



*RUSK COUNTY APPRAISAL REVIEW BOARD*

**RULES OF PROCEDURE**

(Revised June 29, 2020)

# RUSK COUNTY APPRAISAL REVIEW BOARD RULES OF PROCEDURE

## **MODEL HEARING PROCEDURES**

### **ARB Membership**

**Tax Code Section 5.103(b)(16), (15), and (12)**

#### **Administration of ARB Appointments**

ARB members are not provided any statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an ARB member is contacted by an individual regarding requesting an appointment to the ARB, the member shall direct the individual to the person designated to receive applications or requests for appointment for the ARB.

#### **Conflicts of Interest**

Each ARB member is responsible for ensuring that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chair in addition to any other individual or entity as may be provided by law. The chair shall ensure prompt notification of reported conflicts of interest to the appropriate individuals.

If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member may not participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, an affidavit must be filed with the secretary of the ARB. The affidavit must be filed as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, no affidavit must be filed; however, the ARB member must recuse himself or herself immediately from the hearing and report the conflict to the chair or secretary of the ARB.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of "substantial interest," Tax Code Section 41.69 applies to any protest in which an ARB member is interested (i.e. there is no requirement under Tax Code Section 41.69 that the interest be substantial). Therefore, while a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether or not he or she has a conflict of interest that might prohibit his or her involvement, the member shall immediately contact the ARB chair to address the matter.

In the recusal process, the ARB member not only may not vote on the matter that is the subject of the protest, but also may not hear or deliberate on the protest.

#### **Ex Parte and Other Prohibited Communications**

ARB members shall not engage in prohibited ex parte or other communications. If an ARB member is approached by one or more individuals that appear to be engaging or attempting to engage in a prohibited communication, the ARB member shall immediately remove himself or herself from the conversation.

## **ARB Duties**

[Tax Code Section 5.103(b) (1), (5), and (6)]

### **Statutory Duties of an ARB**

Each ARB member is responsible for ensuring that he or she understands the statutory duties of the ARB and shall comply with all statutory requirements in performing statutory duties as a member of the ARB.

### **Notices Required under the Property Tax Code**

Each ARB member is responsible for obtaining and maintaining familiarity with notices required under the Property Tax Code. If an ARB member has reason to believe that any notice that is required by law to be provided by the ARB is not being provided or does not meet the requirements of applicable law, the ARB member shall promptly notify the ARB chair. The ARB chair shall investigate each such report and take appropriate action to correct all verified problems.

### **Determination of Good Cause under Tax Code Section 41.44(b)**

“Good cause” for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests should be carefully considered and standards in making determinations of good cause under Tax Code Section 41.44(b) should be uniformly applied. The ARB should give due consideration to good cause claims in such a manner that properly respects the rights of property owners while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

## **ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)**

[Tax Code Section 5.103(b)(3), (4), (7), and (14)]

### **Scheduling Hearings Generally**

The ARB shall schedule a hearing when a timely notice of protest is filed and, in doing so, may be provided with clerical assistance by the appraisal district.

### **Scheduling Hearings for Property Owners or Their Agents**

Pursuant to Tax Code Section 41.66(i), hearings filed by property owners not represented by agents designated under Tax Code Section 1.111 shall be scheduled for a specific time and date. More than one protest may be scheduled for hearings at the same time and date; however, if a hearing for a property owner or their agent is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time, the ARB is required to postpone the hearing, if requested by the property owner or their agent. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

### **Scheduling Hearings for Multiple Accounts**

If requested by a property owner or a designated agent, hearings on protests concerning up to 20 designated properties shall be scheduled on the same day by the ARB. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: “request for same-day protest hearings.” More than one such request may be filed in the same tax year by a property owner or the designated agent. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule hearings on protests concerning more than 20 properties filed by the same property owner or designated agent and may use

different panels to conduct the hearings based on the ARB's customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Section 41.66(j).

