

## COLORADO COUNTY APPRAISAL REVIEW BOARD HEARING PROCEDURES

### I. DESCRIPTION OF PROCEDURES

We recommend that the owner/agent have an informal meeting with the CAD staff before filing a protest. If the issue cannot be resolved between the owner/agent and the appraisal district staff, the Appraisal Review Board has adopted the following procedures and policies. Pursuant to Sec. 41.66, *Texas Property Tax Code*, the Colorado County Appraisal Review Board (ARB) establishes the following procedures for hearings. It is the ARB's desire to keep all procedures on a "common sense" approach and comply fully with the requirements listed in the Tax Code. If a question of procedure arises to which the ARB needs further direction, the first step will be to review provisions of the *Texas Property Tax Code*, and if necessary, seek the advice of legal counsel.

### II. NOTICE OF CERTAIN MATTERS PRIOR TO HEARING

At least 14 days before a hearing on a protest, the appraisal district shall deliver a copy of "Taxpayer's Rights, Remedies and Responsibilities" and these hearing procedures to the owner/agent initiating the protest, along with a appraisal card of the subject property. The appraisal district shall also inform the owner/agent that he or she may inspect and may obtain a copy of the data, schedules, formulas and all other information, the appraisal district plans to introduce at the hearing to establish any matter at issue. Oil & Gas properties will receive website information for the well production information. The charge for the copies may not exceed the charge for copies under Chapter 552 of the Government Code, except that the total charges may not exceed \$15 for a residence and \$25 for any other type of property. Failure of the appraisal district to provide the owner/agent with the required information can result in a one-time postponement of the hearing if the owner/agent establishes that the appraisal district did not deliver the required information. Information requested in a timely manner by the owner/agent that was not made available in a timely fashion cannot be used as evidence in the hearing.

According to the Public Information Act, real property sales data given to the appraisal district that was requested to be excluded from public disclosure can be provided to the protesting property owner/agent. ***Once the property owner or agent has this information it remains confidential and cannot be disclosed or used except at the protest hearing.***

***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.

Sworn affidavits that are going to be faxed to the ARB must be received the day before the hearing. **Please have 5 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.).**

Hearing procedures, to the greatest extent practicable, shall be informal. **Roberts Rules of Order** will be used in conducting the hearing. ARB business will be conducted in a polite and civil manner. Loud and unpleasant conduct, or abusive language will result in the termination of the hearing and the ARB will immediately make a ruling on the protest. 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. A property owner must appear at his or her hearing either in person, by agent as provided by Sec 1.111 of the Tax Code or by a signed and notarized affidavit. A taxing unit entitled to protest may appear by a designated agent or by affidavit. Hearings are open to the public, except when legal notice is given of an executive session to consider pending/contemplated litigation or any other matter as provided by law. A copy of these hearing procedures shall be posted in a prominent place in the room in which the hearing is held.

### **III. SCHEDULING/NOTICE OF HEARING**

An employee of the appraisal district will be designated as "Secretary to the Appraisal Review Board". This person, in accordance with Chapter 41 and other applicable sections of the Tax Code, shall schedule hearings and notify the owner/agent of hearing. At least 15 days before the hearing, the ARB shall deliver written notice to the owner/agent initiating a protest of the date, time and place scheduled for the hearing unless the owner/agent waives the notice or agrees to a shorter period in writing. If a property owner or a taxing unit files a protest or challenge petition after the deadline provided by the statute, then good cause for late filing under Sec 41.44(b) shall be considered only by formal motion.

### **IV. HEARING PROCEDURES**

A. The secretary shall schedule several protests per day. The protests shall be heard on a designated day and time. If the protesting party is over an hour late, the board may not allow you a hearing. If the owner is more than ten (10) minutes late, the protest will be heard at the earliest available time. If the owner/agent does not appear on the day of the protest hearing, the protest will not be heard and the owner/agent will not be entitled to a determination (no action will be taken).

B. Twenty minutes shall be allocated for each hearing. The owner/agent will be sworn in or affirmed by a Notary Public before presenting evidence. ARB members will sign an oath swearing that they have not discussed this item after the filing of the protest, unless the property was presented as evidence in a prior ARB hearing (see **RECORD OF HEARING** Section E). Due to the time frame involved, it is important to stick to the facts concerning the property valuation. The ARB has no authority over the

tax rates set by the taxing entities, the Appraisal District operations, the economy, or personal opinions.

C. At the beginning of each hearing, the presiding officer of the ARB will inform the owner/agent that they are not employees of the Colorado County Central Appraisal District. The ARB is an independent body to hear and settle ad valorem tax protests.

