



# Young Central Appraisal District

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## Appraisal Review Board (ARB) Hearing Procedures (Adopted - May 2, 2023)

### **I. ARB Membership [Tax Code Section 5.103(b)(12), (15), and (16)]**

#### **1. Administration of ARB Appointments**

ARB members have no 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.

#### **2. 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 cannot hear the protest, deliberate on the protest or vote on the matter that is the subject of the protest.

#### **3. 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 must immediately remove himself or herself from the conversation.

### **Sec. 41.44. Notice of Protest.**

(a) Except as provided by Subsections (b), (c), (c-1), and (c-2), to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

- (1) not later than May 15 or the 30th day after the date that notice to the property owner was delivered to the property owner as provided by Section 25.19, whichever is later;
- (2) in the case of a protest of a change in the appraisal records ordered as provided by Subchapter A of this chapter or by Chapter 25, not later than the 30th day after the date notice of the change is delivered to the property owner;
- (3) in the case of a determination that a change in the use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred, not later than the 30th day after the date the notice of the determination is delivered to the property owner;
- (4) in the case of a determination of eligibility for a refund under Section 23.1243, not later than the 30th day after the date the notice of the determination is delivered to the property owner; or
- (5) in the case of a protest of the modification or denial of an application for an exemption under Section 11.35, or the determination of an appropriate damage assessment rating for an item of qualified property under that section, not later than the 30th day after the date the property owner receives the notice required under Section 11.45(e).

**(b) A property owner who files his notice of protest after the deadline prescribed by Subsection (a) of this section but before the appraisal review board approves the appraisal records is entitled to a hearing and determination of the protest if he shows good cause as determined by the board for failure to file the notice on time.**

**(c) A property owner who files notice of a protest authorized by Section 41.411 is entitled to a hearing and determination of the protest if the property owner files the notice prior to the date the taxes on the property to which the notice applies become delinquent. An owner of land who files a notice of protest under Subsection (a)(3) is entitled to a hearing and determination of the protest without regard to whether the appraisal records are approved.**

(c-1) A property owner who files a notice of protest after the deadline prescribed by Subsection (a) but before the taxes on the property to which the notice applies become delinquent is entitled to a hearing and determination of the protest if the property owner was continuously employed in the Gulf of Mexico, including employment on an offshore drilling or production facility or on a vessel, for a period of not less than 20 days during which the deadline prescribed by Subsection (a) passed, and the property owner provides the appraisal review board with evidence of that fact through submission of a letter from the property owner's employer or supervisor or, if the property owner is self-employed, a sworn affidavit.

(c-2) A property owner who files a notice of protest after the deadline prescribed by Subsection (a) but before the taxes on the property to which the notice applies become delinquent is entitled to a hearing and determination of the protest if the property owner was serving on full-time active duty in the United States armed forces outside the United States on the day on which the deadline prescribed by Subsection (a) passed and the property owner provides the appraisal review board with evidence of that fact through submission of a valid military identification card from the United States Department of Defense and a deployment order.

(c-3) Notwithstanding Subsection (c), a property owner who files a protest under Section 41.411 on or after the date the taxes on the property to which the notice applies become delinquent, but not later than the 125th day after the property owner, in the protest filed, claims to have first received written notice of the taxes in question, is entitled to a hearing solely on the issue of whether one or more taxing units timely delivered a tax bill. If at the hearing the appraisal review board determines that all of the taxing units failed to timely deliver a tax bill, the board shall determine the date on which at least one taxing unit first delivered written notice of the taxes in question, and for the purposes of this section the delinquency date is postponed to the 125th day after that date.

**(d) [2 Versions: As added by Acts 2021, 87th Leg., ch. 533 (SB 63)]** A notice of protest is sufficient if it identifies the protesting property owner, including a person claiming an ownership interest in the property even if that person is not listed on the appraisal records as an owner of the property, identifies the property that is the subject of the protest, and indicates apparent dissatisfaction with some determination of the appraisal office. The notice need not be on an official form, but the comptroller shall prescribe a form that provides for more detail about the nature of the protest. The form must permit a property owner to include each property in the appraisal district that is the subject of a protest. If the form includes boxes a property owner is required to select from to indicate the reason the owner is filing a protest, the form must permit a property owner who believes that the owner's property was appraised at a value that exceeds its appraised value, was appraised unequally, or both, to select a single box to indicate that the owner is filing a protest for either or both reasons. The form must permit a property owner to request that the protest be heard by a special panel established under Section 6.425 if the protest will be determined by an appraisal review board to which that section applies and the property is included in a classification described by Section 6.425(b). The comptroller, each appraisal office, and each appraisal review board shall make the forms readily available and deliver one to a property owner on request.