### **ARB Panel Assignments**

If an ARB sits in panels as authorized by Tax Code Section 41.45(d), protests shall be assigned randomly, except that the ARB, with or without clerical assistance from the staff of the appraisal district, may consider the type of property or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Once a protest is scheduled to be heard by a specific panel, it shall not be reassigned to another panel without the consent of the property owner or a designated agent. If the ARB has cause to reassign a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB is required to postpone the hearing if requested in this situation. Pursuant to Tax Code Section 41.66(k), "[a] change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel"

### **Postponements Under Tax Code Section 41.45(e)**

A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause, if the request is made before the date of the hearing. The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB, an ARB panel, or the ARB chair. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chair or the chair's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition, and without limit as to the number of postponements, the ARB shall postpone a hearing if the property owner or his/her designated agent at any time shows good cause, as defined in Tax Code Section 41.45(e-2). The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB, an ARB panel, or the ARB chair. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chair or the chair's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition, and without limit, the ARB shall postpone a hearing if the chief appraiser consents to the postponement. The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB, an ARB panel, or the ARB chair. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chair or the chair's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

### **Postponements Under Tax Code Section 41.45(e-1)**

A property owner or a person designated by the property owner as the owner's agent to represent the owner at the hearing who fails to appear at the hearing is entitled to a new hearing if the property owner or the owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement

with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

#### **Postponements Under Tax Code Section 41.45(g)**

The ARB must postpone a hearing to a later date if:

- (1) the owner of the property or the owner's agent is also scheduled to appear at a hearing on a protest filed with the ARB of another appraisal district;
- (2) the hearing before the other ARB is scheduled to occur on the same date as the hearing set by this ARB;
- (3) the notice of hearing delivered to the property owner or the owner's agent by the other ARB bears an earlier postmark than the notice of hearing delivered by this ARB or, if the date of the postmark is identical, the property owner or agent has not requested a postponement of the other hearing; and
- (4) the property owner or the owner's agent includes with the request for a postponement a copy of the notice of hearing delivered to the property owner or the owner's agent by the other ARB.

#### **Postponements Under Tax Code Section 41.66(h)**

The ARB shall postpone a hearing (one time only) if the property owner requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. Only the property owner may request a postponement for this reason. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

#### **Postponements Under Tax Code Section 41.66(i)**

Hearings on protests filed by property owners not represented by agents designated under Tax Code Section 1.111 shall be scheduled for a specific time and date. More than one protest may be scheduled for hearings at the same time and date; however, if a hearing for a property owner or their agent is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time, the ARB is required to postpone the hearing, if a postponement is requested by the property owner or the agent. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

#### **Postponements Under Tax Code Section 41.66(k)**

If a protest is scheduled to be heard by a particular panel, the protest may not be reassigned to another panel without the consent of the property owner or designated agent. If the ARB has cause to reassign a protest to another panel, a property owner or designated agent may agree to reassignment of the protest or may request that the hearing on the protest be postponed. The ARB shall postpone the hearing on that request. A change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

**Conduct of ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)**

[Tax Code Section 5.103(b)(2), (9), and (10)]

**Conducting Hearings Open to the Public**

This introductory statement should be read at the beginning of each hearing:

We are the appraisal review [board or panel] that will be hearing your protest today. We do not work for the appraisal district. We are appointed to perform an independent review of your protest. You may complete a survey regarding your experience today [provide instructions on how to fill out the survey]. The survey is voluntary. You also have the right to appeal our decision. Appeal information will be provided to you with our determination.

The ARB or ARB panel does not have to read the statement above if the owner or agent has previously appeared before the ARB or any ARB panel for the ARB for that county that same day.

