

## Sample Evidence Package - Section 27 Hearing

The Panel will make a decision based on the evidence and argument presented at the hearing. The Panel will decide if the rate of compensation stays the same, is raised, or is lowered. You must present evidence to support your requested rate of compensation. You are responsible for preparing and presenting your case. Note that your evidence does not guarantee a result; however, if you do not present evidence, you will not be successful.

**These are samples of evidence that might be helpful to your case. They are not intended as a definitive list or as legal advice.**

**Prove information about a Surface Lease or Right of Entry Order.** For example, you can bring....

- The surface lease, Right of Entry Order, and/or Compensation Order.
- Plans and/or survey plans showing the area taken and any amendments.
- The notice or letter you sent or received from the other party about reviewing the rate of compensation.

**Prove the rate of compensation you are seeking.** For example, you can bring....

- Other surface leases and/or Compensation Orders on your property.
- Other nearby surface leases and/or Compensation Orders (comparable surface leases). The Panel will consider the rate of compensation that is paid on leases in your area where they are similar to your lease in size, acreage, location, effective date of compensation, type of land and type of taking.
- Comparable surface leases may show a range in the rate of compensation that is agreed between owners and operators in your area. Provide evidence to show why your compensation should be at the low end or the high end of this range.
- While differences between properties can be taken into account by the Panel, it is up to you to show why your rate of annual compensation should be as you requested.

**Prove facts about the land or your property.** For example, you can bring....

- Information, documents, maps, plans, pictures and your testimony to show:
  - the location of the surface lease on the land, the area (in acres) of the parent parcel.
  - the use of the land (e.g. annually cropped, perennial hay or pasture).
  - a typical crop rotation if annually cropped (e.g. barley, canola, wheat, peas, other).
  - the crop yields area information published by Alberta Agriculture at <https://www.alberta.ca/ministry-agriculture-forestry.aspx>
  - whether it is a home quarter and distance from house to the site and the access road.
  - specific examples of nuisance, inconvenience and noise and how it affects the owner and remainder of the land.

- anything to show, what, if anything makes your land or production unique.

**Prove facts about the surface lease site or access road.** For example, you can bring....

- Information, documents, maps, plans, Alberta Energy Regulator (AER) license searches, pictures, and your testimony to show:
  - the area (in acres) of the site as a whole, the well site area, and the access road
  - the location of the site and whether it is an interior, perimeter or boundary site
  - details pertaining to the access road such as its length, if it is low profile, high profile, ditched, graveled, gated, farmed, perimeter, interior, diagonally routed, etc.
  - describe traffic including frequency and the type of traffic (trucks, equipment, etc.)
  - the number of wellbores and/or wellheads on site
  - the installation structures, equipment and fencing on site
  - if the site produces sweet gas, sour gas, oil or coal bed methane (CBM)
  - if the site hosts an injection well, battery site or other type of site
  - if the site is active or inactive
  - if there is overhead power to the site
  - if there are internal combustion motors on site
  - if you farm around or through the site
  - what, if anything, makes the site unique
  - if there has been reclamation activity on the site
  - how the surface lease, including the structures, equipment and fencing on site, affects the production/operations on the remainder of the land

**Prove your costs.** For example, you can bring....

- Receipts for out of pocket expenses such as accommodation, photographs, postage, courier fees, copying costs and stationary materials needed to make your presentation to the Tribunal.
- Records such as hours spent preparing the evidence package, researching comparables, settlement discussions, travel, and attending the hearing.
- Copies of accounts for expert fees, representative/legal fees witness fees and expenses, and cost of drone footage.
- Bring copies of receipts or accounts for costs of and incidental to the proceedings, including all preliminary costs necessarily incurred in reaching a decision, including whether to accept an offer of compensation.

## **Help from Land and Property Rights Tribunal Decisions**

The Panel will view your case independently and is not bound by prior decisions of the Land and Property Rights Tribunal. However, prior Land and Property Rights Tribunal decisions may be useful and can be found on the following website: [www.canlii.org/en/ab/absrb/](http://www.canlii.org/en/ab/absrb/)

Also see the [Land and Property Rights Tribunal website](#) for the **Surface Rights Act** and the **Surface Rights Rules and Guidelines**.