Corrected Assessment
Property Assessment	\$ _____	\$ _____
Assessment Class (LUC)/%		
Tax Liability (Exemption)		
Rental Area		
Rental Rate		
Taxable Months		

I agree to the Assessor's correction of the property assessment as detailed above, for the \_\_\_\_ **tax year** for the above stated tax roll number and agree that this amount is correct, fair and equitable.

Furthermore, I **withdraw my complaint** about the original assessment and agree I will not file a complaint with the Assessment Review Board/Municipal Government Board respecting this revised assessment for the \_\_\_\_\_ tax year.

\_\_\_\_\_  
*Complainant / Representative (Print name here)*
   
 \_\_\_\_\_  
*Complainant / Representative (Sign here)*
   
 \_\_\_\_\_  
*Date*

The \_\_\_\_\_ *(Municipality)* Assessor agrees to the above.

\_\_\_\_\_  
*Assessor (Print name here)*
   
 \_\_\_\_\_  
*Assessor (Sign here)*
   
 \_\_\_\_\_  
*Date*

A withdrawal or a withdrawal to correction will only be accepted if it is

- (a) Signed by the Complainant or Complainant's lawyer, or
- (b) Accompanied by a statement signed and dated by the Complainant authorizing the signatory to act as the Complainant's agent.



## Quick Tips for Clerks



### When a complaint received appears to be missing information, a best practice for clerks is to

- If possible, discuss the issue with the complainant and have them resolve it. (i.e. submit information, provide the fee, etc).
- Flag for the ARB any issues that may indicate a potentially invalid complaint.
- **Note:** clerks do not have the authority to make a decision about jurisdiction, invalid complaints etc.; only a panel of the board, be it a one- or a three-member, has the authority to decide these matters.
- If possible, acknowledge receipt of the complaint and the complaint fee, and notify the municipality within the hearing notification letter.



### When scheduling

- Provide municipality (LARB or CARB) with a copy of the complaint within the legislated timeframe (30 days for LARB/CARB). If a CARB complaint, the MGB must be provided with a copy.
- Ensure the hearing board members are available when setting the hearing date. For a CARB hearing, contact the MGB Administrator to schedule the provincial member.
- Ensure notice of hearing is sent to all affected parties to a complaint as required and in accordance with the timelines.
- Ensure parties receive the disclosure schedule. Be aware of when statutory holidays occur so that submission dates don't fall on those dates.
- Do not use municipality letterhead; use appropriate board letterhead.
- Be sure to identify the board as either a LARB or a CARB throughout the body.
- Be sure to specify correct disclosure dates according to legislation for LARB or CARB.
- Be sure that "ways to file your disclosure" section reflects the procedures for your board; i.e. do you allow email disclosure?
- Be sure to correctly identify the number of paper copies that must be provided.



### The hearing

- Prepare hearing room (as required).
- Prepare agenda to ensure board members are aware of overall schedule, the parties involved, the complaint.
- Ensure board is provided with copies of party evidence submissions.
- Provide board members with copies of hearing exhibit form, summary of oral evidence (Complainant/Respondent) form.
- Depending on board practice ensure all evidence has been recorded and marked for easy reference by board members.



### Decision-making process

The decision-making process is the responsibility of the ARB members. It is important that the clerk support them, yet not influence (or bias) their decision in any way. The clerk may be supportive by

- Providing helpful templates for the board to keep track of their reasoning as they deliberate their decisions.
- Providing transcripts, information and notes taken during the hearing.
- Researching legislative references to support the board's deliberations.
- Providing an administrative advice/expertise for formatting, editing or advice to make language clear and concise.
- Ensuring the board thoroughly reviews any draft decision a clerk has transcribed and edited to ensure the intent, voice and decision is solely the board's decision.
- Ensuring the final decision is in the proper format and meets the requirements set out in *MRAC* s.13.
- Ensure record of hearing is complete.
- Ensuring decision timelines are adhered to.
- Keep a clean set of exhibits on file in case the decision is appealed to the Courts.