For most protest hearings, the hearing should be conducted in the following order:

- a. Commence the hearing and announce the assigned protest number, property location and owner, and other identifying information.
- b. Announce that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be provided.
- c. State that the ARB members who are considering the protest have not communicated with anyone about the protest and have signed affidavits to that effect.
- d. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
- e. Ask if any testifying witness holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- f. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify.
- g. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
- h. If the property owner or agent presents his/her case first, he/she shall present evidence (documents and/or testimony). If witnesses are present, the property owner or agent may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
- i. Next, the appraisal district representative may cross-examine the property owner, the agent, or the representative and/or witnesses.
- j. If the property owner or agent presented his/her case first, the appraisal district representative shall present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
- k. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
- l. Members of the ARB shall not be examined or cross-examined by parties.
- m. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- n. The other party may then offer rebuttal evidence.
- o. The party presenting its case first shall make its closing argument and state the ARB determination being sought.
- p. The party presenting its case second shall make its closing argument and state the ARB determination being sought.
- q. The ARB or panel chair shall state that the hearing is closed.

- r. The ARB or panel shall deliberate orally. No notes, text messages, or other form of communication are permitted.
- s. The ARB or panel chair shall ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue to be determined. A vote shall be taken and recorded by a designated appraisal district staff person or member of the ARB assigned for this purpose. Separate motions and determinations must be made for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations).
- t. Thank the parties for their participation and announce the determination(s) of the ARB and that an order determining protest will be sent by certified mail.

If computer screens are used by ARB members during ARB hearings for reviewing evidence and other information, computer screens also must be available to property owners and agents at the hearings to view the same information that is presented to the ARB members by the appraisal district staff. This requirement is met if the property owner or agent can see all information displayed on at least one computer screen in the hearing location (there is no requirement that the property owner or agent be provided a separate screen).

If a chief appraiser uses audiovisual equipment at a protest hearing, the appraisal office must provide equipment of the same general type, kind and character for the use of the property owner or agent during the hearing. See section titled "Other Issues" below for more information regarding audiovisual equipment requirements.

The property owner or agent and the appraisal district representative are prohibited from debating each other. All communications must be directed to the ARB members, except for examination or cross-examination during testimony of witnesses or parties testifying at the hearing.

For taxing unit challenges, motions to correct appraisal records, protests regarding exemptions, or other matters that may be the subject of ARB hearings, the ARB should follow the order of conducting hearings above, but may make exceptions for the type of hearing.

Records for each ARB proceeding must be kept according to Tax Code Section 41.68 and Comptroller Rule 9.803. This includes the ARB retaining evidence offered or submitted by the parties as required by Tax Code Section 41.45 and Comptroller Rules 9.803 and 9.805. The secretary of the ARB is responsible for ensuring proper record keeping, maintenance, and retention.

#### **Conducting Hearings by Telephone Conference Call**

A property owner initiating a protest is entitled to offer evidence or argument by affidavit without personally appearing. To appear at a hearing by telephone conference call, a property owner must notify the ARB by written request not later than the 10th day before the date of the hearing. To offer evidence or argument at a hearing conducted by telephone conference call, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted by telephone conference call to another person the owner invites to participate in the hearing.

#### **Conducting Hearings Closed to the Public**

A joint motion by the chief appraiser and the property owner is required to request that the hearing be closed due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair shall convene the hearing as an open meeting and then announce that the meeting will be closed to the public as permitted by Tax Code Sections 41.66(d) and (d-1). Only the parties to the

protest, their witnesses, and the ARB members are permitted to stay in the hearing room. The same order of proceedings as for hearings open to the public should be followed.

The secretary of the ARB is responsible for ensuring that a separate tape recording or written summary of testimony is kept for the closed meeting in accordance with the provisions of Comptroller Rule 9.803 generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27 and shall be marked as “confidential” and maintained as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel shall confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The confidentiality of the information must be maintained by the ARB members and disclosed only as provided by law.

After deliberation, the ARB shall reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. There must be no mention of the proprietary or confidential information during the open meeting.

