

EXPROPRIATION RULES OF PROCEDURE

PREFACE

These *Expropriation Rules of Procedure* are established under section 6 of the *Land and Property Rights Tribunal Act*, SA 2020, c. L-2.3 (LPRTA) and apply to Part 2 of the *Expropriation Act*, RSA 2000, c. E-13. The Tribunal may review and amend its rules from time to time to ensure continued relevance and consistency with governing legislation.

For further inquiries, please contact the Tribunal's office at 780-427-2444 (outside Edmonton call 310-0000 to be connected toll free) or by email to LPRT.expropriation@gov.ab.ca.

Definitions

1 In these rules,

- (a) "Act" means the *Expropriation Act*;
- (b) "application for determination of compensation" means an application for determination of compensation in form 1 of the schedule;
- (c) "board officer" means a member of the Tribunal administration;
- (d) "claimant" means an owner who
 - (i) has instituted proceedings under section 36(1)(b) of the *Act*, or
 - (ii) has been served with a notice to commence proceedings under rule 12 of these rules;
- (e) "discontinuance of claim" means a written notice of a discontinuance of claim or withdrawal of application in form 4 of the schedule;
- (f) "guidelines for electronic document disclosure" means the LPRT guidelines for electronic document disclosure that will be provided by the Tribunal to parties to a hearing, as amended from time to time;
- (g) "hearing" means a hearing by the Tribunal under part 2 of the *Act*;
- (h) "notice to commence proceedings" means a notice to commence proceedings in form 3 of the schedule;
- (i) "reply to application for determination of compensation" means a reply to application for determination of compensation in form 2 of the schedule;

(j) “respondent” means an expropriating authority who

(i) has instituted proceedings under [section 36\(1\)\(a\)](#) of the *Act*, or

(ii) has been served with an application for determination of compensation under rule 10 of these rules;

(k) “rules” means these *Expropriation Rules of Procedure*;

(l) “Tribunal” means the Land and Property Rights Tribunal established under [section 2](#) of the LPRTA and includes any panel of the Land and Property Rights Tribunal;

(m) “Tribunal administration” means a person employed or engaged to support the Tribunal and the Chair carry out their duties;

(n) “Tribunal member” means a member of the Tribunal appointed by the Lieutenant Governor in Council pursuant to [section 3](#) of the LPRTA.

Purpose of the Rules

- 2 (1)** To ensure a fair, independent, transparent, accessible and efficient process in accordance with the principles of natural justice;
- (2)** To identify the real issues in dispute;
- (3)** To facilitate the most effective way of resolving the dispute at the least expense;
- (4)** To encourage the parties to resolve the dispute themselves, by agreement, as early as possible;
- (5)** To encourage parties to communicate with each other; and
- (6)** To assist parties to prepare for a compensation hearing before the Tribunal.

Effective Date

- 3 (1)** These rules will come into effect on _____.
- (2)** Alberta Regulation 187/2001 (Expropriation Act Rules of Procedure and Practice) expired and was adopted by the Tribunal on November 30, 2022, and is replaced by these rules.

Application of Rules

- 4 (1)** All parties must comply with these rules and any Tribunal guidelines issued unless the Tribunal otherwise orders.
- (2)** The Tribunal may exercise any power under these rules on its own initiative or on the application of a party.

- (3) The Tribunal may waive or vary a requirement of these rules at its discretion, or craft specific procedural directions to apply in each case.
- (4) If any of these rules conflict or are inconsistent with the *Act* or applicable regulation, the *Act* or regulation prevails to the extent of the conflict.

Effect of non-compliance

5 If a party refuses or fails without a reasonable excuse to comply with these rules, any Tribunal guideline, or an order, direction or ruling of the Tribunal, or fails to attend or participate in the Tribunal's proceedings, the Tribunal may make any decision, order, or direction it considers appropriate in the circumstances, including one or more of the following:

- (1) an order limiting the evidence which may be presented by a party in the proceeding;
- (2) where the non-complying party is the party who filed a notice of motion, an order dismissing the notice of motion or deeming the notice of motion to be withdrawn;
- (3) an order that the non-complying party pay the costs of another party resulting from the non-compliance; or
- (4) take any other action it deems appropriate.

