

Orange County

Appraisal Review Board

Hearing Procedures

I. GENERAL

The Orange County Appraisal Review Board (ARB) is a decision-making body whose sole function the determination of protests and challenges brought by taxpayers and taxing units. The appraisal review board members are private citizens appointed by the appraisal district board of directors for a two-year term.

Protests typically heard and decided by the ARB concern valuation; eligibility for exemptions; inclusion of property on the appraisal records; ownership; qualification for or determination of changes of use of agricultural, open-space or timberlands, or other actions by the appraisal district or ARB that adversely affect the property owner. The Appraisal Review Board cannot hear or resolve other matters such as complaints concerning the amount of taxes you pay or your ability to pay them.

II. ARB MEMBERSHIP [Tax Code Sec 5.103(b) (16), (15) and (12)]

1. Administration of ARB Appointments

ARB members are not provided any 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 conflict of interest to the appropriate individuals.

In 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 chairman to address the matter.

In the recusal process, the ARB member may not 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 shall immediately remove himself or herself from the conversation.

III. ARB DUTIES [Tax Code Sec 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.

2. Notices Required under the Property Tax Code

Each ARB member is responsible for obtaining and maintaining 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 chairman. The ARB chairman 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.

IV. ARB HEARINGS [Tax Code Section 5.103(b)(3), (4), (7) and (14)]

(formal hearings, not informal meetings between property owners and appraisal district staff)

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.

2. Scheduling Hearings for Property Owners Not Represented by Agents

Pursuant to 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 an 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.

3. 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 Section 41.66(j), 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. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule hearings on protests concerning more than 20 properties filed by the same property

owner or designated agent. The ARB may follow the practices customarily used in the scheduling of hearings under Section 41.66(j).

4. Postponements Under Tax Code Section 41.45(e)- (No Cause)

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 or electronic mail, by telephone, or in person to the ARB, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman's representative may take action on the request for postponement without the necessity of action by the full ARB. 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 five 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). The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman's representative may take action on the request for postponement without the necessity of action by the full ARB. 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 five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition, and without limit, 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 or electronic mail, by telephone, or in person to the ARB, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman's representative may take action on the request for postponement without the necessity of action by the full ARB. 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 five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

5. Postponements Under Tax Code Section 41.45(e-1) (Good Cause)

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.

It is extremely important to be on time for the formal hearing. If the owner/agent is in excess of 15 minutes late for the hearing, the ARB will consider the appeal cancelled.

6. Postponements Under Tax Code Section 41.45(g)

The ARB must postpone a hearing to a later date if:

- A. 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;
- B. the hearing before the other ARB is scheduled to occur on the same date as the hearing set by this ARB;
- C. 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
- D. 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

7. Postponements Under Tax Code Section 41.66(h) (CA Failure to Comply)

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. 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.

8. Postponements Under Tax Code Section 41.66(i) (Delayed 2 Hours or More)

Hearings on protests 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.

V. CONDUCT OF ARB HEARINGS [Tax Code Section 5.103(b)(2), (9), and (10)]

(formal hearings, not informal meetings between property owners and appraisal district staff)

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 that will be hearing your protest today. We do not work for the appraisal district. We are appointed to perform an independent review of your protest. At the end of the hearing, you may complete a survey regarding your experience today. The survey is voluntary. You also have the right to appeal our decision. Appeal information will be provided to you with our determination. Instructions for preparing and filing the survey are available at the reception counter.

The ARB does not have to read the statement above if the owner or agent has previously appeared before the ARB for the Orange County Appraisal District.