### **Right to Examine and Cross-Examine Witnesses or Other Parties**

Tax Code Section 41.66(b) states that “each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing.” The ARB may not prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross-examination. To the extent possible, the parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence.

### **Party’s Right to Appear by an Agent**

The ARB shall accept and consider a motion or protest filed by an agent if an agency authorization is filed at or before the hearing on the motion or protest. The ARB may not require that an agency authorization be filed at an earlier time. The ARB may not require a person to designate an agent to represent the person in a property tax matter other than as provided by Tax Code Section 1.111.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to file a protest if the property owner does not and to designate, under Tax Code Section 41.413, another person to act as his/her agent with the same authority and limitations as an agent designated under Tax Code Section 1.111.

## **Evidence Considerations**

[Tax Code Section 5.103(8), (11), and (13)]

### **A Party’s Right to Offer Evidence and Argument**

The ARB may not prohibit a party’s right to offer evidence and argument. However, the ARB may enforce time limits and dictate the order of ARB hearings. To the extent possible, the parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument.

### **Prohibition of Consideration of Information Not Provided at the ARB Hearing**

In a protest hearing, the ARB will not consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for any appraisal district record (i.e., appraisal roll history, appraisal cards) to be considered by the ARB, it must be presented as evidence by or on behalf of a party (e.g. chief appraiser, appraisal district representative, property owner, agent, or witness) at the protest hearing.



## **Exclusion of Evidence Required by Tax Code Section 41.67(d)**

If it is established during a protest hearing that information was previously requested under Tax Code Section 41.461 by the protesting party and that the information was not delivered to the protesting party at least 14 days before the scheduled or postponed hearing, the requested information not made available may not be used or offered in any form as evidence in the hearing. The ARB shall make a determination to exclude evidence under Tax Code Section 41.67(d) only if evidence presented at the hearing establishes that: (1) the information sought to be excluded as evidence was not made available at least 14 days before the hearing; and (2) the information sought to be excluded as evidence was previously requested by the protesting party.

## **Other Issues**

[Tax Code Section 5.103(17)]

### **Compliance with the Law, Integrity, and Impartiality**

Members of the ARB shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the ARB.

### **Patience and Courtesy**

ARB members must be patient, dignified, and courteous to parties appearing before the ARB.

### **Bias or Prejudice**

Members of the ARB shall perform their ARB duties without bias or prejudice.

### **Confidential Information**

Members of the ARB shall not disclose or use for any purpose unrelated to ARB duties confidential information acquired in the performance of ARB duties.

### **Required Contents That Vary by ARB**

ARB model hearing procedures must comply with Comptroller Rule 9.805 concerning appraisal review board evidence exchange and retention and audiovisual equipment requirements. The rule requires that ARB procedures include specific items that may vary by ARB. The rule addresses:

Before or immediately after an ARB hearing begins, each party shall provide the other with a copy of the evidence the party intends to offer at the hearing. The parties may exchange evidence in paper or electronic form. If any paper evidence has not been scanned for inclusion in the hearing record, it will be scanned before the conclusion of the hearing. The ARB is required to retain copies of all evidence.

1. The ARB will accept evidence on USB flash drive or 120mm compact discs. Any device will be scanned before it may be used, and any device containing a virus or malware may not be used.
2. The ARB *will not accept* evidence on cell phones, tablet computers, laptop computers, cameras, floppy discs, SD memory cards or any other type device not listed in Item a) above.
3. Electronic evidence must be submitted in the following file types: PDF, Microsoft Office (Word/Excel/PowerPoint); or image types: JPEG, PNG, TIFF;
4. The Rusk County Appraisal District may use audiovisual equipment at a hearing, including a Windows-based computer compatible with the file types listed in Item c) above and multiple monitors. Audiovisual equipment of the same general type, kind, and character is available for use by a property owner who requests the use of the equipment when checking in for a hearing. A property owner may bring his/her own audiovisual equipment for use at a hearing. The owner is

responsible for setting the equipment up and operating it. Neither Rusk CAD nor the ARB can provide technical assistance.