Representation

- 6 (1) When a party retains a representative who is not a lawyer, a written notice of representation must be filed with the Tribunal.
- (2) Any notice or communication given to a party's representative is also deemed to have been received by the party for whom the representative acts.
- (3) If a representative ceases to act for a party, the party or the representative must promptly file a written notice with the Tribunal and deliver a written notice to the other parties. Otherwise, the Tribunal or a party can still give notice or communication to that representative.

Communications with Tribunal and with Parties

- 7 (1) Any communication with the Tribunal must be through a board officer. A party must not attempt to speak to or write directly to a Tribunal member outside a hearing or application regarding matters before the Tribunal.
- (2) No party shall give any evidence or submissions to a Tribunal member, except in the presence of the other parties at a proceeding to avoid the perception of bias.
- (3) A party must include the Tribunal file number assigned by the Tribunal on any communication that the party files with the Tribunal.

- (4) A party must deliver a copy of any communication filed with the Tribunal to the other parties.
 - (5) Emails and attachments shall not include hyperlinks, cloud-based links, or encrypted files.
 - (6) It is the party's responsibility to ensure the Tribunal has the party's current address for delivery and address for electronic transmission, and those of its representative.
 - (7) If a party has provided an address for electronic transmission, the Tribunal and other parties may communicate with that party using that address unless otherwise requested by the party.
 - (8) If a party fails to notify the Tribunal of the party's current address and the Tribunal receives notification by returned mail, e-mail, or otherwise, that the address on the Tribunal's file is no longer current, the Tribunal may stop sending communications to that address.
 - (9) If a party is represented by a representative, the Tribunal and other parties may communicate with that party by delivery to the representative.
 - (10) A party or a representative must notify the Tribunal and other parties of a change of address for delivery or address for electronic transmission.
- 8 A party must comply with the guidelines for electronic document disclosure.

Refusal to file

- 9 A board officer may refuse to accept for filing documents that do not comply with the guidelines for electronic document disclosure or any pleading, document, or other submission that does not otherwise comply with these rules.

Application for determination of compensation

- 10 (1) A claimant may institute proceedings under section 36(1)(b) of the Act by serving on the respondent an application for determination of compensation.
- (2) The claimant must, within 10 days of service of the application for determination of compensation on the respondent, file with the Tribunal a copy of the application and an affidavit proving service of the application.

Reply to application for determination of compensation

- 11 (1) Where a respondent has been served with an application for determination of compensation, the respondent must, within 21 days of service of the application, serve on the claimant a reply to application for determination of compensation.
- (2) The respondent must, within 10 days of service of a reply to application for determination of compensation on the claimant, file with the Tribunal a copy of the reply and an affidavit proving service of the reply.

Notice to commence proceedings

- 12(1)** A respondent may institute proceedings under section 36(1)(a) of the Act by serving on the claimant a notice to commence proceedings.
- (2)** The respondent must, within 10 days of service of the notice to commence proceedings on the claimant, file with the Tribunal a copy of the notice and an affidavit proving service of the notice.

Claimant must file application

- 13** Where a claimant has been served with a notice to commence proceedings and desires that a hearing be held to determine compensation, the claimant must, within 21 days of service of the notice, serve on the respondent an application for determination of compensation in accordance with rule 10.

Respondent denies compensation

- 14(1)** If a respondent denies that a claimant is entitled to compensation under the Act, the respondent must raise the denial in the respondent's reply to the application for determination of compensation, setting out the relevant facts and statutory provisions relied on by the respondent.
- (2)** If a respondent fails to raise a denial in accordance with subsection (1), the respondent may not raise the denial at the hearing.

Setting hearing dates

- 15(1)** At any time after 30 days of service of an application for determination of compensation,
- (a) where the parties do not agree that a matter is ready to be set for hearing, either the claimant or respondent may apply to the Tribunal by notice of motion for an order appointing the time and place for the hearing; or
 - (b) where the parties agree that a matter is ready to be set for hearing the parties may so advise the Tribunal member at a case management conference.
- 16(1)** Hearing dates will be set by order of the Tribunal or by agreement at a case management conference after the parties have satisfied the Tribunal that the matter is ready to be heard.
- (2)** The Tribunal will send to the claimant and respondent or their representatives by ordinary mail or by electronic transmission, a notice of the time for the hearing.

Commencement of other proceedings

- 17(1)** Except as otherwise provided by the Act or these rules, applications for an order, decision or determination of the Tribunal must be commenced by notice of motion.

