

APPRAISAL REVIEW BOARD OF FRANKLIN COUNTY PROTEST HEARING PROCEDURES

THE APPRAISAL REVIEW BOARD (ARB)

The ARB is mandated by state law to begin hearings in May and to conclude them by the middle of July. Members of the ARB are **not** employees or officers of any political subdivision that assesses or collects property taxes, nor are they employees or officers of the appraisal district. The ARB members are appointed by the local Administrative Law Judge. They are a body of citizens appointed to impartially resolve protests filed by property owners within the appraisal district. The ARB hears protests concerning property values and other determinations made by the Franklin County Appraisal District in the context of appraising properties for taxation. **The ARB cannot hear matters concerning tax rates, the amount of taxes due, the ability to pay taxes, or how tax monies are spent.** ARB members have no responsibility for, or control over, appraisal district operations. For that reason, these topics may not be included in your protest.

ARB DUTIES

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 Tax Code: Each ARB member is responsible for obtaining and maintaining familiarity with notices required under the Tax Code.

ARB MEMBERSHIP

Administration of Members: ARB members are not provided any statutory role in the process for the administration of applications or requests for an appointment for membership on the ARB. ARB members are appointed by the administrative law judge.

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.

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 prohibited communication, the ARB member shall immediately remove himself or herself from the conversation. ARB members must sign an affidavit before each formal hearing stating such.

NOTIFICATION

By Texas law, a property owner may protest any of the fourteen issues listed below, in writing, each year, before the ARB. The written protest must be filed on or before May 15th or not later than the 30th day after the date a notice was mailed to the property owner. The fourteen issues to protest are:

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| 1) Incorrect appraised (market) value. | 8) Ag-use, open-space, or other special appraisal was denied, modified, or canceled |
| 2) Value is unequal compared with other properties | 9) Change in use of land appraised as ag-use, open-space, or timberland |
| 3) Property should not be taxed in a certain jurisdiction. | 10) Incorrect appraised/market value of land under special use valuation |
| 4) Property is not located in this appraisal district and should not be included on the appraisal roll | 11) The owner's name is incorrect. |
| 5) Failure to send the required notice. | 12) The property description is incorrect |
| 6) An exemption was denied, modified, or canceled | 13) Incorrect damage assessment rating for property qualified for a temporary disaster exemption. |
| 7) Temporary disaster damage exemption was denied or modified | 14) Other |

FORMAT OF HEARINGS

A hearing before the ARB is not as formal as a court of law hearing; however, certain procedures must be followed. The ARB uses Robert Rules of Order when conducting its hearings. The hearing is open to the public and is generally held before a Three to a five-member board that will hear evidence from both the property owner and the appraisal district and will arrive at a ruling of determination.

LENGTH OF HEARINGS

The ARB must hear a large number of protests in a relatively short time. Consequently, the ARB must be fairly rigid in maintaining its schedule. **The ARB hearing is scheduled for 20 minutes. The ARB allows the property owner 7 to 10 minutes to present relevant evidence and then the appraisal district is allotted the same amount of time.** Hearing time limits must be strictly enforced due to the large number of protests. It is most important to be on time for your hearing.

Failure to appear at your hearing in person or by affidavit containing evidence to support your protest, or by an authorized agent or representative, will result in being determined as a no-show.

ARB HEARINGS

At the beginning of the hearing, it will be stated that the ARB will be hearing the protest. The ARB does not work for the appraisal district and is appointed to perform an independent review of the protest. **The ARB allows the property owner 5 to 7 minutes to present relevant evidence and then the appraisal district is allotted the same amount of time.** At the end of the hearing, the party may complete a survey regarding their experience. The survey is voluntary. The party has the right to appeal the ARB decision. Appeal information will be provided to the party with the ARB determination.