5. Property owners may not access Rusk CAD's computer network or Internet connection nor any of Rusk CAD's technology or equipment other than that made available and described in these procedures.

## **LOCAL HEARING PROCEDURES**

### **Exchange of Evidence/Retention/Audiovisual Equipment Requirements/Compliance with Tax Code Section 41.461**

Before or immediately after a hearing begins, the Appraisal District and the property owner or the owner's agent shall each provide the other party with a duplicated set of the evidentiary materials the person intends to offer or submit to the Board for consideration at the hearing. One set of these materials is to be exchanged with and retained by the other party, and another set of these materials is to be provided to and retained by the Board as evidence for its records as required under Comptroller Rule §9.803 (relating to Requirements for Appraisal Review Board Records).

The duplicated material sets shall be produced in either paper or electronic form. Evidentiary materials produced in electronic form shall be saved in a file format type and downloaded to a small, portable, electronic device to be retained by the Board.

The Board will accept the following electronic file types on CD and USB flash drives only: Pictures: .jpg, .jpeg, .bmp, .tif; PDF: .pdf; Excel: .xls, .xlsx; Documents (Word, Text): .doc, .docx, .rtf, .txt. For security purposes, the electronic files on devices provided to the Board must be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance by or exposure to the recipient's computer system.

The Appraisal District will [or will not] be using audiovisual equipment during Board hearings. The Appraisal District shall make available the same equipment or audiovisual equipment of the same general type, kind, and character that it uses (if any) for use at the hearing by the property owner or the owner's agent. The equipment made available shall be capable of reading and accepting the same types of file formats and devices accepted by the Board. In the alternative, property owners and their agents may bring their own audiovisual equipment for their presentation of evidentiary materials at Board hearings. If the operation of audiovisual equipment at the hearing requires access to and connection with the Internet for the presentation, the parties must provide their own Internet connection and access through their own service provider.

The property owner and the owner's agent may not access the Appraisal District's network or Internet connection nor any of the Appraisal District's technology or equipment other than that made available herein. The Appraisal District and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in the hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.

### **Burden of Proof**

If a protest involves a claim of excessive value or unequal value, the Appraisal District ordinarily has the burden of proof on those claims. Otherwise, the property owner bears the burden of proof. In most hearings the ARB will be looking for the preponderance of the evidence. There are several exceptions to these general rules, including: a) properties with values lowered in the preceding year; b) property owners who provide their own appraisals or other evidence to the Appraisal District in advance; and c) property owners who do not file renditions or reports as required by law.

## **Conduct**

The Board will not tolerate abusive language or disruptive behavior during its meetings and hearings, and will limit the testimony or refuse to hear further testimony of any person guilty of these offenses. Determinations on the protests of such persons will be treated with the same careful consideration as all others

## **Officers**

- A. The officers of the Appraisal Review Board are the Chairperson, the Vice-Chairperson, and the Secretary.
- B. The officers will be selected as soon as possible after the new Board members are appointed. The Chairperson and Secretary shall be appointed by the Local Administrative District Judge of Rusk County.
- C. The Chairperson will preside over the meetings of the Board and perform such other responsibilities as these rules require.
- D. The Secretary shall be responsible for overseeing the keeping of minutes for all Board meetings, for overseeing the keeping of all records of the Board, and for determining that all notices by the Board are sent. The Secretary may delegate any of the above responsibilities to members of the appraisal staff provided by the Chief Appraiser for that purpose. The Secretary will preside at meetings when the Chairperson and Vice-Chairperson are absent. The Secretary will perform such other responsibilities as these rules and law requires.
- E. The Vice-Chair will perform the duties of the Chairperson in the absence of the Chairperson and assist the Chairperson in the performance of his duties at the Chairperson's request. In any instance in which the law allows authority to be exercised by the Chairperson or a member acting as a designee or representative of the Chairperson, the Vice Chair is considered such a designee or representative.