**(d) [Effective January 1, 2022] [2 Versions: As added by Acts 2021, 87th Leg., ch. 644 (HB 988)]** A notice of protest is sufficient if it identifies the protesting property owner, including a person claiming an ownership interest in the property even if that person is not listed on the appraisal records as an owner of the property, identifies the property that is the subject of the protest, and indicates apparent dissatisfaction with some determination of the appraisal office. The notice need not be on an official form, but the comptroller shall prescribe a form that provides for more detail about the nature of the protest. The form must permit a property owner to include each property in the appraisal district that is the subject of a protest. The form must permit a property owner to request that the protest be heard by a special panel established under Section 6.425 if the protest will be determined by an appraisal review board to which that section applies and the property is included in a classification described by Section 6.425(b). The form must permit a property owner to request that the protest be heard by a single-member panel authorized by Section 41.45(b-4). The comptroller, each appraisal office, and each appraisal review board shall make the forms readily available and deliver one to a property owner on request.

(e) Notwithstanding any other provision of this section, a notice of protest may not be found to be untimely or insufficient based on a finding of incorrect ownership if the notice:

(1) identifies as the property owner a person who is, for the tax year at issue:

- (A) an owner of the property at any time during the tax year;
- (B) the person shown on the appraisal records as the owner of the property, if that person filed the protest;
- (C) a lessee authorized to file a protest; or
- (D) an affiliate of or entity related to a person described by this subdivision; or

(2) uses a misnomer of a person described by Subdivision (1).

## **II. ARB Duties [Tax Code Section 5.103(b) (1), (5), and (6)]**

### **1. 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. Tax Code Section 41.01 addresses the duties of the ARB and the actions they are authorized to make.

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

Each ARB member must obtain and maintain 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.

## **3. 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. Filing deadlines can be found via the Texas Property Tax Code and/or the Appraisal Review Board Manual, published by the Comptroller.

A property owner who files a notice of protest after the deadline is entitled to a hearing and determination of the protest if good cause is shown, as determined by the board per §41.44(b). The ARB shall consider a late protest for good cause if the property owner notifies the ARB Chair in writing of the good cause, in addition to the late filed protest form. The hearing concerning the determination of good cause will be scheduled before an ARB panel with a presentation of the protest information, and accompanying letter by the appraisal district.

If the ARB hearing panel determines that good cause exists on the late protest, the late filed protest will be officially accepted, and a hearing for the protest will be scheduled accordingly. The property owner will be notified of the date, time and location of this hearing at least fifteen (15) days prior to the scheduled hearing. If the property owner does not submit the written documentation within the prescribed time frame, the ARB will deny the request for good cause on the late protest filed by the property owner.

If the ARB hearing panel determines that good cause does not exist, then the ARB Chair will notify the property owner that the good cause request did not meet the prescribed criteria, and the late protest will not be scheduled for a hearing before the ARB. Good cause is described as something outside of the property owner’s control. Not knowing, or forgetting about deadlines does not constitute good cause. Examples for good cause may be based on the following examples, but not restricted or limited to the following:

- A. Death in the immediate family;
- B. Being in the hospital or having a member of the immediate family in the hospital, being under a doctor's care, or an extreme medical or family emergency, or illness requiring Doctor's care;
- C. Being on full-time, active duty in the United States armed forces outside of Young County on the day on which the deadline passed. The property owner provides the appraisal review board with evidence of that fact through submission of a valid military identification card from the United States Department of Defense and a deployment order;
- D. Being involved in a legislative or judicial function (ie: jury duty, subpoenaed for court appearance, elected official serving a function in his/her capacity) or in a pending court hearing;
- E. Denial of administrative due process (ie: hearing notification or appraisal notice sent to wrong address due to a district error, or not sent at all (if required), protest not scheduled properly, etc.
- F. Other matters of good cause, as determined by the ARB.

