



APPRAISAL REVIEW BOARD

RULES OF PROCEDURE

(Revised May 18, 2010)

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APPRAISAL REVIEW BOARD RULES OF PROCEDURE

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, Vice-Chairperson and Secretary shall be appointed by the Rusk County Appraisal District Board of Directors, §6.42(a), effective September 1, 2009.
- 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-Chairman 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.

Meetings

- A. Robert's Rules of Order will govern the conduct of all meetings of the board other than hearings. Where Robert's rules are in conflict with the rules of this board, the rules of the board will govern. The person chairing the board or panel may vote or make motions on any matter.
- B. The board will meet within ten (10) days after the date the Chief Appraiser submits the appraisal records to the Board to examine the records. The board will meet at any time at the call of the Chairperson. [TAX CODE § 6.42(b)]. A majority of the board may call a meeting of the board at any time.
- C. The board will keep minutes of its meetings other than hearings. The minutes will constitute the record of the meetings of the board.
- D. The Chairperson shall schedule hearings by the board or panels of the board. The Chairperson may delegate this responsibility to schedule hearings by the board to members of the appraisal staff provided by the Chief Appraiser for that purpose.

- E. All meetings will comply with the Open Meetings Act [Chapter 551, Government Code]. The open meeting law applies any time a quorum of the Appraisal Review Board is together. The Texas Property Tax Code adds three specific requirements for ARBs:
1. The ARB can not hold a closed protest hearing. The hearing must be open to the public.
 2. The chief appraiser or an appraisal district representative must be present at all meetings. The ARB can not exclude the chief appraiser or representative, even at the request of a taxpayer or taxing unit.
 3. The ARB may not receive or consider evidence concerning a protest outside of the protest hearing.

Quorum

A majority of the Appraisal Review Board constitutes a quorum [TAX CODE § 6.42(a)].

Special Provisions Governing Hearings of and Determination of Taxing Unit Challenges

- A. All hearings of taxing unit challenges must be determined by the board sitting as a whole. The board shall conduct hearings on taxing unit challenges in the same manner as hearings on taxpayer protest except that panels may not be used to hear challenges.
- B. The board must hear a challenge if the taxing unit initiating the challenge timely files a Challenge Petition. The board may hear a challenge filed after the legal deadline but only if it is filed before the board approves the appraisal records.
- C. Any taxing unit in which the property is taxable is entitled to appear and offer evidence or argument at the challenge hearing.
- D. The determination of a challenge must be made by written order of the board. The board may make its determination at the conclusion of the hearing or at a subsequent meeting for which the decision is posted as an agenda item.

HEARINGS RULES OF THE APPRAISAL REVIEW BOARD

Role of Chair: Cause Numbers

The Chairperson shall preside over all hearings of the board. All cases scheduled for the hearings will be assigned a cause number to identify the case during the proceedings of the board. The Chairperson may vote or make motions in any matter before the board.

Use of Panels

The board may sit in panels of at least three (3) members to hear property owner protest. [TAX CODE § 41.45(d)]

Panel Assignments

The Chairperson, in consultation with the other officers, shall make the initial assignments of the board members to panels each calendar year. The Chairperson may make subsequent assignments and changes. For each panel selected, the Chairperson will designate one member to serve as alternate Chairperson of the panel. The Chairperson of the panel, or the alternate in his or her absence, shall preside over the hearings and exercise the authority of the Chairperson of the board with respect to the hearing.

Rehearing

The board may order a rehearing by another panel or by the whole board or by the panel originally hearing the protest when the board determines that a rehearing is necessary.

Determination by Whole Board

The board setting as a whole shall determine any protest heard by a panel.

Order of the Proceedings

The order of the proceedings shall be as follows:

- A. Board members hearing the protest shall execute affidavits regarding ex parte contact.

- B. All witnesses will be sworn or affirmed.
- C. The appraisal records for the property(ies) under protest will be admitted into the record.
- D. The property owner or the taxing unit (or the agent of either) will state the nature of the complaint and present evidence and argument.
- E. The appraisal office will present its evidence and argument.
- F. The board shall permit cross-examination if requested by either party.
- G. Parties may make brief closing statements.

