



APPRAISAL REVIEW BOARD OF POTTER-RANDALL APPRAISAL DISTRICT PROTEST HEARING PROCEDUES

SECTION 1. THE APPRAISAL REVIEW BOARD (ARB)

Protests will be heard by the ARB. Members of the ARB are not employees or officers of any political subdivision that assesses or collects property taxes, nor are they employees or officers of the appraisal district.

SECTION 2. ARB DUTIES

Statutory Duties of an ARB: Each ARB member is responsible for ensuring that he or she understands the statutory duties of the ARB and shall comply with all statutory requirements in performing statutory duties as a member of the ARB.

Notices Required under the 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 chair. The chair shall investigate the report and take appropriate action to correct the verified problem.

SECTION 3. ARB MEMBERSHIP

Administration of Members: 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. ARB members are appointed by the local administrative district judge. If an ARB member is contacted by an individual regarding requesting an appointment to the ARB, the member shall direct the individual to the Taxpayer Liaison Officer to receive applications or requests for appointment for the ARB.

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. The 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. 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 41.69 may still prohibit participation. Section 41.69 also prohibits a member from participating in a hearing if involves certain relatives of the member.

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.

SECTION 4. FORMAT OF HEARINGS

A hearing before the ARB is not as formal as a court of law hearing; however, certain procedures must be followed. The ARB uses Robert Rules of Order, Uniform Code of Parliamentary Procedures, when conducting its hearings. Testimony must be given under oath including testimony given by witnesses. The ARB will adhere to a 15 minute per hearing time limit which may be adjusted at the ARB's discretion.

SECTION 5. CONDUCT OF ARB HEARINGS (FORMAL HEARINGS)

Conducting Hearings Open to the Public: The board chair or a designee makes an introductory statement 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. You may complete a survey regarding your experience today. The appraisal district staff can direct you on where to take 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."

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

- a. Board chair commences the hearing open and announces the property location, owner, and other identifying information and reviews the protest in question.
- b. Board chair announces the exchange of all written material. Information and evidence from the Appraisal District and property owner should be exchanged in accordance to Tax Code Section 41.45(h).
- c. Board chair verifies and attests the signature on the Sworn Affidavit of Testimony from the property owner and recognizes any witnesses. Board chair then introduces the Ex Parte Affidavit and states that the ARB members on the hearing board have not communicated with anyone about the protest and asks the ARB members to attest their ARB signatures on the Ex Parte Affidavit. The Board chair also asks the appraiser to attest their signatures on all affidavits.
- d. Board chair informs all parties that all testimony must be given under oath.
- e. Board chair welcomes the parties and explains the content of the hearing procedures and other relevant matters.
- f. If there is a witness, Board chair asks if the witness holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- 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. At the end of the presentation, Board chair states that an opinion of value (if applicable) from the property owner must be stated.
- i. Board chair offers to the appraisal district representative they may cross-examine the property owner, the agent, or the representative and/or witnesses.
- j. Board chair calls on the appraisal district representative to present evidence (documents and/or testimony). At the end of the presentation, Board chair asks for an opinion of value (if applicable) for the property that must be stated.
- k. Board chair offers the property owner or agent they may cross-examine the appraisal district representative and/or any witnesses. Members of the ARB shall not be examined or cross-examined by parties.
- l. Board chair asks for rebuttal evidence from the property owner or agent.
- m. Board chair asks for rebuttal evidence from the appraisal district representative.
- n. Board chair offers the property owner or agent to make its closing arguments, if any, and state the ARB determination being sought.
- o. Board chair offers the appraisal district representative to make its closing arguments, if any, and state the ARB determination being sought.
- p. Board chair shall state that the hearing is closed.
- q. The ARB Board shall deliberate orally. No notes, text messages, or other form of communication are permitted.
- r. Board chair shall ask for motions 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 ARB member.
- s. Board chair should thank the parties for their participation.
- t. Board chair shall announce the determination(s) of the ARB Board hearing and state that an order determining protest will be sent by certified mail to the property owner.

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

The Potter and Randall County Appraisal Review Boards use a computer and a projection system to display information on a large screen for all parties within the hearing room to see. The computer provides access to cd's, dvd's, USB flash drives and thumb drives. Should a property owner or an owner's agent need to display any information for the ARB to see, this same computer and projection system is available to them as well. File format types that are acceptable for use by a property owner wishing to use the computer and projection system are Microsoft Word, Excel, PowerPoint, Adobe pdf or JPEG (.jpg or .jpeg) for photographs and small, portable, electronic devices that are acceptable are cd's, dvd's, USB flash drives and thumb drives. Any evidence must be provided by one of these formats in order for the appraisal district to retain a copy as part of the ARB's hearing record. As part of the appraisal districts security measures, all evidence provided on a small, portable, electronic device will be scanned for any viruses.

If the operation of audiovisual equipment other than that provided by the appraisal district 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 or 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 as described above. The appraisal district and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those above if the parties agree to do so in writing or verbally agree as shown in the audio recording of 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.