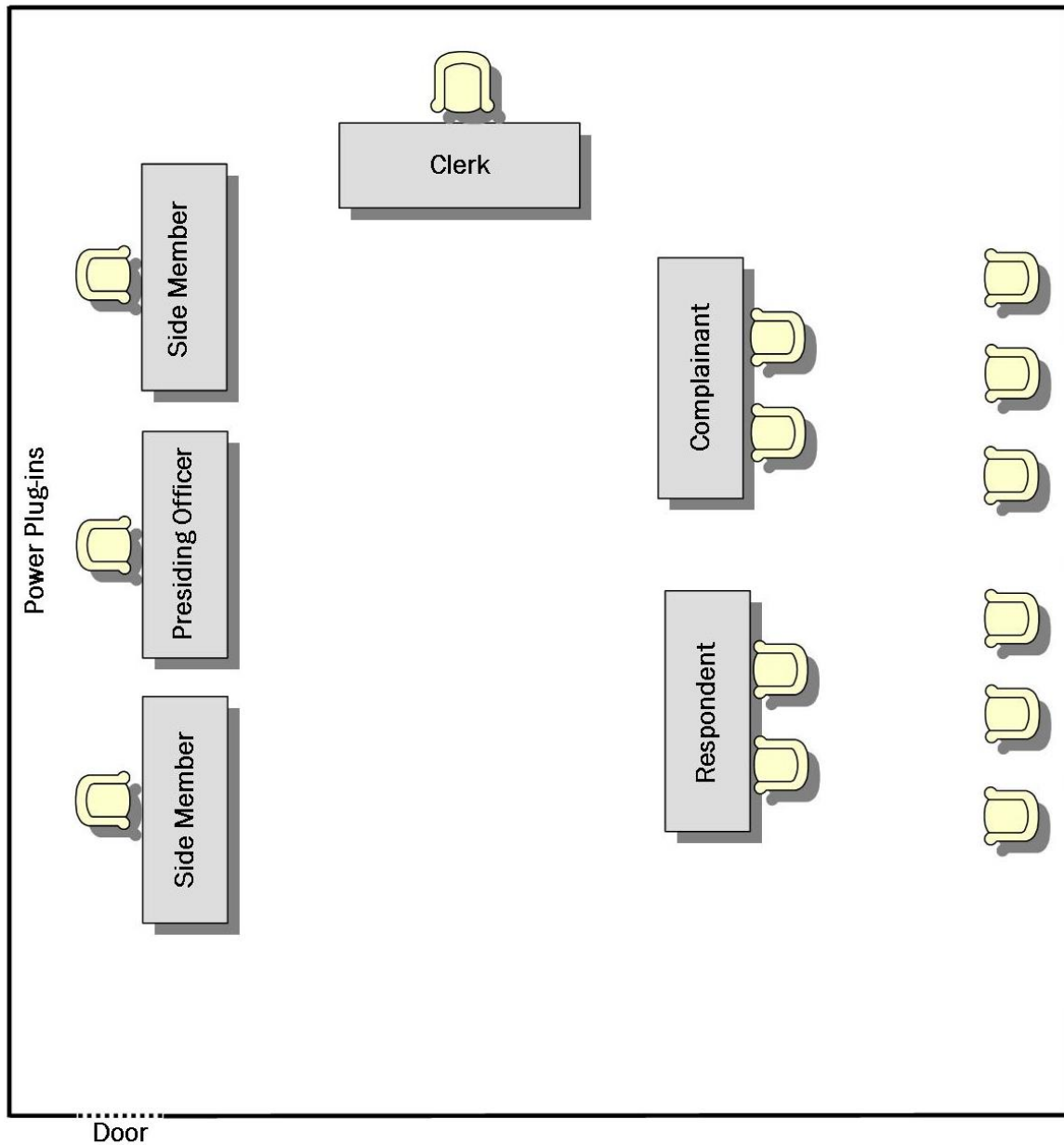


### **Closing the Complaint**

When the decision has been signed off, the clerk will

- Distribute the decision to the parties.
- Retain an original signed copy of the decision, the complaint and all submissions from all parties, witness lists, etc., as set out in the record of hearing.
- A municipality must retain a record of all assessment review board for at least five years.
- For CARB decisions, a copy of the decision must also be provided to the MGB.

## Typical Hearing Room Set Up



Not to Scale

## Security

The ARB clerk should be aware of several issues regarding security for board members and staff as well as parties to a hearing.