D. The owner/agent shall present witnesses, documentary evidence and related arguments. The appraisal district representative and the ARB may cross-examine the parties or witnesses for a reasonable time as determined by the presiding officer.

E. The chief appraiser or his authorized designee shall be present at all proceedings to represent the appraisal district. The appraisal district will then be entitled to present witnesses, documentary evidence and related arguments. The owner/agent and the ARB may cross-examine these witnesses or the parties for a reasonable time as determined by the presiding officer.

F. All cross-examination shall be informal with all questions concerning procedure determined by the presiding officer. Questions shall be on matters relevant to the protest.

G. Any remaining time may be used for rebuttal, questions by the ARB or closing arguments.

H. Either the property owner or the chief appraiser may request that a scheduled hearing be postponed automatically one time. The ARB may reschedule thereafter only for good cause reasons. 'Good cause' or 'reasonable cause' will be determined by the ARB. The hearing may not be postponed to a date less than five or more than fifteen days after the date scheduled for the original hearing unless the date and time of the hearing as postponed are agreed to by all parties. Agents are not entitled to the automatic rescheduling unless there is a scheduling conflict at another appraisal district. The ARB must postpone a hearing to a later date if the agent is scheduled to appear at a hearing in another appraisal district on the same date and the notice of hearing delivered by the other appraisal district bears an earlier postmark, the agent must include a copy of the notice of hearing from the other appraisal district with the request for postponement. Normally, only one postponement will be allowed.

I. 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 by certified mail to the owner/agent, usually within five (5) days or 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: "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, you should consult an attorney immediately. You must file a petition with the District Court within 45 days of the date you received this notice. 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 42.8(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."

J. A permanent file shall be maintained when an order of the ARB is appealed to District Court. This file shall contain the notice of appeal with the filing date noted thereon, copies of notices required by Sec 42.06 of the Tax code, and chief appraiser entries on the appraisal record, as provided for in Sec 42.06(d) of the Tax Code.

## **V. RECORD OF HEARING**

The Secretary for the ARB shall keep the following records:

- A. Names of the ARB members present and the date of the hearing or proceeding;
- B. The name and resident address of the protesting property owner and that owner's agent, if any, or challenging taxing unit;
- C. A description of the property subject to the protest or challenge;
- D. A summary of the nature of the protest or challenge;
- E. An affidavit signed by each ARB member stating that the member has not communicated with another person concerning;
  - 1. The evidence, argument, facts, merits or any other matters related to an owner's protest, except during the hearing on the protest; or
  - 2. A property that is the subject of the protest, except during a hearing on another protest or other proceeding before the board at which the property is compared to other property or used in a sample of properties.

- F. A summary of the testimony relevant to the issues before the ARB;
- G. Any documentary or physical evidence admitted for consideration by the ARB or the reference number of the evidence, if applicable;
- H. The names and resident address of every witness and the fact that the witness testified under oath;
- I. A notation of any formal motions made and the ruling thereon;
- J. The final order of the board or a reference to the written order number; and
- K. The date of any final order and the date the notice is placed in the mail.

## **VI. TEMPORARY REPLACEMENTS**

If a member of the ARB cannot sign an affidavit of non-communication concerning a protest pursuant to Sec 41.66(f) and (g), Texas Tax Code, the member cannot participate at all in the protest. This member will not be replaced, and the protest will be heard and determined with one less member. If this reduces the number of ARB members available for the hearing to less than the required quorum, the hearing must be postponed to allow temporary members to be appointed by the appraisal district Board of Directors for the limited purpose of hearing the particular protest. The property owner and the appraisal district may waive the hearing postponement and use of temporary members in writing (notarized). Therefore, the protest hearing would be conducted as scheduled without affidavits from the ARB.

## **VII. RULES PASSED**

A. The chief appraiser may change the appraisal roll at any time to correct a name or address, a description of property or a clerical error that does not increase the amount of tax liability. The chief appraiser may correct the following types of inaccuracies in the appraisal roll that do not increase the amount of tax liability:

1. Late-filed homestead exemptions that are permitted by law.
2. Correct the ownership and size of accounts on the appraisal roll to reflect the actual ownership and size of property holding resulting from changes in ownership, including changes in the per unit value of property and adjustments to values on the changed accounts on the appraisal rolls. (Splits and combinations.)

3. Removal of property from the appraisal rolls if the property was not subject to taxation in the appraisal district.

B. Pursuant to Sec 41.71 of the Tax Code, the ARB adopts the following rule regarding evening and weekend hearings:

1. 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 evening during each hearing season to schedule evening protests for the taxpayers that qualify for an evening hearing.