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# APPRAISAL REVIEW BOARD OF COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES

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# **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

## **APPRAISAL REVIEW BOARD GUIDELINES & PROTEST HEARING PROCEDURES**

The Appraisal Review Board (ARB) of Colorado County establishes and adopts the following guidelines and procedures for protest hearings, under the guidance and pursuant to Section 41.66, Texas Property Tax Code (PTC), which comply with Comptroller Rule 9.805. It is the ARB's desire to keep all guidelines and procedures on a "common sense" approach and comply fully with the requirements listed in the PTC. If a question arises, to which the ARB needs further direction, the first step will be to review provisions of the PTC, and if necessary, seek advice of legal counsel. Hearing procedures, to the greatest extent practicable, shall be informal; however, certain procedures must be followed. Unless the property owner and appraisal district agree in advance, the hearing is open to the public and is generally held before the ARB who will hear evidence from both the property owner and the appraisal district and will arrive at a ruling. 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.

Before participating in any hearings, returning ARB members must complete the Comptroller's training course "Continuing Education" and new ARB members must complete the "Appraisal Review Board" course, which are held in several satellite cities throughout Texas. At the end of these courses, each member must complete a statement that they will comply with the requirements of the Tax Code in conducting the hearings. The Board of Directors of the Appraisal District selects a Chairperson and a Secretary from ARB Members by resolution. At the Organizational meeting of the ARB, the ARB members are sworn in signing an Oath of Office indicating that they will comply with the requirements of the Tax Code in conducting the hearings.

### **RULING and SUBPOENAS**

The Chairperson shall preside over all hearings of the ARB. The chairperson may vote or make motions in any matter before the ARB. Roberts Rules of Order shall govern the proceedings and is used by the ARB when conducting hearings.

The board, sitting as a whole, may subpoena witnesses or books, records, or other documents. PTC Sections 22.27 & 41.61 will govern the process by which the ARB proceeds with a subpoena.

### **I. APPRAISAL REVIEW BOARD (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. They are a body of citizens who have been appointed to impartially resolve protests filed by property owners within the appraisal district. The ARB hears protest concerning property values and other determinations made by the Appraisal District of Colorado County in the context of appraising properties for taxation. The ARB cannot hear matters concerning tax rates, the amount of taxes due, the ability to pay taxes or the way tax monies are spent. ARB members have no responsibility for, or control over, appraisal district operations or its budget. For that reason, these topics may not be included in your protest.

### **II. ARB DUTIES**

*STATUTORY DUTIES:* 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 chairperson. The ARB chairperson shall investigate each such report and take appropriate action to correct all verified problems.

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

### **III. ARB MEMBERSHIP**

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 request for appointment to the ARB.

*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. An ARB member must promptly report any conflict of interest to the ARB chairperson in addition to any other individual or entity as may be provided by law. The chairperson 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 him or herself immediately from the hearing and report the conflict to the chairperson 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 he or she has a conflict of interest that might prohibit his or her involvement, the member shall immediately contact the ARB chairperson to address the matter. In the recusal process, the ARB member not only may not vote on the matter that is the subject of the protest, but also may not hear or deliberate on the protest.

*EX PARTE CONTACT:* 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.

Pursuant to PTC Sec 6.41 (f) (1-3) The appraisal district board of directors may remove an ARB member for the following reasons:

- ARB member's relative is a fee appraiser or tax agent appearing before the ARB
- ARB member owes delinquent property taxes under certain circumstances
- ARB member or their spouse has a substantial interest in an appraisal district or taxing unit contract
- ARB member is involved in an ex-parte communication about a protest outside of the hearing
- ARB member participates in a hearing when he or she has a conflict of interest or is related to a party of the hearing by marriage within the second degree or by blood within the third degree
- ARB member fails to attend ARB meetings as established by the appraisal district board's policy or
- ARB member, by clear and convincing evidence, displays repeated BIAS or MISCONDUCT

