

2018

Kent County Appraisal District

Appraisal Review Board Hearing Procedures

and

Statutory Rules for Appraisal Review Boards

Appraisal Review Board Hearing Procedures

Informal Hearing

On or before the date and time of the hearings you may request an informal hearing. You may request an informal hearing as you sign in on the day of the protest hearings. An appraisal district appraiser will review your protest with you and check for discrepancies in your value. If the dispute can be resolved, you will be asked to sign a settlement and waiver of protest. If the dispute cannot be resolved, you will proceed to the formal hearing.

Appraisal Review Board

If you filed a protest or motion as required by Texas law, you are entitled to an opportunity to appear before the Appraisal Review Board (ARB) to present evidence or argument. Members of the Board who will hear your protest and/or motion are not employees or officers of any county, city, school district, or other political unit that assesses or collects property taxes. They are not part of the Kent County Appraisal District. They are Kent County citizens appointed to impartially resolve certain complaints about taxability and valuation of property within the District. Texas law empowers the Board to hear and resolve protests only about the following issues concerning your property: valuation; eligibility for exemptions; inclusion of the property on the appraisal records for the District or for a particular taxing unit within the District; whether you are/were the owner; whether a notice required by law was delivered; determination of changes of use of agricultural, open-space lands, or other actions by the District or Board that adversely affect you as a property owner. The Board cannot hear or resolve other matters, such as complaints about the amount of your taxes or your ability to pay your taxes.

Procedures before Your Hearing

Organize your testimony and documents ahead of time. **You must present the original and 6 copies of each document you want the Board to consider.** You will be charged a **minimum of \$15.00** if the appraisal district has to copy your evidence for you. Types of evidences relevant to determination of the value of property include:

Residential Real Estate:

- 1) Sale of Subject Property - signed and dated closing (settlement) statement and fee appraisal.
- 2) Sales of Comparable Properties - sales of comparable properties should include the following information if available: photographs, property address, sales date/price, grantor/grantee, financing terms/source/confirmed by; or appraisal of subject property with date and reason for sale.
- 3) Proof of Physical, Functional or Economic Obsolescence - This type of information can be documented in a variety of ways. The best type of documents is usually estimates for repairs from contractors and photographs of physical problems. This means you must furnish "documented" evidence of your property's needs.

Commercial Real Estate:

- 1) Sale of Subject Property - signed and dated closing statement or sales contract with description of property being transferred; photographs of the property; copy of **filed** warranty deed if transferred in

past 2 years; basis of sale (was sale based on actual income and expense data or pro forma income and expense data); complete copy of appraisal.

2) Income Approach - previous year rent roll, rent summary and income statement (typically 3 years of data); documentation of lease offering rates, lease concessions, effective lease rates and current and historical occupancy as of January 1 of the current year.

3) Cost Approach - signed and dated construction contract(s) with detailed description of work to be performed. Documentation must reflect all hard and soft costs. IRS records may be required.

4) Market Approach - complete copy of independent fee appraisal; confirmed sales of comparable properties to include photographs, property description, location, land area/building area, year built, date of contract, sales price, financing terms, basis of sale, source/confirmed by.

Business Personal Property: - balance sheets; depreciation schedule, appraisal, income tax return with appropriate schedules, general ledger, asset detail reports operating statement for auto dealers (one per manufacture) accounting books-records-journals-ledgers showing acquisitions by year of purchase for inventory records, also include accounting policies and procedures, bill of sale, receipts, invoices, leases, assignments, and any other documents that identify location and/or value of property you are protesting. If you are claiming that the goods are taxable elsewhere, you should be able to provide proof the property was rendered to another jurisdiction and that it is on another tax roll. This list is not exhaustive and there may be other evidence you feel supports your protest. You may have received a specific request for other documents. Please include those as well.

All documents that you present in the hearing become part of the Board's permanent records and will not be returned to you.

You may submit evidence on a small portable electronic device (such as a CD, USB flash drive or thumb drive) which will be kept by the ARB. Do NOT bring evidence on a smart phone. You are required to notify the Kent County Appraisal District no later than the 10th day before the date of the hearing if you plan to use a small portable electronic device and the format.

Before the date of your hearing, you may inspect all of the data, schedules, formulas, and other information that the District plans to introduce at the hearing to establish any matter at issue. The Kent County Appraisal District has the burden of proof regarding protests related to appraised value, market value, and unequal appraisal and must prove by the evidence that the value is correct. You may get copies of this information from the Kent County Appraisal District. The charges for such copies will not exceed \$15 for each residence or \$25 for each property of another type.

Neither the property owner nor the District may give any board member information about a protest or motion prior to the hearing.

To request a postponement of your hearing, you must contact the District before the hearing date and the chairman shall postpone the hearing at least once if the property owner makes a request. You may also request a hearing time on a protest during evening hours and weekends.

It is important that you be on time for your hearing. **Your motion will be dismissed if you fail to (1) appear at your hearing in person, (2) send a notarized affidavit containing evidence to support your protest or motion, or (3) send an authorized representative (to whom owner has provided an appointment of agent form or notarized statement).** You may present evidence or argument without attending the hearing in person by sending an affidavit **executed before a Notary Public** (or other authorized public official) stating that you swear or affirm that the information it contains is true and correct. The affidavit

should (1) identify you as the property owner, (2) state the account number and description of the property that is the subject of the protest or motion, and (3) give the date and time of the hearing. You should provide the original and 6 copies of the affidavit. **For an affidavit to be considered, it must be received by the Board before the time of the hearing. An affidavit cannot be faxed.** A property owner may designate another person to represent him for property tax purposes by filing certain forms required by Texas law. These forms are available from the District at 155 S. Main St., Jayton, TX 79528. In this notice "you" includes property owners and their properly designated agents.

