

**APPLICATION TO MERCER COUNTY CONSTRUCTION
BOARD OF APPEALS REGARDING PROFESSIONAL ESCROW FEES
N.J.S.A. 40:55D-53.2a**

PART I

Name of Applicant _____ Applicant's Address _____ _____ Property Owner Owner's Address _____ _____ Agent/Attorney: Address: _____ _____ Telephone: _____ Fax: _____	Municipality _____ Street Address _____ Of Property _____ _____ Block _____ Lot _____ Land Use Body Involved: <input type="checkbox"/> Board of Adjustment <input type="checkbox"/> Planning Board <input type="checkbox"/> Combined Land Use Board <input type="checkbox"/> Other (specify on Continuation Sheet) Nature of Development <input type="checkbox"/> Subdivision (# of Lots _____) <input type="checkbox"/> Site Plan (Acreage _____) <input type="checkbox"/> Variance <input type="checkbox"/> Other (specify on Continuation Sheet)
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PART II

In addition to completing the top portion of this form, please provide the following information and, where applicable, annex copies of documents.

(1) Name, title and address of the professional whose fees you are disputing. (If you are disputing the charges of more than one professional, you must file a separate appeal for each professional.)

(2) N.J.S.A. 40:55D-53.2 requires that you notify the governing body in writing that you dispute a professional's charge(s) and that the governing body have the opportunity to remediate within a "reasonable time." Before your matter can be heard by this board, you must have first notified the governing body. Please attach a copy of the written notice to the governing body to this application, making sure that the date of mailing appears. If the governing body has responded in writing, attach a copy of that response.

(3) Because of the uncertainty regarding the length of a "reasonable time" and when the 45 or 60 day appeal periods begin and end, you are entitled to file a provisional appeal. If you choose to do that, then your matter will be scheduled for a hearing no later than the Board's next regular meeting at least two months from the date this appeal is received. If you do not contact the Board Secretary within 45 days regarding the need to perfect the appeal or have an extension of the hearing date, your appeal will be dismissed without prejudice. Please check and initial the procedure you wish to follow:

- _____ This is a provisional appeal. I agree to give the governing body at least 45 more days to remediate this matter to my satisfaction.
- _____ This is a regular appeal because I am either not satisfied with the remedial action by the governing body or I believe that more than a reasonable time has elapsed since my dispute has been brought to the attention of the governing body.

PART III

IF THIS IS A PROVISIONAL APPEAL, YOU DO NOT NEED TO COMPLETE THIS PART OF THE APPLICATION AT THIS TIME. YOU MUST, HOWEVER, COMPLETE PART IV OF THIS FORM.

- (1) Attach hereto copies of the professional service bills you are disputing.
- (2) On the Continuation Sheet, please prepare a chronological description of the progress of your application and/or construction of the development giving rise to this appeal.
- (3) Please indicate the reason for your objection to the professional's bill(s):
 - Some services performed were unnecessary.
 - The time expended was excessive.
 - Deductions from the escrow account were made prior to the receipt of the required voucher.
 - Other. Set forth on the Continuation Sheet.
- (4) On the Continuation Sheet, please set forth the details of your dispute with the professional's billing(s).

PART IV

- (1) To perfect your appeal, you must serve a copy of this Application and the attachments upon the following parties:
 - (a) The governing body of the municipality;
 - (b) The land use body before which your application was heard; and
 - (c) The professional whose fees you are contesting.

Service shall either be made by certified mail, return receipt requested, or by personal delivery. If delivered personally, you must obtain a written document attesting to the receipt of the application.

(2) At the time of the hearing, you must bring the following:

- (a) Proof that you have served this application to the proper parties.
- (b) Plat(s) or survey maps which illustrate the nature of your project.

(3) If you wish to submit legal briefs supporting your position, you may do so up to ten days before the scheduled hearing. The original brief shall be submitted to the Board's attorney (contact the Board Secretary for name and address) with a copy to the Municipal attorney or that attorney's designee.

Dated: _____

Signature (Print Name and Capacity Below)

NOTICES

(A) If this is a provisional appeal (see Part II), the municipality and the professional are not obliged to respond until the applicant notifies you that remediation is not satisfactory. This notice shall be given in the same manner as the original appeal to the Board. Along with that notice, the applicant must complete Part III of this application and provide copies.

(B) At the time of the hearing, the municipality must submit to the Board a certified copy of the Ordinance or Resolution establishing the fee and escrow payments relied upon as well as a copy of the Contract with the professional establishing the professional's rate of compensation.

(C) The municipality and the professional may submit legal briefs in the same manner as the applicant. A reply brief may be submitted up to five days before the scheduled hearing.

(D) The governing body, land use body and professional shall agree upon a single attorney to be responsible for the procedural aspects of the appeal. While each of these parties may have their own attorney appear at the hearing, the applicant and the Board will communicate with the Municipal attorney only unless that attorney designates another attorney to be the coordinating counsel.