### **IV. PROCEDURES FOR FILING PROTEST AND NOTICE OF PROTEST HEARING**

In accordance with Texas law, a property owner may protest any of the reasons for protest as listed on the Property Appraisal–Notice of Protest, Property Tax Form 50-132, in writing, each year, before the ARB. The written protest must be filed on or before May 15th or not later than the 30th day after the date a notice was mailed to the property owner. If you protest for any of the reasons as listed on Property Tax Form 50-132, the ARB shall deliver written Notice of Hearing to the person initiating a protest of the date, time, and place fixed for the hearing on the protest not later than the 15th day before the date of the hearing. You may waive your right to 15-day notice and will be scheduled for an earlier hearing if time is available. If you do not receive a hearing notification within a reasonable time period, you should contact the appraisal district. The ARB **WILL NOT accept protest filings by facsimile or e-mail.** Residential accounts with a

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

homestead exemption may file an on-line protest at [www.coloradocad.org](http://www.coloradocad.org) under the *Online Appeals* tab. At least 14 days before the hearing on a protest, the chief appraiser shall deliver to the person initiating the protest, a copy of the comptroller's *Property Taxpayer Remedies*, a copy of these hearing procedures, and inform the protestor that the owner or the agent of the owner may inspect and may obtain a copy of the data, schedules, formulas, and all other information the chief appraiser or his/her designee plans to introduce at the hearing. This information is usually included with the delivery of ARB Notice of Hearing.

### **INFORMAL REVIEW:**

Many protests can be resolved in an informal review with an APPRAISAL DISTRICT appraiser, provided the property owner supplies documentation to support his/her claims. **The Colorado County Appraisal District's informal review of your Appraised Value will be conducted VIA TELEPHONE ONLY. Please call (979) 732-8222 and press 5 at the prompt for an informal review, and you will be directed to the corresponding appraiser. If you do not wish to have an informal review, please mail your Notice of Protest, or drop the notice off at the district. Informal reviews end on the last day to protest. You cannot meet informally with an APPRAISAL DISTRICT appraiser the day of your scheduled hearing.** If you and the APPRAISAL DISTRICT appraiser reach an agreement, you will both sign a Settlement and Waiver form and the value agreed upon will be the final value for the current tax year. If resolution of the protest cannot be reached at the informal review, you will then need to appear before the ARB at your scheduled hearing time.

*SUGGESTED METHODOLOGY FOR PROTESTING VALUE:* 1) File a RENDITION for Business personal property with the Appraisal District by April 15th; 2) Read your NOTICE OF APPRAISED VALUE very carefully when it is received in May or early June; 3) Do some comparisons. Find other property like yours and check for equality and level of appraisal. Same Class, close in square footage and amenities, close in age are some examples to ensure a comparable property. Find and price houses similar to yours that are for sale or have sold in the last 12 months. What are properties selling for now? APPRAISAL DISTRICT website: [www.coloradocad.org](http://www.coloradocad.org); 4) If you disagree with the value on the Notice of Appraised Value, file an OFFICIAL PROTEST in writing with the Appraisal District; 5) If you choose to, review your property informally with a staff Appraiser at the Appraisal District and do so up to the last day to file a protest.

### **V. Representation of Property Owner**

In accordance with PTC Sec 1.111, "(a) A property owner may designate a lessee or other person to act as the agent of the owner for any purpose under this title in connection with the property or the property owner.

(a-1) A lessee designated by a property owner as the owner's agent under Subsection (a) may, subject to the property owner's approval, designate a person to act as the lessee's agent for any purpose under this title for which the lessee is authorized to act on behalf of the owner in connection with the owner or the owner's property. An agent designated by a lessee under this subsection has the same authority and is subject to the same limitations as an agent designated by a property owner under Subsection (a).

(b) The designation of an agent must be made by written authorization on a form prescribed by the comptroller under Subsection (h) [50-162, *Appointment of Agent for Property Tax Matters*] and signed by the owner, a property manager authorized to designate agents for the owner, or another person authorized to act on behalf of the owner other than the person being designated as agent, and must clearly indicate that the person is authorized to act on behalf of the property owner in property tax matters relating to the property or the property owner. The designation may authorize the agent to represent the owner in all property tax matters or in specific property tax matters as identified in the designation. The designation does not take effect with respect to an appraisal district or a taxing unit participating in the appraisal district until a copy of the designation is filed with the appraisal district."

