

## Process Checklist – Self-Represented

### *Real Estate Act* s. 39 and s. 83.1 Administrative Penalty Appeal (Industry member)

File name and number: \_\_\_\_\_

Case presenter: \_\_\_\_\_

Your name: \_\_\_\_\_

PANEL'S OPENING REMARKS	
1. The Chair will state that this matter is an Appeal of an Administrative Penalty issued against you for breach of [ <i>refer to administrative penalty for the section of contravention</i> ].	
2. The Chair will introduce themselves.	
3. The Chair will ask the other panel members to introduce themselves.	
4. The Chair will ask the case presenter to introduce themselves.	
5. The Chair will ask you to introduce yourself.	
6. The Chair will ask the independent legal counsel to the panel to introduce themselves.	
7. The Chair will explain the role of the independent legal counsel to the panel: to provide legal advice to the <b>panel only</b> throughout the proceedings.	
8. The Chair will ask the hearings administrator to introduce herself.	
9. The Chair will confirm whether there is anyone else in the room, other than the panel members, independent legal counsel, you/your lawyer, and case presenter. If so, the Chair will ask in what capacity they are present. For example, are they observers? Are there witnesses in the room?	
10. If there are observers, the Chair will confirm all observers have provided their names to the hearings administrator in advance of the hearing. If not, have them give their name to the hearings administrator. A short pause in the hearing may be required.	
11. If there are witnesses, the Chair will ask the witnesses to wait in the waiting room outside of the hearing room and the panel will call them when they are ready to receive their testimony (evidence).	
12. The Chair will instruct everyone present in the hearing room to turn off all electronic devices.	
13. The Chair will state that, in accordance with RECA's electronics policy, the panel only permits the hearings administrator to record the hearing. RECA strictly prohibits any other types of recordings.	

<p>14. The Chair will confirm that the hearings administrator is digitally recording the proceedings.</p>	
<p>15. The Chair will ask you and the case presenter if either of you has any objections to the hearing panel members.</p> <ul style="list-style-type: none"> <li>a. If there is an objection, the Chair will hear submissions (statements) from you and the case presenter, (whomever objected first, goes first, next is the response from the other party, and the objecting party has an opportunity to rebut (dispute) the response.) The Chair will make a decision on the issue.</li> <li>b. If there are no objections, the Chair will state, "There are no objections."</li> </ul>	
<p>16. The Chair will advise the parties if they have any questions, during the proceeding, kindly address them through the Chair.</p>	
<p>17. The Chair will ask you if you have legal counsel representing you.</p> <ul style="list-style-type: none"> <li>a. If legal counsel is not representing you, the Chair will confirm that you are aware of your right to legal counsel (as it is set out in the Notice of Hearing).</li> <li>b. The Chair will confirm that you wish to proceed self-represented (representing yourself).</li> </ul>	
<p>18. The Chair will state that the hearing panel has received and reviewed the Notice of Appeal of Administrative Penalty and the Administrative Penalty. The hearing panel understands that you have paid your security for costs.</p>	
<p>19. Overview of the process for the hearing:</p> <ul style="list-style-type: none"> <li>a. The Chair will ask if there are any preliminary matters.</li> <li>b. The case presenter will give their opening statement.</li> <li>c. You will give your opening statement.</li> <li>d. The case presenter will call their case, including witnesses and other evidence.</li> <li>e. You will have an opportunity to cross-examine (question the case presenter's witnesses).</li> <li>f. The case presenter may ask their witnesses questions on re-direct (after you question the case presenter's witnesses).</li> <li>g. The hearing panel may ask the case presenter's witnesses clarifying questions.</li> <li>h. You will call your case, including witnesses and other evidence.</li> <li>i. The case presenter will have an opportunity to cross-examine (question) your witnesses.</li> <li>j. You may ask their witnesses questions on re-direct (after the case presenter finishes questioning your witnesses).</li> </ul>	

