



# ARBITRATION RULES

## **1. Conduct Of Hearings.**

All hearings shall be conducted in accordance with these Rules, and any procedures and forms approved by the Board of Directors.

## **2. Smaller Claims.**

All disputes determined by CBA, in its reasonable judgment, to involve \$10,000 or less shall be heard before a Pre-Hearing Officer, or such other person as shall be designated by CBA, rather than before an Arbitration Panel. The Award in such case shall have the same force and effect as that of an Arbitration Panel.

## **3. Arbitration Committee.**

The Board President shall appoint an Arbitration Chair each year. The Arbitration Chair shall be responsible for working with the CBA staff to identify panel members to hear disputes in Arbitration. Upon receipt of a request for Arbitration, CBA staff will coordinate with the Arbitration Chair to determine panelists.

## **4. Complaint and Filing Fee.**

The Complainant shall submit a written Complaint on the standard CBA form to CBA setting forth in detail the nature of the controversy and the award sought. The Complaint must be accompanied by a \$3,000 filing fee or \$1,000 if the dispute involves \$10,000 or less.

## **5. Time Limit For Complaint.**

A Complaint shall be barred unless received by CBA within 3 months of the earlier of (i) closing of the relevant sale or execution of the relevant lease; (ii) the date the commission is due; or (iii) discovery of the claim by the Complainant, where it was concealed (intentionally or not) by the Respondent. If arbitration is so time-barred, no Member may institute legal action on the claim or submit the same to any other forum for arbitration. The Board of Directors, in its sole discretion, may permit a Complaint to be filed outside of the time parameters herein in the case of extraordinary circumstances.

## **6. Claim Must Be Ripe.**

If a pending sale or lease is involved, the sale must be closed or the lease must be executed before the matter will be heard, unless the Board of Directors, on written application by one of the parties, rules otherwise. If a sale does not close or lease is not executed and the Complainant claims the Respondent is at fault, the matter may be heard without special permission of the Board.

## **7. Service Of Complaint.**

CBA shall send a copy of the Complaint to the Respondent within 10 days of receipt by CBA.

## **8. Answer.**

The Respondent shall file an Answer to the Complaint with CBA within 10 days of receiving the Complaint. Whether or not an Answer is received, the arbitration proceedings, including pre-hearing, shall be scheduled and continue unaffected. The Panel may take the failure to file an Answer into account in deciding the matter.

## **9. Service Of Answer.**

CBA shall send a copy of the Answer to the Complainant within 10 days of receipt by CBA.

## **10. Copies To Pre-Hearing Officer.**

Within 10 business days of filing a Complaint, CBA shall appoint a Pre-Hearing Officer to mediate the dispute prior to an Arbitration hearing. CBA may, in its discretion and with the consent of both parties, waive mediation before the Pre-Hearing Officer.

## **11. Cooperation With Pre-Hearing Officer.**

The parties shall comply with all requests of the Pre-Hearing Officer for information, data, documents, and attendance at a mediation conference.

## **12. Authority Of Pre-Hearing Officer.**

The Pre-Hearing Officer's power shall be purely those of mediation, and he or she shall have no authority to compel or coerce the parties to compromise their claims except for the resolution of smaller claims as set forth in these rules above.

## **13. Pre-Hearing is Confidential.**

The Pre-Hearing mediation is confidential and the Pre-Hearing Officer shall make no findings or prepare any report and shall not discuss anything related to the controversy with the Arbitration Panel or any third party. Statements to or from the Pre-Hearing Officer are confidential and may not be used in the Arbitration.

#### **14. Filing Fee/Request For Hearing.**

If the controversy is settled or the Complaint withdrawn at mediation, then CBA shall refund one-half of the filing fee to the Complainant.

#### **15. No Settlement Or Withdrawal At Pre-Hearing.**

If the controversy is not settled at the pre-hearing stage, the Pre-Hearing Officer shall so advise CBA.

#### **16. Appointment Of Panel.**

If not settled at pre-hearing mediation, CBA shall appoint an Arbitration Panel of 3 panelists and shall designate 1 as Chairperson.

#### **17. Notice Of Hearing.**

CBA shall send a notice of the hearing to the parties and the panelists of the date, time and place of the Arbitration. CBA will endeavor to find a mutually acceptable occasion, however, it is the parties' obligation to cooperate in scheduling.

#### **18. Postponement Of Hearing Date.**

In the case of illness or other compelling reason, CBA may continue the hearing by phone or other notice to the parties. No party shall be entitled to more than 2 continuances.

#### **19. Default Award.**

If either party fails to appear before the Arbitration Panel at the time and place of hearing, the Panel may make an award by default.

#### **20. Right To Counsel/Notice of Counsel.**

Any party shall have the right to be represented by an attorney at any stage of the proceedings. Notice that a party will be represented by an attorney must be given to CBA and the other parties no later than 30 days after the sending of the Notice of Hearing. The other party shall have 30 days after receipt of notice of the appearance of any attorney to provide notice that that party will be represented at the hearing by an attorney. In the event of failure to do so, the hearing may, at the request of CBA or the other party, be continued to allow the other party to obtain an attorney.