**Pursuant to PTC Sec 1.111, "(i) An appraisal review board shall accept and consider a motion or protest filed by an agent of a property owner if an agency authorization [50-162, *Appointment of Agent for Property Tax Matters*] is filed at or before the hearing on the motion or protest." The Colorado CAD WILL NOT accept *Appointment of Agent Forms* by facsimile or e-mail. Please mail *Appointment of Agent forms* to P.O. Box 10; Columbus, TX 78934 or Agent**

## APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES

**MUST have form AT the time of hearing accordingly. Failure to provide Appointment of Agent Form at or before the hearing could result in the ARB's motion to dismiss protest(s) as failure to appear (aka no-show protests).**

### **VI. GUIDELINES FOR PRESENTING A PROTEST:**

The ARB has adopted these guidelines for protests that are most effective and will help a protestor present a more effective case to either the appraisal district or the ARB.

- Prior to appearing before the ARB, a protestor should keep several points in mind:

Be on time and prepared for your appointment. Due to the volume of owners that do not show for their appointments, several hearings are scheduled at the same time, and heard on a first come, first served basis. Fifteen to twenty minutes shall be allocated for each hearing (2 or less properties). The board may waive the time limit at its discretion.

You should be ready to present your protest, along with supporting documentation, at the assigned time. Documentation would include comparable sales, recent appraisals, photos, etc. If you present a recent appraisal, you must have presented it to the APPRAISAL DISTRICT for review **at least 14 days before your hearing** (see **VII. EVIDENCE CONSIDERATIONS**) of this guidelines and procedures.

The protestor must provide a minimum of 4 copies of all protest evidence to be presented. This allows a copy for each ARB member and a copy for the APPRAISAL DISTRICT. The ARB Chairperson's copy will be made part of the public record. For photos, 3 sets are required. Evidence shown on an electronic device (CD-ROM, memory cards, PCs, iPads, video recorders, projectors, digital cameras, cell phones, etc.) or presented in any other form will not be considered unless the required copies are provided.

If computer screens are used by the APPRAISAL DISTRICT during ARB hearings for ARB MEMBERS' 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). The Appraisal District will make available a laptop for the taxpayer, and login information and Wi-Fi connection info will be provided, but the APPRAISAL DISTRICT WILL NOT ASSIST WITH LOADING MEDIA IN ANY FORM. SO PLEASE BE PREPARED TO HAVE TECHNICAL KNOWLEDGE OR BRING TECHNICAL ASSISTANCE WITH YOU.

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.

**APPRAISAL DISTRICT Staff WILL NOT be able to prepare your copies. Arrive prepared.**

- Stick to the facts in your presentation. The ARB is empowered to deal with market value, agricultural use value, exemptions, and identification of taxing units, inequalities. **Its members have NO responsibility for or control over Central Appraisal District operations, tax rates for the Taxing jurisdictions or politics. We suggest these topics not be included in your protest.**
- Be direct, concise, and honest. All testimony should be directed to members of the ARB. Be sure that the **information and comments you bring before the Board are limited to the MATTER STATED in your Notice of Protest.**
- Recognize that the ARB is serving in a quasi-judicial function. Much the same as a judge, the ARB listens to the presentations of both the property owner and APPRAISAL DISTRICT and makes a determination. It is not a case of property owner versus the APPRAISAL DISTRICT and the ARB. **The decision weighs on the EVIDENCE presented on each case and based on its own presentation.**
- Prepare a simple but well-organized presentation: The ARB will hear the presentation of many property owners during its hearings, so it is to your advantage to stress key facts and figures. By writing them down in logical order and making copies for each ARB member, you can better ensure that the ARB has all the information it needs to make a sound decision.

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

*PROTESTING MARKET VALUE:* Per the Texas Property Tax Code SECTION 1.04(7) "Market Value" means the price at which a property would transfer for cash or its equivalent under prevailing market conditions if: a) exposed for sale in the open market for a reasonable time for the seller to find a purchaser; b) both the seller and the purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and c) both the seller and purchaser seek to maximize their gains and neither is in a position to take advantage of the exigencies of the other.