The board or a panel conducting a hearing may alter the order of the proceedings for any hearing. The board or panel may delegate this authority to the Chairperson.

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.

TESTIMONY AND EXAMINATION OF WITNESSES

Sworn or Affirmed Testimony

All testimony must be given under oath, [TAX CODE § 41.67(a)]. Any member of the review board may swear or affirm witnesses who testify in the proceedings.

Relevance

The board may exclude irrelevant testimony and may instruct a witness to confine his or her testimony to matters relevant to the issues before the board.

Irrelevant testimony includes the amount of taxes that is or is estimated to be assessed on the property(s) under protest. The Appraisal Review Board does not have jurisdiction over the assessment of taxes.

Questions by Board Members

Any board member hearing the case may question any witness testifying before the board and may question any of the parties appearing before the board.

Form of Testimony

Testimony by any witness before the board may be in narrative form or by questioning of witnesses.

Cross-Examination

The board shall permit the cross-examination of witnesses or parties by the representative of the opposing party when requested to do so. The board shall limit such cross-examination to matters that are relevant to the subject of the hearing and shall not permit questions that are abusive or personal. All cross-examination must be completed within the time limits for the hearing.

Scheduling and Postponement

The board must hear a protest if the taxpayer initiating the protest timely files a notice of protest pursuant to Texas Property Tax Code § 41.44.

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 may delegate this determination to a panel or committee of the board members appointed to review late protest. However, the recommendations of the committee or panel will be reviewed and approved by the board. [TAX CODE § 41.44(b)] The board may make the determination of good cause based upon the property owner’s written explanation and may schedule a hearing or meeting upon the matter for determination by the board.

Failure to Appear for Scheduled Hearing

If a property owner fails to appear either in person, by affidavit, or agent at the scheduled hearing time for his protest the chairperson may call for the dismissal of the protest. The dismissal of a protest no determination will be made. A property owner who has not designated an agent is entitled to request a new hearing for good cause within four days of a no-show. The owner must provide a written statement showing good cause. Good cause is defined for §41.45(e) and (e)-1 as “ a reason that includes an error or mistake that was not intentional or the result of conscious indifference and will not cause undue delay or injury to the person authorized to extend the deadline or grant a reschedule”.

Rescheduling or Postponement

- A. A person who is not represented by an agent is entitled to one postponement of the hearing without showing cause. The board may grant more postponements if the owner or owner’s agent show reasonable cause for the postponement. A postponement request may be made in almost any manner: writing, fax, e-mail, telephone, or in person, and may be made to the ARB, an ARB panel, or the ARB chairperson. The chairperson or the chairperson’s representative may grant, but not deny, a postponement without action by the full board. If the ARB, the chairperson or chair’s representative grants the postponement, it does not have to be granted in writing. [TAX CODE § 41.45(e), amended, effective January 1, 2008]
- B. Hearings may not be postponed to a date less than five (5) or more than thirty (30) days after the original date unless the review board, chief appraiser and the property owner agree to a different date. [TAX CODE § 41.45(e), amended, effective January 1, 2008]

Rulings by the Board

- A. Any party to a protest hearing may request a ruling by the board. Such request may include, but are not restricted to the following: Requests to examine witnesses, requests to cross-examine witnesses, requests to admit evidence in written form, requests to limit a witness’ testimony to the relevant matters, requests for official notice of certain facts and requests for continuance of a hearing. Any member of the board hearing the case may request rulings of the board.

- B. A formal motion is not required to request a ruling by the board although a request may be made as a motion. Any request for a ruling must clearly state the matter upon which the board is asked to rule.
- C. The board shall act on any request for ruling by majority vote of those present and hearing the case. The board may delegate the responsibility of ruling on requests to the Chairperson conducting the hearing.

Admission of Documentary Evidence

- A. Any party may submit evidence in documentary form by submitting the original document to the board.
- B. Any party wishing to submit a copy of a document must request that the board rule that the copy is admissible.
- C. The board may admit the copy into evidence when the board determines that the original document is not readily available. [TAX CODE § 41.67(b)]
- D. Effective 2004, the ARB may deal with evidence and issues for rendered property, such as business personal property. If an owner fails to deliver a required rendition or requested information prior to an ARB hearing, the owner has the burden of proving the property's value to the ARB rather than the appraisal district.