- (2) A notice of motion must be filed with the Tribunal and served on all parties who may be affected by the order, decision or determination sought.
- (3) Applications commenced by notice of motion will be set for a determination after the parties to the application have satisfied the Tribunal at a case management conference that the application is ready to be heard.
- (4) Applications commenced by notice of motion will be conducted in writing unless a party satisfies the Tribunal that there is good reason for not doing so, in which case the application will be conducted by videoconference.

Case Management Conference

18(1) At the request of a party, or on its own initiative, the Tribunal may direct the parties to participate in a case management conference by video call conducted by a Tribunal member to address

- (a) Readiness of the parties for a hearing;
- (b) Scheduling of a hearing;
- (c) Readiness of the parties for an application brought pursuant to rule 17 (a “Rule 17 application”);
- (d) Scheduling of a Rule 17 application;
- (e) The establishment of a schedule for disclosure of records, exchange of affidavits, questioning for discovery or on affidavits, exchange of expert reports, written submissions, and any other steps that may or ought to be taken by the parties;
- (f) The availability of mediation and the prospects for settlement, including settlement discussions at the case management conference and scheduling a separate settlement meeting with a facilitator and the parties; and
- (g) Any other matter that may be necessary to facilitate a hearing or Rule 17 application.

(2) The Tribunal’s Chair shall assign a member of the Tribunal to conduct the case management conferences. A member who is assigned to conduct case management conferences may be appointed by the Chair to a subsequent hearing or Rule 17 application.

(3) The presiding Tribunal member at a case management conference may, among other things,

- (a) Facilitate discussion of the issues referenced in rule 18(1);
- (b) Order deadlines to be met by the parties in relation to the issues referenced in rule 18(1);

- (c) At the request of the parties conduct an informal conference in an attempt to settle disputes or issues between the parties with the aim of exploring potential resolutions; negotiate settlements, clarifying facts and narrowing issues or disagreements,
 - (d) Extend or abridge deadlines contained within these rules or any other deadlines established at a case management conference;
 - (e) Set dates for hearings and Rule 17 applications; and
 - (f) Make any order the member deems appropriate to establish procedures by which a hearing or a Rule 17 application may proceed in a fair and expeditious manner.
- (4)** If all parties consent to a request to adjourn or reschedule a case management conference, the parties must deliver the request to the Tribunal at least one (1) day before the conference and provide written consent, and then a board officer may reschedule or adjourn the conference.
- (5)** In the absence of consent of all parties, a party must deliver a request to adjourn or reschedule a case management conference to the Tribunal with reasons for the request at least seven (7) days before the conference, and the objecting party must provide reasons for the objection within two (2) days of the request, and the request will be decided by a Tribunal member.
- (6)** After a case management conference, the Tribunal will prepare and provide to the parties a report summarizing the discussion at the case management conference. A case management conference report is confidential and will not be disclosed to a Tribunal member, other than the member who conducts the case management conference, or in any court proceeding or other legally binding process unless:
- (a) the parties agree that it may be disclosed; or
 - (b) there is an order from the Tribunal or the Court to disclose it.

Location of Hearing

19 Unless otherwise ordered, all hearings will be conducted by the Tribunal by way of video conference.

Respondent must serve notice

20(1) On receipt of a notice under rule 16(2), the respondent must, at least 20 days before the hearing date, serve a copy of the notice on all owners and any other person, other than the claimant, who, to the knowledge of the respondent, claims to be entitled as an owner to any interest in the land expropriated or the whole or any part of the compensation that may be awarded.

(2) The respondent must within 10 days of service of the notice on the persons under subsection (1) file with the Tribunal an affidavit proving service of the notice.

Provision of information

21 The respondent and the claimant must, at least 30 days prior to a hearing, and in compliance with the guidelines for electronic document disclosure, furnish to each other and the Tribunal

- (1)** copies of all appraisal reports and other documentary evidence that the person intends to introduce at the hearing,
- (2)** the names, addresses and, in the case of experts, the qualifications of any witnesses that the person intends to call at the hearing, and
- (3)** a summary by the claimant of the damages being sought and a reply by the respondent.

22 The Tribunal may adjourn a hearing or other application where a party fails to comply with rule 21.

Forms

23 The forms in the Schedule may be varied as circumstances or the nature of the application require and if no form is prescribed the Tribunal may, on application or inquiry, determine and direct what form must be used.