**Questions to help determine if market transaction: Known to be for sale? Listed or posted? Was it adjoining property you owned? Were parties to the sale related? Was financing unique, not available to general public? Owner financed? Was it a forced sale: estate? Bid/Auction? Foreclosure? Tax sale? Court-ordered? In-Lieu of Foreclosure?**

*PROTESTING UNEQUAL APPRAISAL:* A property owner who protests on the grounds that the appraisal of the owner's property is unequal compared to the appraisals of other property should be prepared to address one or more of the following issues: 1) whether the appraisal ratio of the property is greater than the median level of appraisal of a reasonable and representative sample of other properties in the appraisal district; 2) whether the appraisal ratio of the property is greater than the median level of appraisal of a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind of character as that property; or 3) whether the appraised value of the property is greater than the median appraised value of a reasonable number of comparable properties appropriately adjusted.

**Be direct, concise, and honest. Stress facts and circumstances which support your protest. The protestor who simply says, "This appraisal is too high to me" or "I can't sell it for that much", without supporting evidence is not likely to prevail. The fact that your property is appraised at a value greater than your neighbor's does not prove that your property was appraised erroneously. Values from prior years or the decisions of previous ARB's do not bind the current ARB. Each tax year stands alone. If there is any verbal abuse by either witness, the ARB Chairperson has the option of making a motion to recess your protest or ask for a vote at that time.**

*25.25 OR 41.411 PROTEST:* When a 25.25 motion or 41.411 protest is received, the ARB chairperson will be notified. The owner/agent will receive a letter from the ARB stating that the protest was received, and that the hearing will be scheduled in June. On a 41.411 PROTEST, the property owner is entitled to protest before the appraisal review board the failure of the chief appraiser or the appraisal review board to provide or deliver any notice to which the property owner is entitled. If failure to provide or deliver the notice is established, the appraisal review board shall determine a protest made by the property owner on any other grounds of protest authorized by this title relating to the property to which the notice applies provided that the payment requirements of Section 41.4115 have been met. In the case of property that qualifies as the owner's residence homestead, a 25.25 one-fourth over appraisal motion, the error may be corrected only if the appraisal value exceeds the correct value by more than one-fourth. The following calculation should be used by the ARB: (corrected Value x 1/4 or 25% + (corrected value) = Threshold for Current Appraised Value).

On a 25.25 one-third over appraisal motion, the error may be corrected only if the appraisal value exceeds the correct value by more than one-third. The following calculation should be used by the ARB: (corrected Value x 1/3 or 33.33% + (corrected value) = Threshold for Current Appraised Value). A 25.25 motion also includes other types of clerical errors.

### **VII. ARB HEARING SCHEDULING**

Hearings before the ARB are held from mid-June to mid-July, with two sessions from 9:00 am to 12 noon, and from 1:00 pm till 5:00 pm on weekdays. One evening hearing beginning at 5:30 pm or a Saturday morning hearing beginning at 9:00 am shall be determined by the ARB. The ARB must hear a large number of protests in a relatively short time. The ARB must approve the appraisal records by July 20. Consequently, the ARB must be fairly rigid in maintaining its schedule. The ARB cannot set each protest hearing at a time that is convenient for the property owner or agent. Usually, the ARB hearing is scheduled for 15 to 20 minutes. The ARB shall schedule a hearing when a timely notice of protest is filed and, in doing so, will be provided with clerical assistance by the appraisal district. The assistant, in accordance with

## APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES

Chapter 41 and other applicable sections of the PTC, shall schedule hearings and notify the owner or agent filing the protest of the hearing. The ARB may hear a protest that was not timely filed, only if the property owner shows good cause for late filing. Reasons for good cause are found in **this section under Determination of good cause.**

The assistant shall schedule several protests per hearing session per day. The protests shall be heard as scheduled on a first come first serve basis. If the protesting party is late, the protest shall be moved to the end of the session or another time as determined by the ARB presiding officer.

*SCHEDULING HEARINGS FOR PROPERTY OWNERS OR THE DESIGNATED AGENT OF THE OWNER:* Pursuant to Tax Code Section 41.66(i), A hearing on a protest filed by a property owner or the designated agent of the owner shall be set for a time and date certain. If the hearing is not commenced within two hours of the time set for the hearing, the appraisal review board shall postpone the hearing on the request of the property owner or the designated agent of the owner.

