



Province of Alberta

EXPROPRIATION ACT

EXPROPRIATION ACT RULES OF PROCEDURE AND PRACTICE

Alberta Regulation 187/2001

With amendments up to and including Alberta Regulation 176/2017

Office Consolidation

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(Consolidated up to 176/2017)

ALBERTA REGULATION 187/2001

Expropriation Act

**EXPROPRIATION ACT RULES OF
PROCEDURE AND PRACTICE**

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Schedule

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” means the Land Compensation Board;

- (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 section 4;
- (e) “hearing” means a hearing by the Board under Part 2 of the Act;
- (f) “notice to commence proceedings” means a notice to commence proceedings in Form 3 of the Schedule;
- (g) “reply to application for determination of compensation” means a reply to application for determination of compensation in Form 2 of the Schedule;
- (h) “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 section 2.

Application for determination of compensation

2(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 Board a copy of the application and an affidavit proving service of the application.

Reply to application for determination of compensation

3(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 Board a copy of the reply and an affidavit proving service of the reply.

Notice to commence proceedings

4(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 Board a copy of the notice and an affidavit proving service of the notice.

Claimant must file application

5 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 section 2.

Respondent denies compensation

6(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.

Order appointing time and place of hearing

7(1) At any time after 30 days of service of an application for determination of compensation, either the claimant or respondent may apply to the Board by notice of motion for an order appointing the time and place for the hearing.

(2) When an order has been made under subsection (1), the Board must, at least 30 days before the hearing date, send to the claimant and respondent by ordinary mail a notice of the time and place for the hearing.

Respondent must serve notice

8(1) On receipt of a notice under section 7(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 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 Board an affidavit proving service of the notice.

Provision of information

9 The respondent and the claimant must, at least 14 days prior to the hearing, furnish to each other and the Board

- (a) copies of all appraisal reports and other documentary evidence that the person intends to introduce at the hearing, and
- (b) the names, addresses and, in the case of experts, the qualifications of any witnesses that the person intends to call at the hearing.

Commencement of other proceedings

10(1) Except as otherwise provided by the Act or this Regulation, proceedings before the Board for an order, decision or determination of the Board must be commenced by notice of motion.

(2) A notice of motion referred to in subsection (1) must

- (a) be filed with the Board and served on all parties who may be affected by the order, decision or determination sought, and
- (b) be returnable not earlier than 7 days before and not later than 15 days after the notice of motion is served.

Substantial compliance

11 No proceeding before the Board may be defeated by reason of any failure to comply with these Rules if there has been substantial compliance and no party has been prejudiced by the failure to comply.

Forms

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

Enlarging or abridging time

13 The Board 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

14 If 2 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 Board may order that the applications be heard simultaneously or consecutively.

Rules of Court apply

15(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;
- (b) repealed AR 164/2010 s16;
- (c) 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.

AR 187/2001 s15;164/2010

Adjourning proceedings

16 The Board may adjourn any proceedings before it.

Proceedings before Board

17 Subject to these Rules, any proceedings before the Board must be held in accordance with the procedures directed by the Board.

Summons

18 A summons to a witness under section 28 of the Act

- (a) must be in Form 4 of the Schedule,

- (b) may be issued in the name of the Board by any member of it at the request of a party, and
- (c) must be served personally on the person to whom it is addressed.

Repeal

19 The *Board Procedures Regulations* (AR 15/75) are repealed.

Expiry

20 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on November 30, 2022.

AR 187/2001 s20;354/2003;298/2009;213/2012;181/2015;176/2017

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 Compensation Board or the Surface Rights Board, as the case may be.
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 Compensation Board or the Surface Rights Board, as the case may be, by the filing of an application for determination of compensation, or
- (b) if applicable, before the Court of Queen'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

Summons to a Witness

Between:

_____ Claimant

- and -

_____ Respondent

TO:

(Name and Address of person being summoned)

You are hereby summoned and required to attend before the Board at a hearing to be held at _____ in the _____ of _____ in the Province of Alberta on the _____ day of _____, 20__ at the hour of ____ and thereafter from day to day until the hearing is concluded or the Board otherwise orders, to give evidence on oath touching the matters in question in the proceedings and to bring with you and produce at that time and place any books, papers and documents that are in your custody and possession and may relate to the matters in question.

If, without lawful excuse, you fail to attend and give evidence at the hearing or to produce the books, papers and documents at the time and place specified you may, pursuant to section 28 of the *Expropriation Act*, be required by the Court of Queen's Bench to attend or to produce the documents, or both, and,

on failure to comply, you may be liable to be committed for contempt of Court.

Dated at _____ this ___ day of _____ 20__.

_____ BOARD



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