Three Types of Hearings

A property owner may choose to appear at an ARB protest hearing in one of the three following ways:

1. in person to offer evidence and argument;
2. by telephone conference call to offer argument with evidence offered and delivered to the ARB by affidavit before the hearing begins; or
3. by written affidavit to offer evidence and argument delivered to the ARB before the hearing begins.

The ARB must conduct a protest hearing by telephone conference call if the property owner provides sufficient written notice to the ARB of the owner's intent to appear by telephone conference call or the ARB proposes that the hearing be conducted in that manner and the property owner agrees. Notice to the ARB is provided either in the notice of protest or by written notice filed with the ARB no later than the 10th day before the date of the hearing. A property owner who appears by telephone conference call must offer any evidence by affidavit submitted to the ARB before the hearing begins.

An ARB hearing by telephone conference call must be held in a location equipped with telephone equipment that allows each board member and the other parties to the protest who are present at the hearing to hear the property owner offer argument. The ARB must provide a telephone number for the property owner to call to participate in the hearing. A property owner is responsible, however, for providing access to a telephone conference call hearing to another person that the owner invites to participate in the hearing.

Procedures During and After Your Hearing

All hearings will take place at the Kent County Appraisal District Office, 155 S. Main St. Jayton, TX with Real, Mineral, Industrial and Business Personal from 9:00 a.m. – 12:00 p.m. first come first serve.

Agriculture Use Denials are by set appointment from 1:30 p.m. – 4:00 p.m. on June 13, 2018.

Please check your Notice of Protest Hearing for time to show up.

A protest or motion hearing is somewhat like --- but far less formal than --- a simple trial in a court of law. The Board follows certain rules and procedures so that everyone who appears before it has a fair and reasonable opportunity to be heard and so that an impartial determination is made. For example, all hearings must be open to the public and all testimony must be given under oath. All hearings are tape-recorded. The chairman is a full participant and is not prohibited from voting or making motions. A majority of the Board will finally determine each protest or motion. The Board's experience indicates that **15 minutes** is usually sufficient time for a hearing.

A hearing usually proceeds as follows:

1. Commence the hearing and announce the assigned protest number, property location and owner, and other identifying information.
2. Announce that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be provided.
3. 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.
4. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
5. 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.
6. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify.
7. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
8. Unless both parties otherwise agree, the property owner (or agent, as applicable) shall present his/her case first.
9. 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.
10. Next, the appraisal district representative may cross-examine the property owner, the agent, or the representative and/or witnesses.
11. 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.
12. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
13. Members of the ARB shall not be examined or cross-examined by parties.
14. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
15. The other party may then offer rebuttal evidence.
16. The party presenting its case first shall make its closing argument and state the ARB determination being sought.
17. The party presenting its case second shall make its closing argument and state the ARB determination being sought.
18. The ARB or panel chairman shall state that the hearing is closed.
19. The ARB or panel shall deliberate orally. No notes, text messages, or other form of communication are permitted.
20. 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).

21. 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.

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.

Statutory Rules for Appraisal Review Boards

I. ARB Membership

[Tax Code Section 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 chairman in addition to any other individual or entity as may be provided by law. The chairman 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/herself immediately from the hearing and report the conflict to the chairman 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 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.

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.

II. ARB Duties

[Tax Code Section 5.103(b) (1), (5), and (6)]

1. Statutory Duties of an ARB

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

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.

III. ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

[Tax Code Section 5.103(b), (3), (4), (7), and (14)]

1. Scheduling Hearings Generally

The ARB shall schedule a hearing when a timely notice of protest is filed and, in doing so, may be provided with clerical assistance by the appraisal district.

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 and may use different panels 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 Section 41.66(j).

5. Postponements under Tax Code Section 41.45(e)

A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause, 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 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, 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 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, 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 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, 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.

6. 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.

7. Postponements under Tax Code Section 41.45(g)

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

- (1) the owner of the property or the owner's agent is also scheduled to appear at a hearing on a protest filed with the ARB of another appraisal district;
- (2) the hearing before the other ARB is scheduled to occur on the same date as the hearing set by this ARB;
- (3) the notice of hearing delivered to the property owner or the owner's agent by the other ARB bears an earlier postmark than the notice of hearing delivered by this ARB or, if the date of the postmark is identical, the property owner or agent has not requested a postponement of the other hearing; and
- (4) the property owner or the owner's agent includes with the request for a postponement a copy of the notice of hearing delivered to the property owner or the owner's agent by the other ARB.

8. Postponements under Tax Code Section 41.66(h)

The ARB 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.

9. 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.

IV. Conduct of ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

[Tax Code Section 5.103(b), (2), (9), and (10)]

1. Conducting Hearings Open to the Public (See page 3)

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. 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.

2. 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 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.

3. 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.

4. 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.

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.

V. 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.

VI. Other Issues

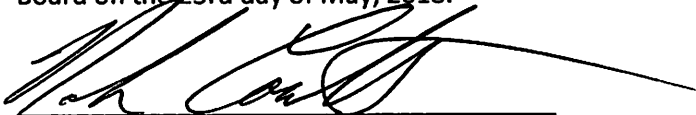
[Tax Code Section 5.103(17)]

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.

The Board follows the requirements of the *Texas Property Tax Code* and the current edition of *Appraisal Review Board Manual* published by the State. Please refer to these publications for more information.

The above procedures and rules were adopted by majority vote of the Kent County Appraisal Review Board on the 23rd day of May, 2018.



Nelson Coulter, ARB Chairman



Attest by Board Member