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

- A. The secretary will schedule several protests per day. Protests will be heard in the order scheduled. If more than one hearing is scheduled for a time period, the cases will be heard in the order of arrival to the hearing.
- B. Commence the hearing and announce the assigned protest number, property location and

- owner, and other identifying information.
- C. Announce that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be provided.
 - D. 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.
 - E. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
 - F. 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.
 - G. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify.
 - H. Unless both parties otherwise agree, the property owner (or agent, as applicable) shall present his/her case first.
 - I. 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.
 - J. Next, the appraisal district representative may cross-examine the property owner, the agent, or the representative and/or witnesses.
 - K. 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.
 - L. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
 - M. Members of the ARB shall not be examined or cross-examined by parties.
 - N. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
 - O. The other party may then offer rebuttal evidence.
 - P. The party presenting its case first shall make its closing argument and state the ARB determination being sought.
 - Q. The party presenting its case second shall make its closing argument and state the ARB determination being sought.
 - R. The ARB chairman shall state that the hearing is closed.
 - S. The ARB shall deliberate orally. No notes, text messages, or other form of communication are permitted.
 - T. The ARB chairman shall 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 to be determined. A vote shall be taken and recorded by a designated appraisal district staff person or member of the ARB assigned for this purpose. Separate motions and determinations must be made for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations).

- U. Thank the parties for their participation and announce the determination(s) of the ARB and that an order determining protest will be sent by certified mail.

If computer screens are used by ARB members during ARB 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 (there is no requirement that the property owner or agent be provided a separate screen).

If a chief appraiser uses audio visual 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.

The property owner or agent and the appraisal district representative are prohibited from debating each other. All communications must be directed 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.

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.

2. Conducting Hearings by Telephone Conference Call

A property owner initiating a protest is entitled to offer evidence or argument by affidavit without personally appearing. To appear at a hearing by telephone conference call, a property owner must notify the ARB by written request not later than the 10th day before the date of the hearing. To offer evidence or argument at a hearing conducted by telephone conference call, 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 by telephone conference call to another person the owner invites to participate in the hearing. At the time of the scheduled hearing, the property owner will be required to call the appraisal district and check-in for their telephone conference. At that time, they will also provide a call back number and the ARB will call when all parties are ready to begin the hearing. Telephone conference calls will be handled on the schedule the same as if you were appearing in person.

3. 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 chairman 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. The same order of proceedings as for hearings open to the public should be followed.

The secretary of the ARB is responsible for ensuring that a separate tape recording or written summary of testimony is kept for the closed meeting in accordance with the provisions of 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 and shall be marked as "confidential" and maintained as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB shall confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The confidentiality of the information must be maintained by the

ARB members and disclosed only as provided by law.

After deliberation, the ARB shall reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. There must be no 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 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. 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

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.

VI. EVIDENCE CONSIDERATIONS [Tax Code Section 5.103(8), (11), and (13)]

1. 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. 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

In a protest hearing, the ARB will not 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)

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 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.

VII. OTHER ISSUES [Tax Code Section 5.103(17)]

1. 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.

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 shall perform their ARB duties without bias or prejudice.

4. 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.

5. Evidence Exchange & Retention & Audiovisual Requirements

a) Exchange of Evidence

Before or immediately after an ARB 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 ARB 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 ARB as evidence for its records as required. The ARB requests that one (1) complete copy of all evidence and documents be presented at the time of registration for scanning. The ARB is required to retain a record of all evidence offered or submitted. The documents shall be produced in either paper or electronic form. For security purposes, the electronic files produced 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.

b) Electronic file format types and Audiovisual requirements

The ARB will accept evidence on USB flash drive, CD/DVD or uploaded through website; Electronic evidence must be submitted in the following file types: PDF, MS Office (Word/Excel); or image types: JPEG, PNG, TIFF; Multiple files may be submitted however the total combined size must not exceed 20MB per property;

The ARB will not accept evidence on SD memory cards or any other type of memory cards, cameras, video cameras, phones, computers, tablets or any other medium that cannot be retained for record, this evidence can be uploaded through the website though;

The Appraisal District does not use audiovisual equipment at the protest hearings. Therefore, evidence requiring this type of equipment cannot be accepted, even if provided by the property owner or agent;

Property owners and their agents may not access the appraisal district office's network or internet connection nor any of the appraisal district's office's technology or equipment other than that made available and described in these procedures.