The board should be made aware of security procedures, whether the threat is from a fire or a person.

- The room should be set up to allow for the members to leave quickly in the event of an emergency. Sitting the board closest to the nearest exit can accommodate this.
- The members should be able to leave the room quickly and go into a secure area along with staff.
- If the parties are at risk, they should be escorted out the same way and led to a safe area.
- Police/security should be called as soon as possible. Some ARBs have a “silent button”, once pressed it alerts the authorities.
- Procedures should be set up for the board members to enter and leave the room. board members should be seated before the parties enter the room and should leave once all parties exit the room.
- A separate area should be established for the board members to take their breaks so that they do not have to deal with parties before or after the hearing.
- Board members should delay their departure for the day until all parties have left.

## Quick List of Decisions

Alberta Court Cases	Description
<a href="#"><u>1544560 Alberta Ltd v Edmonton (City)</u></a> , 2015 ABQB 520	Difference between an “evidentiary” burden and a “legal” or ultimate burden of proof. The ARB must at least consider an issue if the Complainant raises some evidence that could sustain a finding about that issue (“evidentiary burden”).
<a href="#"><u>697604 Alberta Ltd v Calgary (City)</u></a> , 2005 ABQB 512 (the “Acton decision”)	Sale of the subject is relevant evidence to consider.
<a href="#"><u>Altus Group Ltd v Calgary (City)</u></a> , 2015 ABCA 86	Although not bound by previous <u>ARB</u> decisions, inconsistent statutory interpretations by ARB panels can be unfair and affect the reasonableness of ARB’s decision.
<a href="#"><u>Anterra Sunridge Power Centre Ltd v Calgary (City)</u></a> , 2014 ABQB 223	Explains what happens when disclosure is filed electronically but not received or looked at owing to technical issues.  Also follows <i>Eco Industrial</i> interpretation of exceptional circumstances (see below).
<a href="#"><u>Boardwalk Reit LLP v Edmonton (City)</u></a> , 2008 ABCA 220	Scope of disclosure required in response to s. 295 request. A complaint is only barred failing “substantial compliance”. Information requested must be necessary to assess the individual property – not just useful for checking or to assess other property.
<a href="#"><u>Calgary (City) v Alberta (Municipal Government Board)</u></a> , 2008 ABCA 187 (“Hudson’s Bay”)	An assessed person (i.e. a property owner) can file a complaint about other properties they don’t own in the same municipality.
<a href="#"><u>Centre Suite Holdings Edmonton Ltd. v. Edmonton (City of)</u></a> , 2003 ABQB 263 (Para. 17-27)	No costs awarded against MGB who issued decision after deadline, because MGB met the extended deadline approved by the Minister.
<a href="#"><u>CNRL (Canadian Natural Resources Limited) v Wood Buffalo (Regional Municipality)</u></a> , 2014 ABCA 195	Scope of disclosure required of municipality in response to s. 299 request.  There is a continuing obligation to provide information after the request is made. The municipality cannot prepare an assessment on one basis and defend it on another.
<a href="#"><u>Edmonton v Edmonton ARB</u></a> , 2010 ABQB 634 (“ <i>Eco Industrial</i> ”)	Explains “exceptional circumstances” that justify postponement. Postponement justified if needed to preserve process that is fair to both parties.
<a href="#"><u>Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.</u></a> , 2016 SCC 47 (“ <i>Capilano</i> ”)	It is reasonable for an ARB to increase an assessment based upon an assessor’s request to do so during a hearing. The Complainant should have proper notice that assessor will be asking for an increase.

