



A Subsidiary of the Real Estate Bar Association for Massachusetts

Arbitration Rules

Jurisdiction and Authority

The arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope or validity of the arbitration agreement. The arbitrator shall also have the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator that the contract is null and void shall not, for that reason alone, render invalid the arbitration clause. A party must object to the jurisdiction of the arbitrator, or to the arbitrability of a claim or counterclaim, no later than the filing of the answering statement to the claim or counterclaim that gives rise to the objection. The arbitrator may rule on such objections as a preliminary matter, or as part of the final arbitrator's award.

Procedures

1. Answers and Counterclaims: If an answer or counterclaim is to be filed, it shall be filed within seven calendar days after notice of the filing of the claim is sent by REBA Dispute Resolution, Inc. (REBA/DR).

2. Limitation on Extensions: In the absence of extraordinary circumstances, REBA/DR may grant no more than one seven-calendar-day extension of the time in which to respond to a demand for arbitration or a counterclaim.

3. Changes of Claim or Counterclaim:

- (a) A party may increase or decrease the amount of its claim or counterclaim up to seven calendar days prior to the first scheduled hearing. Such changes must be made in writing, and provided to REBA/DR and the opposing party.
- (b) Any new or different claim or counterclaim, as opposed to an increase or decrease in the amount of a pending claim or counterclaim, shall be made in writing and filed with REBA/DR, and a copy shall be provided to the other party, who shall have a period of seven calendar days from the date of such transmittal within which to file an answer to the proposed change of claim or counterclaim with REBA/DR. After the arbitrator is appointed, no new or different claim or counterclaim may be submitted without the arbitrator's consent.

4. Appointment and Qualification of Arbitrator:

- (a) Immediately after the later of (i) the filing of the claim and counterclaim or (ii) the answering statement or the expiration of the time within which the counterclaim is to be filed, REBA/DR shall simultaneously submit to each party an identical list of five names

from the REBA/DR panel of neutrals from which one arbitrator shall be appointed by the parties. If the parties cannot agree on the appointment of an arbitrator within 10 business days from such submission by REBA/DR, the arbitrator shall be appointed by REBA/DR.

(b) Absent agreement of the parties, the arbitrator shall not have served as the mediator in the mediation phase, if any of the dispute.

5. Serving of Notice for Hearing: Parties shall accept notice of hearings, including preliminary hearings, by telephone, email, FedEx, UPS or USPS.

6. Preliminary Telephone Management Hearing: A preliminary telephone conference shall be held among the parties or their representatives and the arbitrator within 10 business days from the confirmation of the arbitrator's appointment.

7. Exchange of Information: At least five business days prior to the hearing, or no later than the date established by the arbitrator, the parties shall (a) exchange directly between themselves copies of all exhibits, affidavits and any other information they intend to submit at the hearing, with a copy of all such documents to the arbitrator, and (b) identify one each other and to the arbitrator all witnesses they intend to call at the hearing. The arbitrator is authorized to resolve any disputes concerning the exchange of information.

8. Discovery: There shall be no discovery, except as ordered by the arbitrator in exceptional cases.

9. Date, Time and Place of Hearing: In cases in which a hearing is to be held, the arbitrator shall set the date, time, and place of the hearing. REBA/DR will notify the parties in advance of the hearing date.

10. The Hearing: The hearing should not exceed one day. For good cause shown, the arbitrator may schedule additional time, which shall not exceed the equivalent of one day. At the discretion of the arbitrator, this additional time can take the form of an in-person meeting, a conference call, or some other means of taking testimony, provided that each party has the right to be heard and is given a fair opportunity to present its case.

11. Hearing Time Standards: The hearing shall be closed no later than 45 calendar days after the date of the preliminary telephone conference, unless all parties and the arbitrator agree otherwise or the arbitrator extends this time in extraordinary cases when the demands of justice require it and such agreement is memorialized by the arbitrator prior to the expiration of the initial 45-day period.

12. Time of Award: The award shall be rendered no later than the later of (i) four weeks from the date of the closing of the hearing, (ii) The date, if any set by the arbitrator for the submission of post-hearing documents such as memoranda of law and proposed findings of fact, or, if oral hearings have been waived, from the due date established by the arbitrator for the receipt of the parties' final statements and proofs.

13. Arbitrator's Compensation: Arbitrators will receive compensation at rates established by REBA/DR.