



2026

Appraisal Review Board Training Manual



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TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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Tax Code Section 5.041(f) states:

The comptroller may not advise a property owner, a property owner's agent, or the chief appraiser or another employee of an appraisal district on a matter that the comptroller knows is the subject of a protest to the appraisal review board. The comptroller may provide advice to an appraisal review board member as authorized by Subsection (a)(4) of this section or Section 5.103 and may communicate with the chairman of an appraisal review board or a taxpayer liaison officer concerning a complaint filed under Section 6.052.

Tax Code Section 5.041(a)(4) authorizes the Comptroller's office to provide answers to technical questions relating to the duties and responsibilities of ARB members and property appraisal issues. The Comptroller's office may provide advice to ARB members concerning:

- ARB duties and responsibilities;
- property appraisal issues;
- the Comptroller's model hearing procedures; and
- the Comptroller's ARB survey.

The Comptroller's office may communicate with the ARB chair or the taxpayer liaison officer about written complaints that the ARB has authority to resolve and that are filed with the appraisal district board of directors.

The Tax Code requires the Comptroller's office to prepare model hearing procedures for ARBs addressing specific issues and to prepare and implement a survey form for the purpose of providing the public with a reasonable opportunity to offer comments and suggestions concerning the ARB.¹

¹ Tax Code §§5.103 and 5.104

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Introduction to Appraisal Review Boards

What legal guidelines and precedents do you face as an appraisal review board (ARB) member? Who schedules protests and challenges? How do you decide what is a fair ruling on a protest or challenge? What is the limit of your authority? How do you let property owners and taxing units know your decisions? ARB members routinely face these questions and many more.

The applicable local appointing authority selects ARB members.² The appraisal district board of directors provide the budget for ARB operations as authorized by statute but are prohibited from communicating with the ARB concerning matters that could be the subject of hearings except as authorized by law.³ The ARB is a decision-making body that issues determinations of statutorily authorized property owner protests and taxing unit challenges.⁴ ARB members are not a party to the protest. ARBs are appointed to act independently of the appraisal district and to make fair and impartial determinations. ARBs only have the authority specifically given by statute.

Appearing before the ARB is often the first time a property owner faces a decision-making body of government. The ARB should try to make the experience a positive one by its demeanor and professionalism. All ARB members should demonstrate fairness and courtesy in conducting hearings and consider the evidence presented by all parties to the protests.

The ARB may have to interpret the Tax Code in some protests. For example, the legal requirements for exemption qualifications may require interpretation. When

such interpretation is needed, the ARB should seek legal advice from its attorney.⁵

The ARB has no role in the appraisal office's day-to-day operations or in appraising property. It does not instruct the appraisal staff about how to perform appraisals. Appraisal district staff are authorized to provide clerical assistance to the board.⁶

The ARB has the authority to change a value or correct the appraisal records on a filed protest, motion or challenge.⁷ In certain circumstances, the chief appraiser must make the reappraisals or correct the records ordered by the ARB.⁸ Only in resolving property owner protests or motions to correct can the ARB make changes or set a value.⁹

This training manual helps newly appointed ARB members find answers to the many questions they will encounter in their work and to help them perform their duties effectively. The manual provides general information about policy, procedures and legal guidelines. It outlines official responsibilities, available resources and the chronology of the review process. The manual serves as the text for the official training course. This manual is not the same as the text used for the continuing education course that ARB members must take after taking this course, and it is not and cannot be substituted for that course.

An ARB member may not participate in an ARB hearing unless the person has completed the new member training and received a certificate of course completion

² *Tex. Tax Code §6.41(d) and (d-1)*

³ *Tex. Tax Code §§6.411, 6.414, 6.42 and 6.43*

⁴ *Tex. Tax Code §§41.07 and 41.47*

⁵ *Tex. Tax Code §6.43(a)*

⁶ *Tex. Tax Code §6.43(f)*

⁷ *Tex. Tax Code §§25.25, 41.07 and 41.47*

⁸ *Tex. Tax Code §41.08*

⁹ *Tex. Tax Code §§25.25 and 41.47*

from the Comptroller’s office.¹⁰ At the conclusion of this course, each ARB member must complete a statement, on a form prescribed by the Comptroller’s office, indicating that the member will comply with Tax Code requirements in conducting hearings.¹¹

Exhibit 1 lists important **DOs** and **DON'Ts** that allow ARB members to be successful when conducting a hearing and reviewing evidence.

