

## Notice of Hearing

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Once the application is processed by the Office of the Superintendent of Real Estate Brokers and Salespersons (the Office of the Superintendent), a hearing date will be scheduled and a Notice of Hearing document detailing the hearing time and method will be prepared and sent to you for you to serve on the respondent.

### **Service of Documents**

A copy of the application package and the notice of hearing must be served on each respondent no less than 10 clear days before the scheduled hearing date. These ten (10) clear days are the number of days in between the day of service and the day of the hearing. As such, the day of service and the day of the hearing are not included in the counting of days.

The applicant is required to serve the required documents on each of the respondents named in the application by either: (i) giving it to the respondent personally; (ii) giving it to a person 16 years of age or older who apparently lives with the respondent; (iii) sending it to the respondent by prepaid registered mail, express post or courier service to an address provided by the respondent; or (iv) sending it to an electronic address provided by the respondent.

Where a copy of the application is sent by registered mail or express post, it is considered to have been served on the fifth day after mailing, and the service may be proven by providing evidence that the mailing was prepaid, properly addressed and sent.

Where a copy of the application is sent electronically, it is considered to have been served on the day it is sent, if the document is sent before 4:00pm, or the next day that is not a Saturday, Sunday or statutory holiday, if the copy of the application is sent after 4:00pm.

The applicant may be required to submit proof that the respondent was properly served the application and other required documentation no less than ten (10) clear days before the hearing date. Proof of service may include: (i) an affidavit from the person who delivered the documents; and/or (ii) tracking information from the postal or courier service.

An applicant who is unable to serve the required documents as permitted under the Act may apply to the Office of the Superintendent for authorization to serve the documents through an alternate method.

Applicants applying for substituted service must demonstrate their failed attempts to serve the documents through the methods permitted and identify why the proposed method of service will be successful.

### **Time Limit for Service**

Notice of the application and hearing should be served on the respondent(s) as quickly as possible. Applications that are not served on the respondent(s) within 3 months will expire and may be dismissed by the Office of the Superintendent. Where an application has been dismissed for failure to be served on the respondents, the applicant will be required to file a new application.

### **Hearing Methods**

Teleconference - Hearings will take place using teleconference services. Parties will be provided with a toll free conference number and conference ID to which the parties may call in.

Written Submission - Any party who is unable to participate by teleconference may request to appear by written submission. Requests to appear by written submission should be submitted in writing to the Office of the Superintendent when the application package is submitted or immediately after the notice of the application and hearing are received. The signed written submission must be received by the Superintendent and provided to the other party at least 5 days prior to the scheduled hearing. Any party appearing by written submission will not be able to pose or respond to questions from any other party. Witness statements may be submitted into evidence as sworn affidavits or unsworn statements provided the contact information of the witness is provided in the statement.

In Person - Hearings will take place in person only upon approval of the Office of the Superintendent.

### **Requests for Postponement**

Postponements will be granted at the discretion of the Office of the Superintendent and only in extenuating circumstances. Requests for postponements should be submitted in writing at least 2 working days prior to the hearing, and should include supporting documentation such as the following:

- Letter from medical service provider – confirming previously scheduled medical appointment
- Letter from employer – confirming employment commitments
- Travel confirmation - copy of airline tickets
- Other extenuating circumstances will be considered.

When a respondent's request for postponement is approved, the respondent will be required to provide an address for service. Notice of the new hearing date will be served by the Office of the Superintendent. Hearings will not be permitted to be postponed indefinitely. All cases will be issued a hearing date. Applications that are not served on the respondent(s) within 3 months will expire and may be dismissed by the Superintendent.

### **Requests for Subpoena**

Parties who plan to call a witnesses to give direct evidence at a hearing should consult with the witness and know what testimony the witness will provide. Witnesses should not be called where the witness is unwilling to participate or when the person calling the witness does not know what testimony the witness will provide. A request for a subpoena should only be requested where the witness is willing to appear and the testimony to be given is known to support the case of the person calling the witness. A party may apply to the Office of the Superintendent for a subpoena. It is the responsibility of the party requesting the subpoena to serve (deliver) it to the witness at least 5 days before the hearing and to pay any fees or expenses involved. The Office of the Superintendent is not responsible for serving the subpoena and does not pay for costs or expenses associated with the attendance of a party to the hearing such as travel expenses or professional fees.

### **Representation**

Parties to a hearing are not required to have a lawyer or other person to represent them at a hearing. However, parties do have a right to be represented by another party if they choose to do so. The Office of the Superintendent does not arrange or pay for representation. When a party retains representation, an Authorized Representative form must be submitted to the Office of the Superintendent before any information will be released concerning the Application for Dispute Resolution. The Office of the Superintendent will not discuss an application with anyone other than the parties identified on the application unless an Authorized Representative form has been submitted. An authorized representative cannot sign any documents on behalf of the represented party. A Power of Attorney document signed by a notary public must be submitted to the Office of the Superintendent if a party delegates their signing and decision making authority to another person.

### **Failure to Attend**

If either the applicant or the respondent fail to attend the scheduled hearing without: (i) contacting the Office of the Superintendent; (ii) applying in writing for a postponement; or (iii) applying for substituted service, the application may proceed in the absence of the party or the application may be dismissed.

**Discontinue or Withdraw Application**

An application may be discontinued or withdrawn by the applicant upon written request to the Office of the Superintendent citing the application number in the subject line.