## **Meetings**

The Board's rules of order come from: its own written procedures; the Comptroller's Model Hearing Procedures and ARB Manual; and the Texas Property Tax Code. To the extent that the Board needs some additional authority to resolve procedural disputes or to provide guidance on procedural questions, the Board shall follow Robert's Rules of Order. A person chairing the Board or panel may vote or make motions on any matter.

## **Cause Numbers**

All cases scheduled for the hearings will be assigned a cause number to identify the case during the proceedings of the Board.

## **Further Proceedings**

If the Board should determine that further evidence is required in order to make a decision, the Board shall schedule a continuation of the hearing at a later date and inform the parties of the rescheduled hearing date (however, an additional fifteen (15) days' notice shall not be required).

## **Time Limits for Hearings**

A hearing is limited to fifteen (15) minutes per parcel for residential property and personal property. Commercial hearings shall be limited to twenty (20) minutes per parcel. Hearings involving multiple accounts will be limited to five (5) minutes per parcel. The Board or panel may waive the time limit at its discretion.

## **Determination of Good Cause for Late Protest**

Prior to scheduling a hearing on a property owner's protest, the Board will determine whether the protest was filed by the deadline required by law. When a property owner files a notice of protest after the legal deadline but before the date the Board approves the appraisal records, the Board will make a determination as to whether the property owner had good cause for his failure to file the notice on time. The Board will request that the property owner deliver within ten (10) days a written statement explaining the "Good Cause" for filing the protest after the legal deadline. The Board will make this determination of good cause based solely upon the property owner's written explanation of good cause prior to scheduling any hearing. Good cause, for the purpose of making this specific good cause determination, is strictly limited to a reason that includes:

1. the property owner is on active military duty;
2. the property owner is in the hospital or under a doctor's care at the time the deadline expired; or
3. there has been a recent death in the property owner's immediate family.

Good cause, for the purpose of making this specific determination, is not a reason that includes: being out of the area, being out of the state, being out of the country, or failing to recognize the deadline.

The decision to allow a hearing on a late-filed protest received before the Board's deadline to approve the appraisal records based upon the demonstration of the requisite good cause is to be determined by the Board, in its sole discretion. If the Board determines good cause exists, a protest filed after the legal deadline but before the Board has approved the appraisal records shall be scheduled for a hearing.

## **Calculation procedure for Tax. Code Section 25.25(d) motions to correct**

- A. When the Board receives a motion to correct the appraisal records filed pursuant to Tax. Code Section 25.25(d), the Board will first determine whether the requesting party qualifies for relief under Tax. Code Section 25.25(d) by first determining the property's correct value.
- B. After determining the correct value of the property, the Board will determine whether a 1/3 error exists by multiplying the property's correct value by 1.33. If the subject property owner is the movant's residence homestead, the movant need only prove that the appraised value on the appraisal roll is more than 1/4 higher than the correct value. The correct value should be multiplied by 1.25.
- C. If the total value produced by this calculation is equal to or exceeds the appraised value of the subject property on the appraisal roll, the Board will determine that no error exists in the appraisal roll and deny the motion to correct. If the total value produced by the aforementioned calculation is less than the appraised value of the subject property on the appraisal roll, the Board will determine that an error exists, grant the motion to correct, and adjust the appraised value of the property on the appraisal roll to the correct value.

## **Affidavits in Lieu of Personal Appearance**

A property owner may appear by affidavit instead of appearing personally or by agent. An affidavit must be considered by the Board only if it contains statements that the evidence or argument presented in the affidavit is true and correct and it is submitted to the Board hearing the protest before it begins the hearing.

Property owners who file affidavits of appearance are required to state in their affidavits whether or not they intend to appear at their hearing in person or by telephone and that their affidavit may be used only if they do not appear at the hearing in person. If the affidavit indicates that the property owner will not appear at their hearing in person or does not state that he or she will appear by telephone, the Board is not required to consider the affidavit at the scheduled hearing and may consider the affidavit at a hearing designated for the specific purpose of processing affidavits.