EXHIBIT 1 Appraisal Review Board DOs and DON'Ts

DOs	DON'Ts
1. DO act in a professional, courteous and respectful manner always.	1. DON'T make rude remarks, become argumentative, threaten or attempt to intimidate anyone.
2. DO make eye contact and listen attentively to the property owner and the appraisal district representative when they are presenting evidence and arguments.	2. DON'T show favoritism to either the property owner or the appraisal district or become an advocate for either party.
3. DO adopt ARB hearing procedures at a public meeting that incorporate the Comptroller’s model hearing procedures and send them to the Comptroller’s office for review annually.	3. DON'T exhibit a personal relationship with appraisal district staff or the property owner. If you cannot be impartial, you may not participate in the hearing.
4. DO let the parties know how many copies of evidence to bring to the hearing as part of the ARB procedures and remind them orally at the beginning of the hearing.	4. DON'T let your attention wander.
5. DO post the adopted ARB hearing procedures in the hearing room as required by law and follow them.	5. DON'T sleep during a hearing.
6. DO ensure that hearings are scheduled at reasonable intervals and times, including Saturdays or evenings, as provided by law, and that hearings are set at times and dates certain.	6. DON'T refuse to admit documents into evidence unless advised by legal counsel to take such an action. Simply weigh the evidence’s relevance or sufficiency to make a decision.
7. DO ensure that the protesting party and the appraisal district representative exchange evidence prior to the start of the hearing.	7. DON'T ask the appraisal staff for direction on a questionable issue. Always seek independent legal advice from the ARB attorney.
8. DO get legal advice from the ARB’s attorney when questions arise.	8. DON'T present testimony or become a party to the hearing through your words and actions.
9. DO deliberate openly and make determinations without bias.	9. DON'T make a determination that is not supported by the evidence presented at the hearing.
10. DO maintain accurate hearing records, including retaining copies of evidence and ensuring that the hearings are properly recorded.	10. DON'T whisper, text or pass notes when discussing an issue before making a determination.
	11. DON'T talk about pending protests to anyone.

Source: Texas Comptroller of Public Accounts.

¹⁰ Tex. Tax Code §5.041(b)

¹¹ Tex. Tax Code §5.041(b-1)

Texas law also requires the Comptroller's office to develop a continuing education course that must be completed by ARB members. At the conclusion of this course, the member must complete a statement on a form prescribed by the Comptroller's office indicating that the member will comply with Tax Code requirements in conducting hearings. ARB members may not participate in an ARB hearing, vote on a determination of a protest or be reappointed to an additional term until the member completes the continuing education course and receives a certificate of course completion. If the member is reappointed to an additional term, he or she must successfully complete the continuing education course and comply with other requirements in each year the member continues to serve.¹²

Neither this training manual nor the continuing education course addresses every situation you may face as an ARB member. You should not rely solely on these manuals for answers to the many questions that arise. This manual is only a guide to train new ARB members as they begin their work. Please consult with your attorney about legal issues in protest hearings, developing ARB hearing procedures and any other matter requiring legal interpretation.

This training manual and more information about local property taxes are available on the Comptroller's website at comptroller.texas.gov/taxes/property-tax/. The Comptroller's office continually develops new online technological assistance to improve ARB operations, so it is a good idea to bookmark this page as a valuable resource.

Pursuant to Tax Code Section 5.041(a)(4), the Comptroller's office maintains a telephone number dedicated to serving ARB members. ARB members needing assistance regarding technical questions relating to their duties and responsibilities and property appraisal issues can call 800-252-7551.

¹² *Tex. Tax Code §5.041(e-2)*

Chapter 1

ARB Member Qualifications, Appointment and Oath

WHO CAN SERVE?

Tax Code Chapter 6, Subchapter C, addresses who is and is not eligible to serve on the ARB. To serve on the ARB, an individual must have lived in the appraisal district for at least two years before taking office.¹³ For the most part, ARB members do not need any special qualifications, but they may not serve on the ARB if, at the time of service, they are:

- appraisal district board of directors members;
- appraisal district officers or employees;
- Comptroller's office employees; or
- governing body members or taxing unit employees.¹⁴

In counties with populations of 120,000 or more, persons may not serve if they: (1) are a former board of directors member, former appraisal district officer or employee; (2) served as a member of the governing body or officer of a taxing unit for which the appraisal district appraises property, until the fourth anniversary of the date the person ceased to be a member or officer; (3) appeared before the ARB for compensation during the two-year period preceding the appointment date; or (4) have served all or part of three previous terms as an ARB member or auxiliary ARB member.¹⁵

An individual cannot serve as an ARB member if he or she is related within the second degree by blood or marriage to a person engaged in appraising property for property tax purposes or a tax consultant paid to represent property owners in proceedings in the

appraisal district. Knowingly violating this provision is a Class B misdemeanor. An individual cannot serve as an ARB member if he or she is related within the third degree by blood or second degree by marriage to a member of the appraisal district's board of directors or to an ARB member.¹⁶ **Exhibit 2** provides details on degrees of consanguinity (blood relations) and affinity (marriage relations).