*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. The ARB may follow the practices customarily used in the scheduling of hearings under Section 41.66(j).

41.66 (j-1) An appraisal review board may schedule the hearings on all protests filed by a property owner or the designated agent of the owner to be held consecutively. The notice of the hearings must state the date and time that the first hearing will begin, state the date the last hearing will end, and list the order in which the hearings will be held. The order of the hearings listed in the notice may not be changed without the agreement of the property owner or the designated agent of the owner, the chief appraiser, and the appraisal review board. The board may not reschedule a hearing for which notice is given under this subsection to a date earlier than the seventh day after the date the last hearing was scheduled to end unless agreed to by the property owner or the designated agent of the owner, the chief appraiser, and the appraisal review board. Unless agreed to by the parties, the board must provide written notice of the date and time of the rescheduled hearing to the property owner or the designated agent of the owner not later than the seventh day before the date of the hearing.

*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. The ARB has established a 20-minute time limit for all protests including a phone conference protest. Seven Minutes (7) for the property owner and seven minutes (7) for the Appraisal District, with remaining time for ARB questions, discussion, and determination. **The property owner or appointed agent shall call the CCAD at (979) 859-7270 at their scheduled hearing date and time.** The Property Owner should ensure that he/she has a good phone connection. If the call is dropped or disconnected or failure to call at all the property owner has waived his rights to participate in the phone portion of the hearing; however, his/her written affidavit will still be heard and acted on. **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. If written documentation is needed to prove your protest, a minimum of (4) copies of the document should be provided to the ARB and should accompany the Affidavit of Evidence. If photos are needed to prove your protest, 3 copies should be provided to the ARB. 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.**

**Failure to provide Affidavit of Evidence at the time of the hearing could result in the ARB’s motion to dismiss protest(s) as failure to appear (aka no-show protests).**

The Texas Comptroller makes available form 50-283, Property Owner’s Affidavit of Evidence at the Texas Comptroller’s website: <https://comptroller.texas.gov/taxes/property-tax/forms/>. You may contact the appraisal district also.

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

### **❖ WHAT IS EVIDENCE?**

Evidence may be documents, testimony, electronic presentations, or physical objects. Documents include any papers, affidavits, drawings, or photographs that may be relevant to the protest. Testimony is any oral statement from a witness. Electronic presentations may include PowerPoint presentations or proprietary software. Physical objects may include samples of the building materials used or the soil found on a property. Comptroller Rule 9.803 requires the ARB to maintain all evidence presented at the hearing, a recording or a written summary of testimony is sufficient.

### **VIII. EVIDENCE CONSIDERATIONS**

In accordance with PTC Sec. 41.461 (a) At least 14 days before a hearing on a protest, the chief appraiser shall:

- (1) deliver a copy of the pamphlet prepared by the comptroller under Section 5.06 to the property owner initiating the protest, or to an agent representing the owner if requested by the agent;
- (2) inform the property owner that the owner or the agent of the owner is entitled on request to a copy of the data, schedules, formulas, and all other information the chief appraiser will introduce at the hearing to establish any matter at issue; and
- (3) deliver a copy of the hearing procedures established by the appraisal review board under Section 41.66 to the property owner.

**In accordance with the Property Tax Code, this information is being provided to property owner and/or property owner's designated agent:**

**Please be advised that protesting party may inspect and may obtain a copy of the data, schedules, formulas, and all other information that the Appraisal District will introduce at the hearing upon written request. Requested information that was not made available in a timely manner may not be used as evidence in the hearing.**

**Sales Data is considered confidential information, per HB 2188, and protesting parties are agreeing to keep such information confidential by requesting the information in writing.**

**A property owner of a property under protest with a market value of \$1 million or less may submit to the appraisal district a certified appraisal of property value at least 14 days before the hearing. The certified appraisal must represent a market value as of January 1, be within 180 days of the hearing date, notarized as sworn information and meet additional requirements listed in PTC Section 41.43(a-2).**

*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.