## **III. Sec. 41.412. Person Acquiring Property After January 1.**

(a) A person who acquires property after January 1 and before the deadline for filing notice of the protest may pursue a protest under this subchapter in the same manner as a property owner who owned the property on January 1.

(b) If during the pendency of a protest under this subchapter the ownership of the property subject to the protest changes, the new owner of the property on application to the appraisal review board may proceed with the protest in the same manner as the property owner who initiated the protest.

## **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)]**

### **1. 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.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the appraised value of the property if the property owner does not file a protest relating to the property. Under Tax Code Section

41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code Section 1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

## **2. Scheduling Hearings for Property Owners, Agents and Qualifying Lessees**

Pursuant to Tax Code Section 41.66(i), the ARB must schedule hearing requests filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, the property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

## **3. Scheduling Hearings for Multiple Accounts**

If requested by a property owner or designated agent, the ARB must schedule consecutive hearings on the same day on protests concerning up to 20 designated properties. 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." A property owner or designated agent can file more than one such request in the same tax year. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule protest hearings 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 4 ARB's customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Tax Code Section 41.66(j)

## **4. ARB Panel Assignments**

Pursuant to Tax Code Section 41.66(k) and (k-1), if an ARB sits in panels as authorized by Tax Code Section 41.45(d) and (d-1), it must randomly assign protests. Except for panels established under Tax Code Section 6.425, the ARB, with or without clerical assistance from the appraisal district staff, may consider the property type or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Tax Code Section 41.45(b-4) allows a property owner to request that a single-member panel conduct the protest hearing. The property owner must submit the request not later than the 10th day before the hearing date in writing on the notice of protest or by a written submission. If the ARB does not accept the recommendations made by the single-panel member, the ARB can determine the protest or refer it for rehearing to a single-member panel composed of someone who did not hear the original protest.

Tax Code Section 41.66(k-1) allows a property owner or agent to request a special ARB panel to hear a complex property protest if in a county with a population of one million or more. The owner or agent must consent to a special panel reassignment and may request a postponement if they disagree with the reassignment.

Once a protest is scheduled for a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB must 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."

## **5. 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. The property owner must request the postponement before the hearing date in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the property owner or designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). The property owner or designated agent must request the postponement in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone a hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

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

A property owner or owner's agent who fails to appear at the hearing is entitled to a new hearing if the property owner or 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. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

#### **7. 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.

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

The ARB must postpone a hearing (one time only) if the property owner or the designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB must 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.

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

The ARB must schedule protest hearings filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, a property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

#### **10. Postponements Under Tax Code Section 41.66(k)(k-1)**

Once the ARB schedules a hearing by a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, a property owner or designated agent may agree to reassignment or request a hearing postponement. The ARB must postpone the hearing on that request. A change of panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute panel reassignment.

A property owner or agent must consent to a special panel ARB hearing reassignment or request a postponement if they disagree with the reassignment. A change of special panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute a special panel hearing reassignment.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

#### **11. Evening and Weekend Hearings**

The Appraisal Review Board, by rule, shall provide for hearing times for timely filed protests in the evenings, or on a Saturday. The Appraisal Review Board shall hold formal protest hearings on evenings, and/or Saturdays, during the ARB appeals process based on the number of requests for such hearings as necessary. Extended hour sessions will be scheduled based on need, and/or availability. When possible, hearings will be scheduled during normal appraisal district hours, convenient to all parties involved in the appeals process.

### **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)]**

#### **1. 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 hear your protest today. We are not employees of the appraisal district. We are appointed to perform an independent review of your protest. You can 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. Meetings before the Appraisal Review Board shall, to the greatest extent practicable, be an informal process using Robert's Rules of Order as a guide.

**ARBs should conduct most protest hearings 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), the parties must provide all written and electronic material that has not been 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 must deliberate orally. No notes, text messages, or other forms of written communication are permitted.
- s. The ARB or panel chairman must 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 protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations).

Single-member panels must make a recommendation on each motion submitted under protest however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest. Special panels appointed in certain counties must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination or refer the matter for rehearing to another special panel composed of members who did not hear the original protest. If ARB does not have at least three other special panel members available, the ARB may make the determination.

