

FAYETTE COUNTY APPRAISAL REVIEW BOARD RULES OF PROCEDURE

OFFICERS

- 1.00 The officers of the appraisal review board are the Chairperson, the Vice-chairperson, and the Secretary. [TEX. PROP. TAX CODE, Sec 6.42(a)]
- 1.01 The officers will be selected at the beginning of each calendar year. The officers will be selected from the members of the board by a majority vote of those present and voting. The election will be held at a meeting for which “election of officers” appears as an agenda item.
- 1.02 The Chairperson will preside over the meetings of the board and perform such other responsibilities as these rules require. The Chairperson is responsible for scheduling hearings as outlined in rule 3.01.
- 1.03 The Vice-Chairperson will preside at meetings when the Chairperson is absent.
- 1.04 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, for directing that all notices by the board are sent, and for receiving and recording all notices of protest and challenge petitions. The Secretary of the board shall be responsible for compliance with the notice provisions of the Open Meetings Act. The Secretary may delegate any of the above responsibilities as these rules and the law require.

MEETINGS

- 2.00 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.
- 2.01 The board will meet within 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. [TEX. PROP. TAX CODE, Sec. 6.42(B)]. The majority of the board may call a subsequent meeting at any meeting of the board.

HEARINGS

- 3.00 The hearings of the board are open to the public [TEX. PROP. TAX CODE, Sec. 41.66(d)]. The chief appraiser or his authorized designee shall be present at all proceedings to represent the appraisal district.
- 3.01 The Chairperson is responsible for scheduling challenge and protest hearings. The Chairperson may delegate this responsibility to schedule hearings by the board to the recording secretary.
- 3.02 The Chairperson shall preside over all hearings of the board. All cases scheduled for hearing will be assigned a cause number to identify the case during the proceedings of the board.
- 3.02-1 It shall be the policy of the ARB that all cell phones must be turned off or silenced during board meetings and hearings. The chairperson shall announce at the beginning of the meeting that cell phones shall be turned off or silenced. A notice of not allowing cell phones in meetings should be prominently posted at all meetings of the Fayette County Appraisal Review Board.
- 3.02-2 It shall be the policy of the ARB that Pursuant to Section 30.06, Penal Code (Trespass by holder of a license to carry a concealed handgun) a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun. A sign will be duly posted.
- 3.03 At any time, a taxpayer may waive his right to written notice of the hearing of the statutory 15 day waiting period provided by TEX. PROP. TAX CODE, Sec 41.46, or both. Such waiver may be in written form. Any appearance by the taxpayer or his agent before the appraisal review board in which he protests any matter constitutes a waiver of this notice, or both, for all matters. At any time, a taxing unit may waive the right to written notice of the hearing or to the statutory 10 day waiting period provided by TEX. PROP. TAX CODE, Sec. 41.06, or both. Such waiver may be in written form. Any appearance by the taxing unit or its agent before the appraisal review board in which it challenges any matter constitutes a waiver of this notice or waiting period, or both, for all matters.

ORDER OF THE PROCEEDINGS

- 3.04 The order of the proceedings shall be as follows:
1. The Chairperson shall swear in all witnesses not hitherto sworn.
 2. The recording secretary will read into the record the taxpayer's notice of protest.
 3. The taxpayer or the taxing unit (or the agent of either) will state the nature of the complaint and present evidence and argument. If the taxpayer is not present but has submitted a sworn affidavit, the recording secretary shall read into the record the affidavit.
 4. The appraisal office will present its evidence and argument.
 5. Each party to the hearing will be given an opportunity to rebut the testimony of the other side.
 6. After all testimony has been heard, the ARB will give its determination, such as the item is tabled or a final decision.
- 3.04-1 The ARB will make its final determination by vote recorded by the Secretary to the Board at the conclusion of the hearing or the ARB may take the matter under advisement for further deliberation, or to allow receipt of additional evidence. If the protest is taken under advisement each further deliberation by the Board shall occur in an open meeting of the Board. Upon making its final determination, the Order Determining Protest and notice of the issuance of a final order shall be mailed to the owner/agent, certified mail, as soon as practicable. Copies of the Notice and Order shall be furnished to the chief appraiser. The notice of the issuance of a final order determining a protest shall contain the name and address of the chief appraiser and the following statement in uppercase bold lettering: "The appraisal review board has made a final determination on your protest. A copy of the order determining the protest is enclosed with this notice. You have the right to appeal this order to the District Court. If you want to appeal to district court, you should consult an attorney immediately, As an alternative to filing an appeal to the district court, you may appeal this order through binding arbitration if your protest concerned the appraised or market value of real property and (1) the appraised or market value as applicable, of the property as determined by the order is \$1 million or less; and (2) the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property. You must file a petition with district court or a request for binding arbitration within 45 days of the date you receive this notice. If you do appeal and your case is pending, except as provided under Tax Code, Sec 42.08(d), you must pay the lesser of the amount of taxes not in dispute or the amount of taxes due on the property under the order from which the appeal is taken, to each taxing unit before taxes for the year become delinquent."