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. The affidavit must be received in original form, faxed or emailed affidavits will not be accepted. More detailed procedures concerning the telephone conference call can be found at www.prad.org/prad-information/.

Conducting Hearings by Affidavit: To offer evidence and argument for a hearing by affidavit, the property owner must attest to the affidavit before a notary, have a notary sign, date and stamp the affidavit, and submit the affidavit to the ARB before the hearing begins. To be valid, the affidavit must include the name of the property owner initiating the protest, a description of the property that is subject of the protest, and evidence or argument. A property owner does not waive the right to appear in person at the protest hearing by submitting an affidavit to the ARB. The ARB may consider the affidavit only if the property owner does not appear at the protest hearing in person. If the property owner states in the affidavit that the property owner does not intend to appear at the hearing or does not state in the affidavit whether the property owner intends to appear at the hearing, and has not elected to appear by telephone conference call, the ARB is not required to consider the affidavit at the scheduled hearing and may consider the affidavit at a hearing designated for the specific purpose of processing affidavits. The affidavit must be received in original form, faxed or emailed affidavits will not be accepted.

Conducting Hearings Closed to the Public: A joint motion by the chief appraiser and the property owner is required to request that the hearing be closed due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest. The ARB Board chair shall convene the hearing as an open meeting and then announce that the meeting will be closed to the public as permitted by Tax Code Sections 41.66(d) and (d-1). Only the parties to the protest, their witnesses, and the ARB members are permitted to stay in the hearing room. 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.

Right to Examine and Cross-Examine Witnesses or Other Parties: Tax Code Section 41.66(b) states that “each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing.” The ARB may not prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross-examination. The parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence.

Party’s Right to Appear by an Agent: A property owner may appoint an agent using an official form that is available from the district. The ARB shall accept and consider a motion or protest filed by an agent if an agency authorization is filed at or before the hearing on the motion or protest. The ARB may not require that an agency authorization be filed at an earlier time. The ARB may not require a person to designate an agent to represent the person in a property tax matter other than as provided by Tax Code Section 1.111. A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to file a protest if the property owner does not and to designate, under 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.

SECTION 6. ARB HEARINGS (FORMAL HEARINGS)

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.

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.

Scheduling Hearings for Multiple Accounts: If requested by a property owner or a designated agent, hearings on protests concerning up to 20 designated properties shall be scheduled on the same day by the ARB. The request must meet all requirements of Tax Code 41.66(j), including the required state, 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 and to conduct the hearings based on the ARB's customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Tax Code Section 41.66(j).

Postponements Under Tax Code Section 41.45(e): A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause, if the request is made before the date of the hearing. The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chair 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 chair, 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. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB chair 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 chair, 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. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB chair 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 chair, 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.

Postponements Under Tax code Section 41.45 (e-1): a property owner or a person designated by the property owner as the owner's agent to represent the owner at the hearing who fails to appear at the hearing is entitled to a new hearing if the property owner or the owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

Postponements Under Tax Code Section 41.45(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.

Postponements Under Tax Code Section 41.66(h): The ARB shall postpone a hearing (one time only) if the property owner requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. Only the property owner may request a postponement for this reason. A request for postponement of a hearing must contain the mailing address and e-mail address of the person requesting the postponement. The appraisal review board shall respond in writing or by e-mail to a request for postponement of a hearing not later than the seventh day after the date of receipt of the request.

Postponements Under Tax Code Section 41.66(i): 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 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.

Determination of Good Cause under Tax Code Section 41.44(b): “Good cause” for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests should be carefully considered and standards in making determinations of good cause under Tax Code Section 41.44(b) should be uniformly applied. The ARB should give due consideration to good cause claims in such a manner that properly respects the rights of property owners while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties. Circumstances that the ARB has recognized as good causes for postponements include the following: 1) being on active military duty; 2) being in the hospital or under doctor’s care during the protest hearing period; 3) a death in the immediate family; 4) being on judicial or legislative service or in a pending court hearing; 5) failure to receive administrative due process; or 6) other matters of good cause as determined by the ARB. The ARB must be notified of a request for postponement prior to the scheduled hearing date. The property owner should submit written documentation to verify the request. For good cause hearings, documentation must be received prior to the ARB approval of the appraisal records.

SECTION 7. EVIDENCE CONSIDERATION

A Party’s Right to Offer Evidence and Argument: The ARB may not prohibit a party’s right to offer evidence and argument. However, the ARB may enforce time limits and dictate the order of ARB hearings. 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. The ARB will adhere to a 15 minute per hearing time limit which may be adjusted at the ARB’s discretion.

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.

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.

SECTION 8. OTHER ISSUES

Compliance with the Law, Integrity, and Impartiality: Members of the ARB shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the ARB.

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

Bias or Prejudice: Members of the ARB shall perform their ARB duties and responsibilities without bias or prejudice.

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