Conducting Hearings Open to the Public – Personal Appearance

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

- a) ARB Chair commences the hearing, provides verbal notice to the property owner/agent of their right to complete and submit the survey ^{PTC 5.104(g)}, reads the introductory statement, and announces the property location, owner, and other identifying information and reviews the protest in question.
- b) ARB Chair announces the exchange of all written and electronic material by all parties.
- c) ARB Chair verifies and attests to the signature on the Sworn Affidavit of Testimony from the property owner and recognizes any witnesses. ARB Chair then introduces the Ex Parte Affidavit and states that the ARB members on the hearing ARB have not communicated with anyone about the protest and asks the ARB members to attest their ARB signatures on the Ex Parte Affidavit. ARB Chair also asks the appraiser to attest their signatures on all affidavits.
- d) ARB Chair welcomes the parties and explains the content of the hearing procedures, time limits for the hearing that apply to each party, and other relevant matters.
- e) ARB Chair asks if the 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) ARB Chair informs all parties that all testimony must be given under oath.
- g) ARB Chair states that the property owner or agent shall present his/her case or property owner first **or** the property owner may elect otherwise.
- h) The property owner/agent shall present evidence (documents and/or testimony). At the end of the presentation, ARB Chair states that an opinion of value from the property owner must be stated.
- i) ARB Chair offers the appraisal district representative the opportunity to cross-examine the property owner, the agent, or the representative and/or witnesses.
- j) ARB Chair calls on the appraisal district representative to present evidence (documents and/or testimony). At the end of the presentation, ARB Chair asks for an opinion of the property's value (if applicable) that must be stated.
- k) ARB Chair offers the property owner/agent to cross-examine the appraisal district representative and/or any witnesses. Members of the ARB shall not be examined or cross-examined by parties.
- l) ARB Chair asks for rebuttal evidence from the property owner or agent.
- m) ARB Chair asks for rebuttal evidence from the appraisal district representative.
- n) ARB Chair offers the property owner or agent to make its closing arguments, if any, and state the ARB determination being sought.
- o) ARB Chair offers the appraisal district representative to make its closing arguments, if any, and state the ARB determination being sought.
- p) ARB Chair shall state that the hearing is closed.
- q) The ARB or ARB shall deliberate orally. No notes, text messages, or other forms of communication are permitted.
- r) ARB Chair shall ask for motions for each separate matter that were 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 district staff person or ARB member.
- s) Separate motions and determinations shall be made for each protested issue. The Land, Improvements and Total Market Value announced for clarification and records
- t) ARB Chair should thank the parties for their participation
- u) ARB Chair shall announce the determination(s) of the ARB and state that an order determining protest will be sent by certified mail to the property owner.
- v) The taxpayer is given a copy of the signed non-communication affidavit. ^{PTC 41.66(f)(p)}

The property owner or agent and the appraisal district representative are prohibited from debating with

each other. **All communications must be directed to the ARB members, except for examination or cross-examination during the testimony of witnesses or parties testifying at the hearing.** A property owner is entitled to elect to present the owner's case either before or after the appraisal district presentation.

If computer screens are used by ARB members during 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. This can be achieved using a projection system to display the computer screens for all parties to view (there is no requirement that the property owner or agent be provided a separate screen). A property owner or agent must bring their laptop equipment for a presentation, **Franklin County Appraisal District will provide an HDMI connection for the property owner's use, as well as Public Wi-Fi is available for the presentation of evidence. Pictures or other evidence should be prepared before the hearing time due to the time-sensitivity of each hearing. The appraisal district equipment other than that made available by the appraisal district cannot be used.**

Records for each ARB proceeding must be kept according to Tax Code Section 41.68 and Comptroller Rule 9.803. The secretary of the ARB is responsible for ensuring proper record-keeping, maintenance, and retention. These proceedings may be recorded.