Official Notice

- A. Any party to a hearing or any member of the board hearing the case may request that the board take official notice of any facts judicially cognizable by a court. The board will rule on any request for official notice.
- B. When the board has chosen to take official notice of any fact, the board must afford any party the opportunity to contest the facts officially noticed. The party contesting official notice may present argument and evidence to show why the board should not take notice of the matter requested.

Issuance of Subpoenas

- A. The board sitting as a whole, on its own motion or at the request of a party, may subpoena witnesses or books, records, or other documents. To issue a subpoena, the board must conduct a hearing to determine that good cause exists for the issuance of the subpoena. Said hearing may be held without notice to the parties and the board's decision may be based upon the written request of the party requesting the subpoena. The board may subpoena witnesses, books, records, or other documents of the appraisal district or of the property owner who is a part to the protest. Records of the appraisal district that made confidential by law must be subpoenaed by the board in order to be considered in any protest hearing. [TAX CODE, § 22.27 & § 41.61]

- B. A party to a hearing or proceeding of the board must make a request for subpoena in writing. [TAX CODE § 41.61(b)]
- C. The board shall issue a subpoena requested by a party if the requesting party shows good cause for issuing the subpoena and deposits with the board a sum the board determines is necessary to pay the cost of service and compensation of the person to whom the subpoena is directed.
- D. When a party request a subpoena, the board shall determine an amount of deposit reasonably sufficient to insure payment of the cost estimated to accrue for issuance and service of the subpoena and for compensation of the individual to whom it is directed. [TAX CODE § 41.61(b)(2)]
- E. The board shall approve the amount of compensation for each person to whom a subpoena is directed. Each person to whom a subpoena is directed must present a written claim to the board for the amount of compensation to which he is entitled.
- F. Persons to whom a subpoena is directed are entitled to the following compensation:
 - 1. The reasonable cost of producing any documents subpoenaed as approved by the board.
 - 2. Mileage of fifteen (15) cents a mile for going to and returning from the place of the proceedings (The appraisal review board by rule may prescribe greater mileage or fee, but an increase is not effective unless uniformly applicable to all individuals who are entitled to mileage or fee.);
 - 3. A fee of ten (\$10.00) dollars per day for each whole or partial day that the individual is necessarily present at the proceedings.
 - 4. Compensation authorized is paid by the appraisal office if the subpoena is issued on the motion of the appraisal review board or by the party requesting the subpoena.
 - 5. Compensation is not payable unless the amount claimed is approved by the appraisal review board that issued the subpoena.

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:

- A. it contains statements that the evidence or argument presented in the affidavit is true and correct;
- B. it is attested before an officer authorized to administer oaths (such as a notary or judge);

- C. it is submitted to the board hearing the protest before it begins the hearing on the protest. [TAX CODE § 41.45(b)]

Ex Parte contract

The board shall not consider any information on a protest that is not presented to the board or its panel during the protest hearing. [TAX CODE § 41.66] A member of the review board may not communicate with another person regarding any matter relating to a protest other than matters necessary for the scheduling of the hearing or other than in other proceedings before the board at which the property is compared to other property or used in a sample of properties. Effective September 1, 2003, Tax Code §6.411 provides a penalty for violation of the Ex Parte provisions under §41.66(f).

Conflicts of Interest

A member of the review board may not participate in the determination or hearing of any protest in which he or she has any ownership interest in the property that is the subject of the protest. A member of the review board may not participate in the determination or hearing of any protest in which he or she is related by affinity within the second degree or by consanguinity within the third degree, as determined under Chapter 573, Government Code. [TAX CODE § 41.69]

Records of Hearings

The review board shall keep such records of its hearings as are required by law and by rule of the State Comptroller of Public Accounts.

Adopted on this the 18th day of May 2010.

Chairperson, Appraisal Review Board

Secretary, Appraisal Review Board