Enlarging or abridging time

24 The Tribunal may, on any conditions it considers proper, enlarge or abridge the time appointed by these rules for doing anything or taking any proceedings.

Combining hearings

25 If two or more applications for determination of compensation have a common question of law or fact or arise out of the same expropriation or series of expropriations, the Tribunal may order that the applications be heard simultaneously or consecutively.

Mediation

26(1) Tribunal-facilitated mediation is intended to provide a framework for a mediator to actively facilitate a process in which the parties resolve all or some of the issues in dispute by agreement.

(2) At any time after an application is made to the Tribunal, but before a hearing is conducted, any of the parties may request a Tribunal-facilitated mediation.

(3) After a request is made and the parties agree to participate, the Tribunal may convene a Tribunal-facilitated mediation.

- (4)** At any time before concluding a mediation process, the Tribunal may, on its own initiative or on the request of any of the parties, discontinue the mediation process and determine the issues in dispute before a hearing of the Tribunal.
- (5)** The Tribunal may conduct Tribunal-facilitated mediation in person, by telephone conference call, video call or by some other method.
- (6)** The Tribunal may determine the location for an in-person Tribunal-facilitated mediation.
- (7)** In a Tribunal-facilitated mediation, the mediator has discretion in the manner in which the mediation will be conducted and may
- (a) facilitate discussion between the parties towards a resolution of the issues;
 - (b) meet with the parties individually or together;
 - (c) make a consent order resolving the application; or
 - (d) schedule another meeting.
- (8)** A Tribunal-facilitated mediation is not open to the public.
- (9)** A Tribunal-facilitated mediation is a confidential process intended to facilitate the resolution of a dispute; discussions, negotiations and other communications made attempting to settle claims by agreement in the Tribunal process, including information exchanged as part of those communications, are confidential and must not be disclosed during the tribunal decision process or in any court proceeding or other legally binding process unless
- (a) the parties agree that they can be disclosed or
 - (b) the parties are required by a court to disclose them.
- (10)** Rule 26(9) does not prevent the use of statements made or documents generated for or in the Tribunal-facilitated mediation process to prove the fact that a settlement was reached or the terms of a settlement.
- (11)** A Tribunal member facilitating a Tribunal-facilitated mediation process must not hear or decide any matter in the subject hearing without the written agreement of every party and the agreement of the member.
- (12)** A mediator facilitating a Tribunal-facilitated mediation process must treat the Tribunal process as confidential, and all the records relating to the process in the possession of the mediator or in the possession of a Tribunal administrator must be returned to the parties or destroyed except:
- (a) the agreement of the parties and any document necessary to implement the agreement;

- (b) the Tribunal approved agreement to mediate; and
- (c) a report prepared by the mediator of the outcome.

Rules of Court apply

27(1) Subject to subsection (2), the *Alberta Rules of Court* (AR 124/2010) apply, with necessary modifications, to each of the following matters to the extent the matter is not otherwise dealt with under these rules:

- (a) disclosure of records and information; and
- (b) notices to admit facts.

(2) For the purposes of these rules;

- (a) a reference to a statement of claim in the *Alberta Rules of Court* (AR 124/2010) is to be interpreted as a reference to an application for determination of compensation; and
- (b) a reference to a statement of defence in the *Alberta Rules of Court* (AR 124/2010) is to be interpreted as a reference to a reply to an application for determination of compensation.

Adjourning proceedings

28 The Tribunal may adjourn any proceedings before it.

Discontinuance of Claim or Withdrawal of Application

29 A claimant may discontinue a claim or withdraw an application at any time by filing a discontinuance of claim in form 4 of the Schedule. Upon receipt of a discontinuance of claim or withdrawal of an application, the Tribunal will consider whether costs have been settled or agreed upon between the parties based on the submitted form 4 of the schedule. If there is a claim for costs, the Tribunal may order payment of costs after hearing from the parties.

Proceedings before Tribunal

30 Subject to these rules, any proceedings before the Tribunal must be held in accordance with the procedures directed by the Tribunal.

Clarification, Corrections of Technical Errors or Slips

31(1) The panel of the Tribunal making a decision may clarify any directions given in respect of a decision or order.

(2) The Tribunal may amend a decision or order to correct

- (a) a clerical or typographical error;

(b) an accidental or inadvertent error, omission, or similar mistake; or

(c) errors of calculation.

(3) Amendments under this rule may be made without first giving notice to the parties or asking for submissions, but the parties must subsequently be notified of the correction.