*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 may not be used or offered in any form as evidence in the hearing, including as a document or through

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

argument or testimony. This subsection does not apply to information offered to rebut evidence or argument presented at the hearing by the protesting party or that party's designated agent. 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. Evidence presented at a hearing must be relevant to the grounds stated in the written notice of protest. Property is generally appraised as of January 1, and changes that occur after January 1 are not relevant.

### **IX. POSTPONEMENTS:**

*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 **at least 24 hours prior to the scheduled hearing date** 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 chairperson or the chairperson'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 chairperson or the chairperson'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. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson'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 chairperson or the chairperson'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. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson'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 chairperson or the chairperson'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.

*POSTPONEMENT 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.

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

*POSTPONEMENTS UNDER TAX CODE SECTION 41.66(h):* The ARB shall postpone a hearing (one time only) if the property owner or the designated agent of the owner requests additional time to prepare for the hearing and establishes to the board 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 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.

*POSTPONEMENTS UNDER THE 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 the full 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 cause for filing late protests and/or postponements of hearings 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 hearing, documentation must be received prior to the ARB approval of the appraisal records.

### **X. ARB HEARING ORDER AND CONDUCT**

1. Each person that will address the ARB during the appointed hearing shall sign an Oath of Sworn Testimony, per Property Tax Code 41.67(a). The APPRAISAL DISTRICT representatives will sign an Oath of Sworn Testimony upon their first appearance of the day and understand that they are under that Oath for all remaining appearances of that day.
2. The ARB members shall execute an affidavit stating they have had no prior communications with any party relating to the subject property.
3. The ARB Chairperson welcomes the parties and reminds them of the hearing procedures, time limitations, and other relevant matters. Twenty (20) minutes is usually allocated for each hearing.
4. The ARB Chairperson ask the protesting-party, testifying witness if he/she holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
5. Either the ARB Chairperson or the ARB assistant will announce the property owner, case number and account number, location of subject, nature of the protest, current market, and taxable value hearing (2 or less properties). The ARB may waive the time limit at its discretion.
6. The ARB Chairperson asks that the owner/agent and the APPRAISAL DISTRICT, in accordance with Tax Code Section 41.45(h), exchange all documents which are to be used as evidence in the protest and provide the ARB with copies.
  - a) **The Owner/Agent who is presenting documented evidence for a formal protest in person or telephone conference protest or for protest by affidavit should provide a minimum of (4) copies of all protest documentation which is to be presented as evidence and should also have a copy for their presentation. Because of time limits, and in order to have a thorough and expeditious examination of evidence, the 4 copies of documentation and 3 sets of photos are needed so that each member will have enough time to**

## APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES

examine your evidence. The (4) copies are one for each ARB member (3) and a copy to be exchanged between the owner/agent and APPRAISAL DISTRICT (1). The ARB Chairperson's copy is a required copy and will be made part of the public record. For photos, 3 sets are required; one set will become part of the public record.