If either or both parties to the dispute choose to be represented by an attorney, CBA may elect to retain counsel to assist in the administration of the Arbitration and to attend the hearing. CBA will be entitled to recover its attorneys' fees and costs incurred in connection therewith from the non-prevailing party or as the Arbitration Panel deems just and equitable as a part of the Award. CBA shall advise the parties

and the Panel of CBA's attorneys' fees and costs before the close of testimony in the hearing which may be addressed in closing argument.

## **21. Right To Subpoena Witnesses.**

Any party to an arbitration has the right to request CBA to issue a subpoena. It shall be the responsibility of that party to prepare and serve the subpoena. Arbitration Form No. A17 (Subpoena) may be used for a subpoena requiring a witness to appear and testify. Arbitration Form No. A18 (Subpoena Duces Tecum) may be used for requiring a witness to appear, testify and produce documents. A panel member will, in proper cases, sign the subpoena. The subpoena will then be delivered to the party requesting it. It is the responsibility of that party (and **not** CBA) to obtain proper service of the subpoena. See *Rules for Superior Court No. 45 on who may serve a subpoena; RCW 4.28.080 on how the subpoena is to be served; RCW 36.18.040 on sheriff's fee's on service of a subpoena; and RCW 5.56.010 on where service may be made and fees to be paid a witness.*

## **22. Appearance of Fairness.**

No Panelist may discuss anything related to the Arbitration with the parties or with CBA staff, either prior to or after the hearing. No Panelists may advise as to how or why the decision was arrived at by the Panel. The fact that a Panelist violated the foregoing shall not automatically void the Panel's decision.

## **23. Challenges -- With Cause.**

Any party to an arbitration may, as hereinafter specified, challenge any member of the Arbitration Panel for cause, which may include such things as ill will or hostility toward the party; that there is a controversy between the Panelist and the party; and/or any other justifiable reason which would tend to cause bias or otherwise influence the Panelist's judgment. When a Panelist is challenged for cause, CBA or the Panel Chairperson shall decide whether or not the challenge is justified. The decision of CBA or the Chairperson shall be final. There shall be no limit on the number of challenges for cause.

## **24. Challenges -- Time Limit And Replacements.**

Any challenges must be in writing and sent to CBA within 5 days of sending of notice of the Panelists' names. If a challenge is sustained, CBA shall appoint a replacement Panelist(s) and send the name(s) to the parties. The parties shall then have 5 days to challenge the newly named Panelist. If a Panelist's name is not given in advance of the hearing, challenges shall be made orally at the beginning of the hearing.

## **25. Quorum.**

If fewer than 3 Panelists are present the hearing shall be continued until additional Panelists can be appointed and be present.

## **26. Hearing Procedure.**

The hearing shall be conducted in general accordance with the procedure approved by the Board of Directors.

## **27. Hearing -- Member Present.**

The Designated (Voting) Representative or someone else authorized in writing by the Member to act for the Member must be present and must sign all documents requiring the Member's signature.

## **28. Evidence/Letter And Statements.**

The Panel is not bound by any courtroom or other rules of evidence. No letter, written statement or affidavit of any person which is solicited or obtained for use at the hearing, may be considered by the Panel. However, letters or other documents executed at the time of, and in the normal course of, the transaction itself may be considered.

## **29. Award -- Basis.**

The Panel shall determine a controversy in accordance with CBA Rules, real estate laws, customs and practices, and general principles of fairness.

## **30. Disposition Of Arbitration Filing Fee.**

In the event of the Complainant is substantially successful in establishing its claim, the Panel shall add to its award the filing fee paid to CBA. In no event shall CBA itself be required to refund or disburse the filing fee.

## **31. Award -- Form And Time Limit.**

The Award shall be in writing, on CBA's standard form, and signed by at least a majority of the Panelists. The Panel shall send its Award to CBA within 3 days of the hearing.

## **32. Award -- Copies To Parties.**

Upon receipt of the Award from the Panel, CBA shall promptly send copies thereof to the parties.

## **33. Award -- Delinquency.**

Any amount due pursuant to an arbitration award shall become delinquent if not paid in full within 10 days of sending of the Award unless the parties or the Panel state a different time.

**34. Award -- Interest.**

An Award shall bear interest at 12% per annum from the date of delinquency.

**35. Award -- Attorney's Fees And Costs.**

In the event of petition to the Superior Court (and any appeal thereof to an appellate court) for confirmation or vacation of an award, the court (including an appellate court) shall, if the Petitioner is successful in whole or in part, include in its judgment or order: interest at the above rate; court costs (including any deposition and brief printing expenses); and a reasonable amount for the Petitioner's attorneys' fees.

If CBA (or any CBA officer or employee) is joined as a party in any petition and/or appeal, it shall be entitled to an award of its attorneys' fees and costs incurred in connection therewith.