### **Telephone Hearing Procedure**

A property owner wishing to appear for a hearing by telephone conference call must:

1. notify the Appraisal Review Board in writing not later than the tenth day before the date of the hearing; and
2. provide any evidence in the form of an affidavit filed before the hearing begins.

A property owner is encouraged to submit their affidavit at least ten (10) days before a scheduled hearing to ensure adequate time for processing. The Texas Comptroller of Public Accounts, Property Tax Assistance Division, has a Form 50-283, Property Owner's Affidavit of Evidence, which can be used to submit evidence to the Board. The form is available on the Comptroller's website, [www.comptroller.texas.gov/taxes/property-taxes/forms/](http://www.comptroller.texas.gov/taxes/property-taxes/forms/).

The property owner should call (903) 657-3578 approximately five minutes before the hearing is scheduled to start.

1. When the owner's call is answered, the owner should be prepared to give:
  - i. the owner's name;
  - ii. the protest/case number(s) identifying the protest(s); and
  - iii. the telephone number at which the owner can be reached.
2. If a panel is not available to hold the hearing right away, the ARB member or staff member answering the call will advise the property owner that the owner may be placed on hold or explain that the ARB will call the owner back when a panel is available. The owner is responsible for keeping the line clear and answering promptly when the ARB calls. If the ARB's cannot reach the owner, the owner will forfeit the opportunity to participate in the hearing by telephone.
3. If a property owner has had to wait more than two hours from the time scheduled for his/her hearing and the hearing has not begun, the owner may terminate the call if he/she is on hold. The owner should promptly call the ARB and state that he/she is exercising the right to request a postponement of the hearing.

The property owner is responsible for ensuring a clear connection from his/her end of the telephone connection;

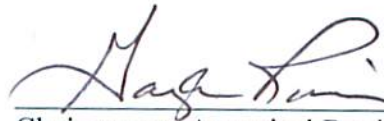
1. The property owner should use a land-line telephone or, if the owner uses a cell phone, he/she should call from a place with a strong, reliable connection to a cellular network. A property using a VOIP telephone should ensure that the Internet connection is fast enough to provide clear transmission of sound without buffering.
2. The owner should separate himself/herself from background noises like televisions and barking dogs, noises that might interfere with the panel's ability to hear and understand the owner.
3. If a call is dropped or if the property owner's speech is garbled or unintelligible, the ARB panel may terminate the call and either try to call the property owner or wait for the property owner to call again. If the connection cannot be reestablished within five minutes, the panel will proceed with the hearing and owner will have no further opportunity to participate in the hearing by telephone.

If the property owner provides documents, photographs tables or other items with his/her affidavit, the owner should label those items prominently with the first being labeled PO Ex. 1, the second being labeled PO Ex. 2, etc. If the owner wishes to emphasize certain portions of an item, the owner should highlight those portions or otherwise set them off with colored marking. When the Appraisal District provides items to the property owner before the hearing or at the beginning of the hearing, the District should label those items prominently with the first being labeled AD Ex. A, the second being labeled AD Ex. B, etc. During the hearing, the owner, the panel members and the representatives of the Appraisal District should refer to the items by their exhibit numbers.

A property owner may not offer evidence by telephone. Evidence includes facts and opinions. The owner may comment on evidence that is presented through an affidavit or by the Appraisal District. Panel members will not ask a property owner to present evidence by telephone.

The property owner is responsible for providing access to another person that the owner invites to participate in the hearing.

**The Appraisal Review Board of Rusk County has reviewed the Model Hearing Procedures from the Texas Comptroller's office and hereby adopts their Local Hearing Procedures on this the 29<sup>th</sup> day of June, 2020.**



Chairperson, Appraisal Review Board



Secretary, Appraisal Review Board