SCHEDULE

Form 1

APPLICATION FOR DETERMINATION OF COMPENSATION

Claimant _____ (give full name and address of owner)

Respondent _____ (correct name and address of the expropriating authority from which compensation is claimed)

1. Take notice that the claimant requires that compensation claimed by the claimant from the respondent with respect to the land described below be determined by the Land and Property Rights Tribunal.

2. The claimant claims compensation for the claimant's interest as: _____ (describe claimant's interest)
in the following land expropriated by the respondent: _____ (describe land)

3. Statement of claim.

(The claimant should set out in this paragraph clearly and concisely in sub paragraphs lettered consecutively the amount claimed under each element of compensation, the basis on which each claim is calculated and the facts in support of each element of compensation claimed.)

This application is made by _____ (claimant or solicitor for the claimant)

_____ (give full address)

and the address at which documents may be served on the claimant is _____ (give full address)

Dated this ____ day of _____ 20__.

_____ (claimant or solicitor for claimant)

Form 2

**REPLY TO APPLICATION FOR
DETERMINATION OF COMPENSATION**

Claimant _____ (give full name and address of owner)

Respondent _____ (correct name and address of the expropriating
authority from which compensation is claimed)

1. A certificate of approval for expropriation by the respondent of the land in respect of which the claimant is claiming compensation was issued by _____ (correct name of the approving authority) on the ___ day of _____ 20__.

A copy of the certificate of approval with an abstract showing the registration of the certificate in the appropriate Land Titles Office is attached.

2. A written notice setting out the appraisal and the proposed payment tendered by the expropriating authority to the claimant was served on the claimant on the ___ day of _____ 20__.

A copy of the notice of the proposed payment with the appraisal and the affidavit proving service of the notice on the claimant is attached.

3. The respondent admits (paragraphs one, two, three and four as the case may be) of the claimant's application for determination of compensation.

4. The respondent says (state the facts which the respondent alleges as grounds for its reply) .

This reply is made by _____ (respondent or solicitor for the respondent)

_____ (give full address)

and the address at which documents may be served on the respondent is: _____ (give full address)

Dated this ___ day of _____ 20__.

_____ (respondent or solicitor for the respondent)

Form 3

NOTICE TO COMMENCE PROCEEDINGS

Claimant _____ (give full name and address of owner)

Respondent _____ (correct name and address of the expropriating authority responsible for payment of compensation)

1. A certificate of approval for expropriation by the respondent of the following land (describe land) in which the claimant has an interest (describe claimant's interest) was issued by (correct name of the approving authority) on ___ day of _____ 20__.

A copy of the certificate of approval with an abstract showing the registration of the certificate in the appropriate Land Titles Office is attached.

2. A written notice setting out the appraisal and the proposed payment tendered by the expropriating authority to the claimant was served on the claimant on the ___ day of _____ 20__.

A copy of the notice of the proposed payment with the appraisal and the affidavit proving service of the notice on the claimant is attached.

3. Take notice that the respondent requires that the compensation, if any, to be paid by it to the claimant with respect to the land above described be determined.

4. Further take notice that if the proposed payment above referred to is not acceptable the claimant must within 21 days of service of this notice commence proceedings

(a) before the Land and Property Rights Tribunal, by the filing of an application for determination of compensation, or

(b) if applicable, before the Court of King's Bench of Alberta as permitted under section 29(3) of the *Expropriation Act*.

This notice is given by (respondent or solicitor for the respondent)

_____ (give full address)

and the address at which documents may be served on the respondent is: _____ (give full address)

(respondent or solicitor for respondent)

Form 4

DISCONTINUANCE OF CLAIM

Click or tap to enter a date.

**RE: Claimant(s): «Claimant Name(s)»
Respondent(s): «Respondent Name(s)»
LPRT File No: «File Number (Related File No., if any)»**

This will confirm that the parties have:

- Settled this matter in its entirety, including costs, and the Application is discontinued.
- Reached an agreement regarding this matter, including costs, and the Application is withdrawn.
- Reached an agreement on all issues, except for costs.
- Other (please specify):

An appearance before the Tribunal:

- Was scheduled for Click or tap to enter a date.
 - Release all scheduled hearing dates.
 - Release all scheduled case management conference dates.
- Was not yet scheduled.

«Counsel/Representative Name»

Signature