TESTIMONY AND EXAMINATION OF WITNESSES

- 3.05 Evidence presented to the ARB must be relevant, or it will be disregarded. Relevant evidence will have direct meaning to the valuation issues being presented to the ARB. Valuation reductions or other changes must be based on relevant valuation testimony. Personal attacks or comments about prior disputes with appraisers or property owners will not be tolerated. Witnesses are not to be interrupted by other witnesses, and cross examination by one part of another must be specifically requested from and granted by the presiding officer or the ARB. No abusive questions, irrelevant questions, or inappropriate behavior will be tolerated. After both parties have finished presenting evidence, no further question will be accepted from the parties; however, ARB members may continue to ask questions of the parties.
- 3.06 Any board member hearing the case may examine any witness testifying before the board and may question any of the parties appearing before the board.
- 3.07 Testimony by any witness before the board may be in narrative form. The board may permit presentation of evidence by examination of witnesses if requested to do so by either party.
- 3.08 The board may permit cross-examination of a witness by an opposing party when the party has requested the opportunity to cross-examine and when the board determines cross-examination will assist in its deliberations.

RULINGS BY THE BOARD

- 3.09 Any party may request a ruling by the board. Such requests 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's testimony to 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.
- 3.10 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 ruling must clearly state the matter upon which the board is asked to rule.
- 3.11 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 a hearing.

ADMISSION OF DOCUMENTARY EVIDENCE

- 3.12 Any party may submit evidence in documentary form by submitting the original copy of the document to the board.
- 3.13 Any party wishing to submit a copy of a document must request that the board rule that the copy is admissible. The board may admit the copy into evidence only where the board determines that the original document is not readily available. [See TEX. PROP. TAX CODE, Sec. 41.67(b).]

OFFICIAL NOTICE

- 3.14 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 of which a judge may take judicial notice. These facts include matters of general common knowledge or matters easily verifiable by a reliable source. The board will rule on any request for official notice.
- 3.15 When the board has chosen to take official notice of any fact, the board will 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

- 3.16 The board on its own motion or at the request of a party may subpoena witnesses or books, records, or other documents. [TEX. PROP. TAX CODE, Sec. 41.61].
- 3.17 A party to a hearing or proceeding of the board must make a request for subpoena in writing. [TEX. PROP. TAX CODE, Sec. 41.61 (b)].
- 3.18 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 costs of service and compensation of the person to whom the subpoena is directed.
- 3.19 When a party requests a subpoena, the board shall determine an amount of deposit reasonably sufficient to insure payment of the costs estimated to accrue for issuance and service of the subpoena and for

compensation of the individual to whom it is directed. [TEX. PROP. TAX CODE, Sec. 41.61(b)(2)].

- 3.20 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.
- 3.21 Persons to whom a subpoena is directed are entitled to the following compensation:
1. The reasonable costs of producing any documents subpoenaed as approved by the board.
 2. Mileage will be paid according to the State Mileage Guide per mile for going to and returning from the place of the proceeding.
 3. A fee of \$10 a day for each whole or partial day that the individual is necessarily present at the proceedings.

TAXING UNIT CHALLENGES

- 3.22 The board shall conduct all hearings on challenges using the applicable rules of procedure.
- 3.23 The board must hear a challenge if the taxing unit initiating the challenge files a challenge petition pursuant to TEX. PROP. TAX CODE, Sec. 41.04. The board may hear a challenge when requested by a taxing unit that has not timely filed a petition.
- 3.24 Any taxing unit in which the property is or may be taxable is entitled to appear to offer evidence or argument at the challenge hearing. [See TEX. PROP. TAX CODE, Sec. 41.05(b)].
- 3.25 The determination of a challenge by a taxing unit must be made by written order of the board [See TEX. PROP. TAX CODE, Sec. 41.07]. The board may make its determination at the conclusion of the hearing or at a subsequent meeting.