- t. Thank the parties for their participation and announce the ARB determination(s) and that an order determining protest will be sent by certified mail or email in counties with populations greater than 120,000 where property owners can submit a written request for email delivery of the notice of determination. Provide the property owner or agent documents indicating that the members of the board hearing the protest signed the required affidavit.

If the ARB members use computer screens during ARB hearings for reviewing evidence and other information, the ARB must make computer screens 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 ARB provide the property owner or agent with 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 VI, Other Issues, for more information regarding audiovisual equipment requirements.

The property owner or agent and the appraisal district representative are prohibited from debating each other. The parties must direct all

communications 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.

Tax Code Section 41.68 and Comptroller Rule 9.803 require that the ARB keep records for each ARB proceeding. 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 ARB secretary is responsible for ensuring proper record keeping, maintenance and retention.

## **2. Conducting Hearings by Telephone or Video Conference Call**

Tax Code Section 41.45(n) allows a property owner initiating a protest can offer evidence or argument by affidavit without physically appearing. Tax Code Section 41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10th day before the date of the hearing if the property intends to appear remotely.

To offer evidence or argument at a hearing conducted remotely, 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 remotely to another person the owner invites to participate in the hearing.

Tax Code Section 41.45(b-2) requires the ARB to provide the telephone number for conducting the teleconference call or the URL address for conducting the videoconference (if offered in that county). The ARB must hold the hearing in a location with equipment that allows all ARB members and parties to the protest in attendance to hear and, if applicable, see the property owner's argument.

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

The chief appraiser and the property owner must file a joint motion to request a closed hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code Section 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 ARB must follow the same order of proceedings as for hearings open to the public.

The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with 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. The ARB must mark as "confidential" and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law.

After deliberation, the ARB must reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. The ARB and parties cannot mention of the proprietary or confidential information during the open meeting.

## **4. 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 cannot 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.

## **5. Party's Right to Appear by an Agent**

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property can 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.

### **Grounds for Dismissal - The ARB shall dismiss protests or motions when:**

1. The protest or motion is not timely filed;
2. The protest is not properly authorized by the property owner or;
3. The agent or fiduciary is required to have a current authorization form on file with the district, but does not have a current form on file.
4. The agent or fiduciary is required to file a written statement under §1.111(j) of the Code, but has not filed such a statement.
5. A motion filed under Section 25.25(d) was the subject of a protest under Chapter 41 and was adjudicated and an Order was issued by the ARB, or a written agreement was signed between the property owner and the District.

6. A motion filed under 25.25(c) or 25.25(d) was filed and the property owner failed to comply with the payment requirements under Section 25.26 for the tax year in question.
7. A protest was filed under Section 41.411 and the property owner failed to comply with the payment requirements of Section 41.4115 for the tax year in question.

## **Evidence Considerations [Tax Code Section 5.103(8), (11), and (13)]**

### **1. A Party's Right to Offer Evidence and Argument**

The ARB cannot 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.

### **2. Prohibition of Consideration of Information Not Provided at the ARB Hearing [Tax Code Section 41.66(e)]**

In a protest hearing, the ARB cannot 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.

### **3. Exclusion of Evidence Required by Tax Code Section 41.67(d), (e)**

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 must 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.

Tax Code Section 41.67(e) prohibits the chief appraiser from offering evidence at a hearing in support of a modification or denial of an exemption or application unless:

- (1) the chief appraiser provided the reasoning for the modification or denial to the property owner in writing no later than the 14th day before the hearing date; and
- (2) evidence establishes that the additional reason was not known by the chief appraiser at the time the chief appraiser delivered the original notice of modification or denial.

## **Other Issues [Tax Code Section 5.103(17)]**

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

Members of the ARB must comply with the law and always act in a manner that promotes public confidence in the integrity and impartiality of the ARB.

### **2. Patience and Courtesy**

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

### **3. Bias or Prejudice**

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

### **4. Confidential Information**

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

### **5. Required Contents That Vary By ARB**

ARB adopted 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 must address each item required in Comptroller Rule 9.805.