Single Member Hearings:

The taxpayer may request a formal protest by a Single ARB Member Hearing in writing. The taxpayer/or representative must remain in the hearing throughout the duration of all process steps. At the beginning of the hearing, the Single Member ARB Member will follow the same procedures as all other hearings (in opening the hearing and listening to the evidence of both sides). At the close of the hearing, the Single ARB Member may ask questions of either side, then announce their recommended value for the property in question. Once the recommendation has been announced, then all members are invited to the room and take their places. The Single ARB Member will identify the taxpayer and the property under protest. The Single ARB Member will state their recommendation for the value of a said property and review the reasons for this conclusion. The ARB will have the opportunity to ask questions of the Single ARB Member until they are satisfied with the nuances of the hearing. The ARB will consider the recommendation of the Single ARB Member; amend, if necessary, the value of the protested property; vote on a final value; and announce the results to the taxpayer. At that announcement, the hearing is complete. Since most hearings are open meetings (unless changed by agreement of both the taxpayer and CAD to a closed meeting), the Chairman of the ARB may elect to attend the opening, evidence presenting, and recommendation of the Single ARB Member portions of the meeting as an observer only.

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

ARB Hearing by Affidavit

A property owner has the right to appear for a hearing by filing an affidavit with the ARB instead of coming in person or sending an agent. An affidavit must: identify the property owner by name and address; state the account number and description of the property; state the date and time of the hearing; and state whether the property owner plans to attend the hearing in person. **The affidavit must be notarized.**

An ORIGINAL affidavit must be received by the ARB before the scheduled time for the hearing. The affidavit CANNOT be faxed or emailed.

For purposes of scheduling the hearing, the property owner must state in the affidavit that the property owner does not intend to appear at the hearing or that the owner intends to appear at the hearing in person, and that the affidavit may be used only if the owner does not appear in person. If the property owner does not state in the affidavit whether the owner intends to appear at the hearing and has not elected to appear by telephone conference call, the ARB will consider the submission of the affidavit as an indication that the owner does not intend to appear at the hearing.

Conducting Telephone Hearings:

A property owner initiating a protest is entitled to offer evidence or argument by affidavit without personally appearing. A property owner wishing to appear for a hearing by telephone conference call must notify the Appraisal Review Board (ARB) in writing not later than **the tenth day (10th)** before the date of the hearing, and **provide any evidence in the form of an affidavit filed before the hearing begins.** A property owner is encouraged to submit an affidavit at least five (5) days before a scheduled hearing to ensure adequate time for processing. An affidavit or accompanying document should state the property owner's name, address, property account number, and telephone number. The property owner must attest to the affidavit before an officer authorized to administer oaths, therefore the **affidavit must be notarized.** The property owner does not waive the right to appear in person by choosing a telephone conference call.

If a call is dropped or if the property owner's speech is garbled or unintelligible, the ARB may terminate the call and try to call the property owner back. If the connection cannot be reestablished within five minutes, the ARB will proceed with the hearing and the owner will have no further opportunity to participate in the hearing by telephone,

During an attempt to establish a reconnection, the hearing will continue but no evidence, argument or discussion will take place. If no reconnection is established, the ARB will conduct the hearing(s) via appearance by affidavit or if no affidavit has been submitted, the ARB will make a recommendation with the information, evidence, and testimony available.

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 markings. The owner should be specific and identify the evidence being submitted, ie. photographs, closing statement, sales comparisons, etc. The Appraisal District should provide documents in the same manner. During the hearing, the owner, the ARB members, and the representatives of the Appraisal District should refer to the items by their exhibit numbers. 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 your evidence to the Appraisal Review Board. The form is available on the Comptroller's website, www.comptroller.texas.gov/taxes/property-taxes/forms/. **The ARB will accept the following electronic file types: Pictures: .jpg, .jpeg, .bmp, .tif; PDF: .pdf; Excel: .xls, .xlsx; Documents (Word, Text): .doc, .docx.** The chief appraiser may inspect the affidavit and is

entitled to a copy on request.

USB or Flash/Thumb drives or CDs can be accepted with the Property Owners' evidence for presentation.