- b) Evidence presented on an electronic device (CD-ROM, memory cards, PCs, iPads, video recorders, projectors, digital cameras, cell phones, etc.) must be simultaneously visible by all ARB members, APPRAISAL DISTRICT, and the owner/agent and this suffices for each member having a hardcopy. However, this type of evidence will not be considered in the protest unless a required hardcopy of the electronic presentation is also provided for public record.
  - c) Comptroller Rule 9.803 requires the ARB to maintain ALL evidence presented at the hearing. APPRAISAL DISTRICT Staff WILL NOT be able to prepare your copies. Arrive prepared.
7. Ask the property owner/agent if he wishes to present his evidence and argument before or after the appraisal district.
    - a) If the property owner/agent presents his/her case first, they present their witnesses, documentary evidence, and related arguments and will be allotted approximately five to seven minutes. At the end of the presentation, an opinion of value (if applicable) for the property must be stated. If the Appraisal district goes first, in steps 8 – 15, substitute Property owner/agent for Appraisal District and Appraisal District for Property owner/agent.
  8. The ARB Chairperson will then ask the APPRAISAL DISTRICT if they would like to cross-examine the owner, agent, or witness.
  9. The ARB Chairperson asks the APPRAISAL DISTRICT to present their documentary evidence, related arguments, and witnesses if present and will be allotted approximately five to seven minutes. At the end of the presentation, an opinion of value (if applicable) for the property must be stated
  10. The ARB Chairperson will then ask the property owner/agent, or witness, if they want to cross-examine the APPRAISAL DISTRICT.
  11. Members of the ARB shall not be examined or cross-examined by parties. The property owner/agent and the appraisal district representative are prohibited from debating each other. All communications must be directed to the ARB members.
  12. The ARB Chairperson will ask property owner/agent if they have a rebuttal.
  13. The ARB Chairperson will ask APPRAISAL DISTRICT if they have a rebuttal.
  14. The ARB Chairperson will ask the property-owner/agent to make its closing argument and state the ARB determination being sought.
  15. The ARB Chairperson will ask the APPRAISAL DISTRICT to make its closing argument and state the ARB determination being sought.
  16. The ARB Chairperson will now ask the property-owner/agent and APPRAISAL DISTRICT clarifying questions only on items presented as evidence and testimony. If none is needed, the ARB will proceed to the next step.
  17. The ARB Chairperson shall then state that the evidentiary portion of the hearing is closed, and that they will now orally deliberate while both protesting party and Appraisal District sit and await a motion.
  18. The ARB shall deliberate orally and only on items presented as testimony. **NO NOTES, TEXT MESSAGES, OR OTHER FORM OF WRITTEN COMMUNICATION ARE PERMITTED.**
  19. The ARB Chairperson after deliberation on a protest, shall ask for a separate motion for each matter that was the subject of the protest hearing. The motion will be to either maintain OR lower the value and should include the exact value to be determined. **In a protest involving appraised value, market value and/or unequal appraisal, the Appraisal District has the burden of proof of establishing the property's value by PREPONDERANCE OF THE EVIDENCE OR PROOF BY GREATER WEIGHT. The ARB should consider the evidence that weighs the most by quantity and quality and make a ruling accordingly. If the ARB determines the protesting party and Appraisal District evidence weighs the same, THEN THE ARB SHOULD RULE FOR PROTESTING PARTY.** Separate motions and determinations must be made for each protested issue. Excessive appraisal and unequal appraisal must have

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

separate ARB motions and determinations. PTC Section 25.25 Excessive by 1/4<sup>th</sup> Motion for a residential homestead or PTC Sec. 25.25 Excessive by 1/3<sup>rd</sup> Motion for all others, must have a separate motion to determine correct market value, and a separate motion to determine if the Appraisal District is excessive by 1/4<sup>th</sup> or 1/3<sup>rd</sup> (accordingly) of that value. The ARB shall make a motion on other protest not involving appraised value, market value and/or unequal appraisal accordingly (i.e., Denial of Ag Valuation, Denial of Homestead Exemptions or any protest requiring a YEA or NAY ruling). Final motions and final ruling will be taken and recorded by the ARB clerk. In any case, the property owner is owed a determination of his protest. **If the Appraisal District makes a concession during the hearing, and the protesting party agrees, the ARB SHOULD NOT make a motion and both PROTESTING PARTY and APPRAISAL DISTRICT should sign a SETTLEMENT AND WAIVER FORM.**

20. The ARB Chairperson thanks the parties for their participation and announces that the final decision of the ARB, known as the Notice of Final Order/Order Determining Protest, will be issued in writing and provided to property owner or his/her authorized agent by certified mail and to the APPRAISAL DISTRICT. The written orders direct the Chief Appraiser to make the appropriate changes to the district's current appraisal records. A copy of the Final Order/Order Determining Protest from the formal hearings is signed by the ARB Chairperson and specifies the ARB's disposition of the protest. Inquiries may be directed to the ARB Chairperson. A property owner may have the right to appeal the ARB decision to Binding Arbitration, to SOAH (State Office of Administrative Hearings), or to District Court.