**Appraisal Review Board Evidence Exchange and Retention and Audiovisual Equipment Requirements – Comptroller Rule 9.805**

(a) Exchange of evidence. Before or immediately after an appraisal review board 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 appraisal review 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 appraisal review board as evidence for its records as required under §9.803 of this title (relating to Requirements for Appraisal Review Board Records). The duplicated material sets shall be produced in either paper or electronic form.

(b) Evidentiary materials on a portable electronic device. Evidentiary materials produced on a portable electronic device shall be saved in a file format type and downloaded to a small, portable, electronic device. The file format type and small, portable, electronic device must be considered generally accepted technology and must be suitable for retention by the recipient. For security purposes, the electronic files on devices produced pursuant to this section shall 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. 22 — Handbook of Texas Property Tax Rules

(c) Electronic file format types and devices. The appraisal review board shall determine the types of file formats and devices which meet the requirements of subsection (b) of this section and specify the types of file formats and devices in the appraisal review board hearing procedures. Examples of file format types that may be considered acceptable include but are not limited to the Adobe portable document format (PDF); Microsoft Word, typically used for text documents; Microsoft Excel, typically used for spreadsheets and tables; Microsoft PowerPoint, typically used for presentations or slideshows; and JPEG (.jpg or .jpeg) for photographs. Examples of the general types of small, portable, electronic devices suitable for retention by the recipient that may be considered acceptable include but are not limited to USB flash drives (i.e., thumb or jump drives, USB or memory sticks), and compact discs (i.e., CDs, DVDs) with various characteristics.

The appraisal district and the property owner or the owner's agent may agree to exchange evidence in a manner other than provided in appraisal review board hearing procedures so long as a copy of the evidence may be retained in the records of the appraisal review board and satisfies the requirements of subsection (a) of this section.

(d) Audiovisual equipment requirements. If the appraisal district uses audiovisual equipment at appraisal review board hearings, the appraisal district shall make available this same equipment or audiovisual equipment of the same general type, kind, and character 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 the appraisal review board has determined are generally accepted under subsection (c) of this section. In the alternative, property owners and their agents may bring their own audiovisual equipment for their presentation of evidentiary materials at appraisal review 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 office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the appraisal review board hearing procedures. 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.

(e) Appraisal Review Board hearing procedures. The following information regarding the exchange and presentation of evidence at appraisal review board hearings shall be provided in the appraisal review board hearing procedures:

- (1) identification of the file format types considered acceptable under subsection (c) of this section;
- (2) description of the types of small, portable, electronic devices suitable for retention by the recipient considered acceptable under subsection (c) of this section;
- (3) notice that property owners and their agents may bring their own audiovisual equipment for their presentation at appraisal review board hearings but must provide their own Internet access, if needed, through their own service provider;
- (4) whether the appraisal district uses audiovisual equipment at appraisal review board hearings;
- (5) if the appraisal district uses audiovisual equipment at appraisal review board hearings, a description of the type, kind, and character of audiovisual equipment the appraisal district makes available for use by property owners or their agents and which meets the requirements of subsection (d) of this section; and
- (6) notice that property owners and their agents may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the hearing procedures.

## **Public Relations**

All contacts on matters and actions of the Appraisal Review Board by the news media will be referred and directed to the Chair of the ARB for comment on behalf of the Board, unless designated otherwise by the Chair.

### **Section 25.25 (d) Correction of Appraisal Roll**

#### **Sec. 25.25. Correction of Appraisal Roll.**

(a) Except as provided by Chapters 41 and 42 of this code and by this section, the appraisal roll may not be changed.

(b) The chief appraiser may change the appraisal roll at any time to correct a name or address, a determination of ownership, a description of property, multiple appraisals of a property, an erroneous denial or cancellation of any exemption authorized by Section 11.13 if the applicant or recipient is disabled or is 65 or older or an exemption authorized by Section 11.13(q), 11.131, or 11.22, or a clerical error (*see excerpt from section 1.04 (18) at the bottom of this document for the definition of "clerical error" as defined by the Texas Property Tax Code*) or other inaccuracy as prescribed by board rule that does not increase the amount of tax liability. Before the 10th day after the end of each calendar quarter, the chief appraiser shall submit to the appraisal review board and to the board of directors of the appraisal district a written report of each change made under this subsection that decreases the tax liability of the owner of the property. The report must include:

- (1) a description of each property; and
- (2) the name of the owner of that property.