TAXPAYER PROTESTS

- 3.26 The board shall conduct the hearing on taxpayer protests using the applicable rules of procedure. Each taxpayer is allotted 15 minutes to present evidence and argument. However, appropriate time will be allowed based on the nature of each protest. The board may waive the allotted time at its discretion.
- 3.26-1 In order to make efficient use of the time during your ARB hearing, the ARB requests that the owner/agent provide copies of any evidence he or she plans to introduce at the hearing to the appraisal district five days before the ARB hearing. Providing the owner/agent's evidence to the appraisal district five days before the hearing will help to eliminate time spent by appraisal district staff reviewing evidence during the hearings and help the ARB to provide more efficient and timely hearings. **Please have 7 copies of the evidence you plan on presenting to the ARB. Also, please be aware that all evidence submitted to the ARB will need to be kept in the hearing file (including photographs, maps, etc.)**
- 3.26-2 Pursuant to Sec 41.71 of the Tax Code, the ARB adopts the following rule regarding evening and weekend hearings: If a property owner is unable to attend any regular hearing time during normal business hours during the week, and if the taxpayer requests an evening hearing in writing, the Secretary shall schedule that taxpayer's hearing for an evening hearing. The ARB will choose one or more evenings during each hearing season to schedule evening protests for the taxpayers that qualify for an evening hearing.
- 3.27 The board must hear a protest if the taxpayer initiating the protest files a notice of protest pursuant to TEX. PROP. TAX CODE, Sec. 41.44. The board may hear a protest when requested by a taxpayer that has not timely filed a notice of request.
- 3.28 Prior to scheduling a hearing on a taxpayer protest, the board will determine the sufficiency of the taxpayer's notice of protest. A taxpayer may file a notice of protest after the legal deadline. Upon formal motion, the board may consider whether or not the taxpayer had good cause for his failure to file the notice on time. The board may make its determination of good cause based upon the taxpayer's written explanation or may schedule a hearing or meeting upon the matter. Examples of good cause would include incidents completely outside the control of the property owner, and would probably include the following: accident, severe illness to the property owner or close family member, emergency, Act of God, birth or death of a family member, hospitalized,

military duty, reliance on mistaken appraisal district advice if admitted by district, misunderstanding regarding appraisal district advice if admitted by district, agent ceased representing property owner and did not communicate this fact to the owner, owner tried to comply in good faith but mistake was made (clerical error, wrong postage, mail sent to tax collector instead of chief appraiser, etc) and any other matters of reasonable cause as determined by the ARB. Examples of no good cause would probably include the following: forgot, conflicting social engagement, too busy, too difficult or too time-consuming, was never told that action was necessary, did not understand requirement of Tax Code and no effort to inquire, taxes are too high and ARB should provide remedy, and was on vacation for two months and mail was not forwarded.

- 3.29 The board hearing the protest must accept a property owner's affidavit of evidence and testimony if the affidavit is submitted to the board prior to the hearing. [TEX. PROP. TAX CODE, Sec. 41.45(b)]. **Your motion will be dismissed if you fail to: (1) appear at your hearing in person, (2) send a sworn affidavit containing evidence to support your protest, or (3) send an authorized representative.**
- 3.30 The determination of a taxpayer protest must be made by written order of the board. [See TEX. PROP. TAX CODE, Sec. 41.47. The board may make its determination at the conclusion of a hearing or at a subsequent meeting.
- 3.31 The board shall deliver by certified mail a notice of the issuance of any final order along with a copy of the order to the property owner or the taxing unit as applicable. Copies of the notice and order shall be furnished to the office of the chief appraiser.

RECORD OF PROCEEDINGS

- 4.00 The board will keep minutes of its meetings other than hearings. The minutes will constitute the record of meetings of the board.
- 4.01 The board shall keep a written record of its proceedings for all hearings on taxpayer protests and taxing unit challenges. [TEX. PROP. TAX CODE, Sec. 41.68]. The record for each hearing will contain the following:
1. Names of the board members present and the date of the hearing or proceeding;
 2. The name and residence address of the protesting property owner and that owner's agent, if any, or challenging taxing unit;

3. A description of the property subject to the protest;
4. A summary of the nature of the protest;
5. A summary of the chief appraiser's testimony;
6. Any documentary or physical evidence admitted for consideration by the board or the reference number of the evidence, if applicable;
7. The names and residence address of every witness and the fact that the witness testified under oath;
8. A notation of any formal motions made and the ruling thereon;
9. The final order of the board or a reference to the written order number; and
10. The date of any final order and the date the notice is placed in the mail.

4.02 A permanent file shall be maintained when an order of the appraisal review board is appealed to district court. This file shall contain:

1. The notice of appeal with the filing date noted thereon,
2. Copies of notices required by TEX. PROPERTY TAX CODE, Sec. 42.06(c), and
3. Chief appraiser entries on the appraisal record as provided for in TEX. PROP. TAX CODE, Sec. 42.06(d).

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