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. ARB members will not ask a property owner to present evidence by telephone. Once a telephone hearing has been conducted by the ARB, no additional hearing will be conducted. If the ARB determines that the property owner has wholly or partially forfeited the right to participate in a hearing by telephone, the ARB will proceed to hear or dismiss the protest without the participation or further participation of the property owner. The ARB's decision will not be changed even if the property owner successfully contacts the ARB by telephone at a later time.

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. 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: A property owner may appoint an agent using an official form that is available from the district. 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 the 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.

SCHEDULING

Scheduling Hearings: 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 not Represented by Agents: Under 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 is not started by the 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. 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 41.660, including the required statement in boldfaced type: "request for same-day protest hearings." No more than one such request may be filed in the same tax year by a property owner or a designated agent.

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, electronic mail, telephone, or person. Unless the date and time of the hearing as postponed are agreed to by the ARB chairman or the chairman's representative, the property owner, and the chief appraiser,

the hearing may not be postponed to a date less than 5 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). In addition, and without limitation, 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, electronic mail, telephone, or person.

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(e): 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. A request for postponement of a hearing must contain the mailing address and e-mail address of the person requesting the postponement. An appraisal review board shall respond in writing or by e-mail to a request for postponement of a hearing not later than the seventh day after the date of receipt of the request.

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. Circumstances that the ARB has recognized as good causes for postponements include the following: 1) being on active military duty; 2) being in the hospital or under doctor's care during the protest hearing period; 3) a death in the immediate family; 4) being on judicial or legislative service or in a pending court hearing; 5) failure to receive administrative due process; or 6) other matters of good cause as determined by the ARB. The ARB must be notified of a request for postponement before the scheduled hearing date. The property owner should submit written documentation to verify the request. **For good cause hearings, documentation must be received before the ARB approves the appraisal records.**

EVIDENCE CONSIDERATION

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.

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 made available to the protesting party at least 14 days before the scheduled or postponed hearing, the requested information not made available may not be used as evidence in the hearing. The ARB shall determine to exclude evidence under Tax Code Section 41.67(d) only if the 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.

Before or immediately after the ARB hearing begins, the property owner or the owner's agent and appraisal district shall provide the other with a duplicate set of all evidentiary materials to be presented at the hearing for the ARB's consideration. **Each party must provide copies of its evidence.** One set of materials **must be retained by the ARB as part of its record of the hearing, which is a public record. Materials shall be produced in either paper or electronic form and must be ready to be scanned electronically.**

The ARB of Franklin County requests you to bring 4 printed copies of all evidence you want the ARB to consider as part of your protest, especially photographs, even if you have previously submitted them as evidence. Evidentiary materials produced in electronic form must use generally accepted technology and must be suitable for retention and be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance by the recipient's computer system. The ARB will accept the following electronic file format types and devices **only**: .jpg, .jpeg, .bmp, .tif;.pdf; Excel: .xls, .xlsx; Documents (Word): .doc, .docx, PowerPoint presentations are acceptable.

ARB DECISION

When the ARB has heard all testimony and examined all evidence presented on a protest, it makes its recommendation to maintain or lower the value accordingly. The final decision of the ARB, known as the Notice of Final Order/Order Determining Protest, is issued in writing and provided by certified mail. A copy of the Final Order/Order Determining Protest from the formal hearings are signed by the ARB Chairman and specifies the ARB's disposition of the protest. Inquiries may be directed to the ARB Chairman. A property owner may have the right to appeal the ARB decision to Binding Arbitration, to the State Office of Administrative Hearings, or the District Court.

OTHER ISSUES (PTC Sec 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:

- the manner and form, including security requirements, in which a person must provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device;
- how the evidence must be retained as part of the ARB's hearing record; and
- the audiovisual equipment provided by an appraisal district, if any, for use by a property owner or the property owner's agent.

This section of the ARB's hearing procedures addresses each item required in Comptroller Rules 9.805.