**For Telephone Conference hearings, hearings closed to the public, affidavit hearings, 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 but may make exceptions for the type of hearing.**



### **ARB HEARING FINAL NOTES AND REMINDERS:**

**The Owner/Agent and the APPRAISAL DISTRICT must provide a minimum of 4 copies of all protest evidence. For photos, 3 sets are needed; one set will become part of the public record. APPRAISAL DISTRICT Staff WILL NOT be able to prepare your copies. Arrive prepared.**

*RECORDS OF HEARINGS and AUDIO & VIDEO PROCEDURES:* The ARB shall keep such records of its hearings 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 the Tax Code Section 41.45 and Comptroller Rule 9.803 and 9.805. The secretary of the ARB is responsible for ensuring proper record keeping. All hearings will be audio recorded by the APPRAISAL DISTRICT. The audio recordings are a part of the open records and evidence presented by both parties. Audio recordings will be made available to the public after the ARB has turned the appraisal records over to the APPRAISAL DISTRICT, with a two-week notice, at the expense of the requestor for a minimum charge of \$20.00 per recording. Review of audio recordings will be allowed in the offices of the APPRAISAL DISTRICT. The owner/agent may also audiotape the proceeding.

Video equipment must be set up in an area designated by the ARB. **Equipment must be set up between 8:00 am and 8:30 am the day of the hearing so as not to disrupt other hearings. Equipment cannot be removed until the end of the last hearing of the day.** Owner/agent is responsible to provide someone to operate the equipment. It must be stationary and not disruptive to the hearing process.

*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 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

## **APPRAISAL REVIEW BOARD of COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

tape recording or written summary of testimony is kept for the closed meeting in accordance with the provisions of Comptroller Rule 9.803. 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. 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.

*PROPERTY OWNER’S RIGHT TO APPEAR:* A property owner who is entitled to appear at a hearing may appear in person; by a representative with written authorization signed by the owner; by a duly appointed agent with a signed Appointment of Agent Form; or by written, sworn affidavit in its ORIGINAL form. 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. The property owner or agent may offer evidence or argument by affidavit without personally appearing if the owner or agent attests to the affidavit before an officer authorized to administer oaths or notary and submits the **ORIGINAL affidavit prior to the scheduled hearing**. The Affidavit must identify the property owner by name and address, state the account number and description of the property, state the date and time of the hearing, and state whether the property owner plans to attend the hearing in person. A form for an affidavit (Form No. 50-283) is available from Texas Comptroller website: <https://comptroller.texas.gov/taxes/property-tax/forms/>, or contact the appraisal district. **Faxed or email affidavits are not accepted.** A taxing unit entitled to challenge may appear by a designated agent. 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

### **ARB COMPLIANCE**

1. Compliance with the Law, Appraisal District Board of Directors’ Policy for ARB, Integrity, and Impartiality - Members of the ARB shall comply with the law and policies should 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 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. A final motion to dismiss all protests that failed to appear, aka no-show protests, will be made on the last day of the hearing prior to returning the appraisal records to the APPRAISAL DISTRICT.

**A copy of these hearing procedures shall be posted in a prominent place in the room in which the hearing is held.**

**\*APPRAISAL REVIEW BOARD OF COLORADO COUNTY GUIDELINES AND PROTEST HEARING PROCEDURES**

**APPRAISAL REVIEW BOARD of COLORADO COUNTY  
GUIDELINES AND PROTEST HEARING PROCEDURES**

**PLEASE REVIEW THESE GUIDELINES AND PROCEDURES THOROUGHLY. AT THE TIME OF THE ARB PROTEST HEARING, ALL INFORMATION CONTAINED HEREIN WILL BE CONSIDERED FULLY UNDERSTOOD AND THOROUGHLY READ.**

**Be on time for your appointment with the Board of Review. Do not forget your DOCUMENTED EVIDENCE and EXHIBITS. REMEMBER: have an extra 4 copies to leave with each ARB member and APPRAISAL DISTRICT staff. Real Property Evidence could include such items as pictures, sales amounts of similar properties and/or closing statements, if the sale meets the standard of a market transaction. Personal Property Evidence could include a list of all assets, a copy of a current financial statement for your business, a bill of sale, contracts listing personal, and/or pictures. To have time to compare and prepare, do not wait until the last minute to make your requests. If you have any questions, or need more information, contact the Appraisal District.**