(c) The appraisal review board, on motion of the chief appraiser or of a property owner, may direct by written order changes in the appraisal roll for any of the five preceding years to correct:

- (1) clerical errors that affect a property owner's liability for a tax imposed in that tax year;
- (2) multiple appraisals of a property in that tax year;
- (3) the inclusion of property that does not exist in the form or at the location described in the appraisal roll; or
- (4) an error in which property is shown as owned by a person who did not own the property on January 1 of that tax year.

• ***Section 1.04 (18) of the Property Tax Code defines "clerical error" as:***

(A) that is or results from a mistake or failure in writing, copying, transcribing, entering or retrieving computer data, computing, or calculating; or

(B) that prevents an appraisal roll or a tax roll from accurately reflecting a finding or determination made by the chief appraiser, the appraisal review board, or the assessor; however, "clerical error" does not include an error that is or results from a mistake in judgment or reasoning in the making of the finding or determination.

(d) At any time prior to the date the taxes become delinquent, a property owner or the chief appraiser may file a motion with the appraisal review board to change the appraisal roll to correct an error that resulted in an incorrect appraised value for the owner's property. However, the error may not be corrected unless it resulted in an appraised value that exceeds by more than:

- (1) one-fourth the correct appraised value, in the case of property that qualifies as the owner's residence homestead under Section 11.13; or
- (2) one-third the correct appraised value, in the case of property that does not qualify as the owner's residence homestead under Section 11.13.

(d-1) If the appraisal roll is changed under Subsection (d), the property owner must pay to each affected taxing unit a late-correction penalty equal to 10 percent of the amount of taxes as calculated on the basis of the corrected appraised value. Payment of the late-correction penalty is secured by the lien that attaches to the property under Section 32.01 and is subject to enforced collection under Chapter 33. The roll may not be changed under Subsection (d) if:

- (1) the property was the subject of a protest brought by the property owner under Chapter 41, a hearing on the protest was conducted in which the property owner offered evidence or argument, and the appraisal review board made a determination of the protest on the merits; or
- (2) the appraised value of the property was established as a result of a written agreement between the property owner or the owner's agent and the appraisal district.

(e) If the chief appraiser and the property owner do not agree to the correction before the 15th day after the date the motion is filed, a party bringing a motion under Subsection (c) or (d) is entitled on request to a hearing on and a determination of the motion by the appraisal review board. A party bringing a motion under this section must describe the error or errors that the motion is seeking to correct. Not later than 15 days before the date of the hearing, the board shall deliver written notice of the date, time, and place of the hearing to the chief appraiser, the property owner, and the presiding officer of the governing body of each taxing unit in which the property is located. The chief appraiser, the property owner, and each taxing unit are entitled to present evidence and argument at the hearing and to receive written notice of the board's determination of the motion. The property owner is entitled to elect to present the owner's evidence and argument before, after, or between the cases presented by the chief appraiser and each taxing unit. A property owner who files the motion must comply with the payment requirements of Section 25.26 or forfeit the right to a final determination of the motion.

**Sec. 25.26. Forfeiture of Remedy for Nonpayment of Taxes.**

(a) The pendency of a motion filed under Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided by Subsection (d), a property owner who files a motion under Section 25.25 must pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the motion.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the motion by making the payment. If the property owner files a timely motion under Section 25.25, taxes paid on the property are considered paid under protest, even if paid before the motion is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a motion if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the board shall determine compliance with this section in the same manner and by the same procedure as provided by Section 41.4115(d) and may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.

**Lawsuit Service**

According to Section 42.21(d) of the Code, the Appraisal Review Board may be served with process in civil suits by service on the Chair of the Appraisal Review Board. Since there is no official office for the Chair of the ARB on the district premises, certain members of the district staff are appointed as authorized agents on behalf of the Chair and the ARB to receive the suits. The Chief Appraiser, Deputy Collector, Tax Liaison Officer and/or the Administrative Assistant of the district are hereby appointed by the ARB to receive the service of lawsuits on behalf of the Chair and the ARB.

**HEARING PROCEDURES ADOPTED THIS 2nd DAY OF MAY, 2023**

Chair: \_\_\_\_\_

Colby Kramer

Secretary: \_\_\_\_\_

Reid Miller