<ul style="list-style-type: none"> <li>k. The hearing panel may ask your witnesses clarifying questions.</li> <li>l. The case presenter may give their closing submissions (statements) about the breach.</li> <li>m. You may give your closing submissions (statements) about the breach.</li> <li>n. The panel may ask questions.</li> <li>o. The hearing will end and the panel will prepare a written decision about the breach.</li> </ul>	
<p>20. The Chair will state that there are potentially two phases to the Appeal of the Administrative Penalty:</p> <ul style="list-style-type: none"> <li>a. Phase 1: The hearing panel will determine whether there was a breach of the legislation as outlined in the administrative penalty.</li> <li>b. Phase 2: If the hearing panel finds a breach, the hearing panel will determine what the appropriate remedy is in accordance with the legislation.</li> </ul>	
<b>THE APPEAL HEARING</b>	
<p>21. The Chair will ask you and the case presenter if either of you have any preliminary (opening) issues, questions, or concerns <b>before</b> proceeding.</p>	
<p>22. The Chair will ask that the Notice of Appeal of Administrative Penalty be an exhibit in the hearing, if the case presenter has not already done so.</p>	
<p>23. The Chair will ask the case presenter if they will be making an opening statement.</p>	
<p>24. The Chair will ask you if you will be making an opening statement.</p>	
<p>25. The Chair will ask the case presenter how many witnesses they expect to call and if the witnesses are present today (in the witness waiting room).</p>	
<p>26. The Chair will ask you how many witnesses you expect to call and if the witnesses are present today (in the witness waiting room).</p>	
<p>27. The Chair will ask you and the case presenter if either of you has any questions or concerns before proceeding.</p>	
<b>PARTIES' OPENING STATEMENTS</b>	
<p>28. If the case presenter indicated, to the Chair, they would be making an opening statement; the Chair will ask them to begin.</p>	
<p>29. If you indicated to the Chair that you would be making an opening statement, the Chair will ask you to begin. This is only an <b>opening statement</b>; you should not go into your evidence, at this time that is further down in the hearing process.</p>	

<b>CASE PRESENTER'S PRESENTATION</b>	
30. The Chair will state that the case presenter has the burden of proving the case on a balance of probabilities.	
31. The Chair will ask the case presenter to begin the presentation of their case, including calling their witnesses and presenting their documents.	
32. The Chair will ask the hearings administrator to affirm each of the case presenter's witnesses.	
33. The case presenter will call their first witness.	
34. As the case presenter enters documents through their witness, the Chair will confirm that all parties have received the documents. The case presenter will have the documents entered as exhibits. If not, the Chair will confirm that the documents be entered as exhibits and have the hearings administrator mark these as exhibits.	
35. The Chair will invite the industry member to cross-examine (question) the case presenter's witness.	
36. The Chair will invite the case presenter to ask the witness questions on re-direct examination after you have questioned the case presenter's witness).	
37. The Chair will invite the hearing panel to ask the witness clarifying questions.	
38. Repeat steps #33 – 37 for each of the case presenter's witnesses.	
<b>YOUR PRESENTATION</b>	
39. The Chair will ask you to begin the presentation of your case, including calling your witnesses and presenting their documents.	
40. The Chair will ask the hearings administrator to affirm each of your witnesses.	
41. You will call your first witness.	
42. As you enter your documents through your witness, confirm that all parties have received your documents. You will ask that the documents become exhibits in the hearing.	
43. The Chair will invite the case presenter to cross-examine (question) your witness.	
44. The Chair will invite you to ask the witness questions on re-direct examination (after the case presenter finishes questioning your witness).	
45. The Chair will invite the hearing panel to ask your witness clarifying questions.	
46. Repeat steps # 41 – 45 for each of your witnesses.	
<b>CASE PRESENTER'S REBUTTAL</b>	
47. The Chair will invite the case presenter to give a rebuttal, (will respond to your presentation) if they choose.	

<b>PARTIES' CLOSING SUBMISSIONS</b>	
48. The Chair will invite the case presenter to make their closing submissions (statements).	
49. The Chair will invite you to make your closing submissions (statements).	
50. The Chair will invite the case presenter to respond to your closing submissions (will respond to your closing statements).	
<b>PANEL'S CLOSING REMARKS</b>	
51. The Chair will give the hearing panel's closing remarks. <ul style="list-style-type: none"> <li>a. Thank all parties for their attendance.</li> <li>b. They will advise you and the case presenter the panel will make a decision regarding to the Appeal of Administrative Penalty and will advise you and the case presenter in writing as soon as possible.</li> </ul>	