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<a href="#"><u>Edmonton v Edmonton CARB</u></a> , 2012 ABQB 154 (“Safeway”)	ARB cannot dismiss a complaint because the Complainant filed a “boilerplate” complaint form. To be valid, the form only needs to include one triable issue and be accompanied by the fee. If it does, the complaint must proceed to a merit hearing.
<a href="#"><u>Edmonton v Edmonton ARB</u></a> , 2012 ABQB 399 (“Wood”)	ARB cannot extend complaint deadline.
<a href="#"><u>GSL Chevrolet Cadillac Ltd v Calgary (City)</u></a> , 2013 ABQB 318	Scope of rebuttal submissions: rebuttal is intended to respond to the municipality’s evidence, not to prove what should have been proven in the first place.  Burden of proof: the complainant must be able to show the assessment is wrong on a “balance of probabilities”.
<a href="#"><u>Metrowest Developments Ltd v Calgary (Assessment Review Board)</u></a> , 2014 ABQB 450	Purpose of the MRAC disclosure rules (ss. 8 and 9) is to ensure parties are aware of the evidence and not unfairly surprised. As rules of procedure, they do not bind an ARB.
<a href="#"><u>T Eaton Co v Calgary (City)</u></a> , [1995] AJ No 859	Assessment must reflect market’s reaction to use restrictions; “value to owner” may differ from market value assessment standard.
<a href="#"><u>Tolko Industries Ltd v Big Lakes (Municipal District)</u></a> , 1998 ABQB 51	No loss of jurisdiction when decision deadline exceeded. MGB had to pay costs because they issued decision late, and lateness was a factor in parties having to make court application.
<b>Non-Alberta Court Cases</b>	<b>Description</b>
<a href="#"><u>Bentall Retail Services et al v Assessor of Area #9 – Vancouver</u></a> , 2006 BCSC 424	5% as acceptable assessment tolerance.
<a href="#"><u>Bramalea Ltd v British Columbia (Assessor for Area 9 – Vancouver)</u></a> [1990] BCJ No 2730	Twin principles of equity and market value: Taxpayer entitled to reduction if (1) assessment above market value range <b>or</b> (2) assessment above equitable value range.
<a href="#"><u>IWA v Consolidated Bathurst Packaging Ltd</u></a> , [1990] 1 SCR 282	Effect on procedural fairness of “full board” discussions of policy and legal issues. (OK if you stick to policy matters.)
<a href="#"><u>Jonas v Gilbert (1881)</u></a> , 5 SCR 356	Origin of Common Law notion of equitable assessment.
<a href="#"><u>Standard Life Assurance Co v Capital Assessor, Area No 1</u></a> , 90 BCAC 270	Fee simple interest; effect of below market rents (fee simple = tenant’s interest + landlord’s interest)
<a href="#"><u>Sun Life v City of Montreal</u></a> , [1950] SCR 220 Upheld by Privy Council Appeal <a href="#"><u>No. 31 of 1950</u></a> .	Effect of “overbuilt” improvement when using cost approach; “value to owner” differs from the market value assessment standard

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<i>Westcoast Transmission Co v British Columbia (Vancouver – Assessor of Area No 9)</i> , [1987] BCJ No. 1273 (see CONTACT for decision)	Explains the income approach and the need for consistent assessment principles – e.g. concept of NOI in cap-rate analysis should match capitalized NOI of subject.
<b>Noteworthy ARB/MGB Decisions</b>	<b>Description</b>
<i>Altus Group Ltd. v. City of Calgary</i> , CARB J0001/2012-P.	Agent authorization form must be filed at some point before the hearing.
<a href="#"><i>Altus v. City of Leduc</i></a> , No. 0200 01/2012.	Complaint deadline should include 7 days for mailing within Alberta pursuant to s. 23 of the <i>Interpretation Act</i> .
<a href="#"><i>Edmonton (City) v. Army &amp; Navy Department Stores Ltd.</i></a> , MGB 112/02	ARB can increase an assessment based upon a request from an Assessor, provided adequate notice of the request is given to the Complainant.
<a href="#"><i>Elko v. City of Edmonton</i></a> , 2014 ELARB 01747.	Complaint filed late and without the required fee is invalid.
<a href="#"><i>City of Grande Prairie CARB</i></a> , Decision 2010GP625830J.	Considers s. 295(4), which takes away right of appeal if an assessed person does not provide information to assessor when requested to do so.
<a href="#"><i>Regional Municipality of Wood Buffalo CARB</i></a> , Board Order 002/2010.	Should it be heard by a LARB or CARB? Individual condo units operated and assessed as a hotel. Found they are condos and should be heard by a LARB.
<a href="#"><i>Regional Municipality of Wood Buffalo CARB</i></a> , Board Order 011-2010	Same property as above. Evidence clear property operating as hotel, and commercial property, despite being condos. Found jurisdiction was CARB.