The law also bars an individual from ARB service if he or she, or a business entity in which he or she has a substantial interest, has a contract with the appraisal district or with a taxing unit served by the appraisal district.¹⁷ Likewise, the law prohibits the taxing units and the appraisal district from contracting with an ARB member or a business entity in which an ARB member has a *substantial interest*.¹⁸ The Tax Code defines substantial interest as either (1) combined ownership by the member or the member's spouse of at least 10 percent of a business' voting stock or shares or (2) service by the member or the member's spouse as a partner, limited partner or officer in the business entity.¹⁹

An individual may not be eligible to serve on the ARB if he or she holds some other paid public office. The Texas Constitution does not allow a person to hold more than one paid public office.²⁰ ARB members should contact legal counsel to interpret what constitutes a paid position or whether a public officer is receiving compensation.

¹³ *Tex. Tax Code §6.41(c)*

¹⁴ *Tex. Tax Code §6.412(c)*

¹⁵ *Tex. Tax Code §6.412(d)*

¹⁶ *Tex. Tax Code §6.412(a) and (b)*

¹⁷ *Tex. Tax Code §6.413(a)*

¹⁸ *Tex. Tax Code §6.413(b) and (c)*

¹⁹ *Tex. Tax Code §6.413(d)*

²⁰ *Tex. Const. art. XVI, §40*

EXHIBIT 2

Chart of Kinship for Appraisal Personnel – Degrees of Consanguinity and Affinity Prohibitions

1st DEGREE	2nd DEGREE	3rd DEGREE
<p>By Consanguinity</p> <ul style="list-style-type: none"> • Parents • Children <p>By Affinity</p> <ul style="list-style-type: none"> • Spouses of relatives listed under first degree consanguinity • Spouse • Spouse's parents • Spouse's children • Stepparents • Stepchildren 	<p>By Consanguinity</p> <ul style="list-style-type: none"> • Grandparents • Grandchildren • Brothers and sisters <p>By Affinity</p> <ul style="list-style-type: none"> • Spouses of relatives listed under second degree consanguinity • Spouse's grandparents • Spouse's grandchildren • Spouse's brothers and sisters 	<p>By Consanguinity</p> <ul style="list-style-type: none"> • Great grandparents • Great grandchildren • Nieces and nephews • Aunts and uncles <p>By Affinity</p> <ul style="list-style-type: none"> • NO PROHIBITIONS
<p align="center">Eligibility Restrictions for Chief Appraisers, Directors, ARB Members and Others</p> <ul style="list-style-type: none"> • ARB members cannot serve if they are related within the second degree by consanguinity or affinity to someone engaged in the business of appraising property for compensation for use in property tax proceedings before the appraisal district or ARB or of representing property owners for compensation in the appraisal district.²¹ • ARB members cannot serve if they are related within the third degree by consanguinity or within the second degree by affinity to members of the appraisal district's board of directors or the ARB.²² • ARB members cannot serve if they or their spouses have substantial interests in contracts with the appraisal district or taxing units participating in the district.²³ • ARB members cannot participate in a property owner protest in which they are related to a party by affinity within the second degree or by consanguinity within the third degree.²⁴ • Chief appraisers are disqualified from employment if related within the second degree by consanguinity or affinity to someone engaged in the business of appraising property for compensation for use in property tax proceedings or of representing property owners for compensation in the appraisal district.²⁵ • Appraisal district board members cannot serve if related within the second degree by consanguinity or affinity to someone engaged in the business of appraising property for compensation for use in proceedings before the appraisal district or ARB or of representing property owners for compensation in that district.²⁶ • Chief appraisers or individuals related to chief appraisers within the second degree by consanguinity or affinity cannot prepare appraisals to be used as evidence in protests or challenges concerning property that is taxable in the appraisal district that employs the chief appraiser.²⁷ • Appraisal district board members are ineligible to serve if they or their spouses have substantial interests in contracts with the appraisal district or taxing units participating in the appraisal district if the contract relates to property tax.²⁸ • The appraisal district may not employ persons related to a member of the board of directors within the second degree by affinity or within the third degree by consanguinity.²⁹ • The appraisal district may not employ or contract with persons or their spouses if they are related to the chief appraiser within the first degree by consanguinity or affinity.³⁰ • The appraisal district may not employ persons who have served as an ARB member for the appraisal district at any time in the preceding two years.³¹ 		

²¹ Tex. Tax Code §6.412(a)(1)

²² Tex. Tax Code §6.412(a)(3)

²³ Tex. Tax Code §6.413(a)

²⁴ Tex. Tax Code §41.69

²⁵ Tex. Tax Code §6.035(a)

²⁶ Tex. Tax Code §6.035(a)

²⁷ Tex. Tax Code §6.035(d)

²⁸ Tex. Tax Code §6.036(a)

²⁹ Tex. Tax Code §6.05(f)

³⁰ Tex. Tax Code §6.05(g)

³¹ Tex. Tax Code §6.054(3)

The Tax Code disqualifies a person from serving on an ARB if the person owns property on which delinquent property taxes have been owed for more than 60 days after the date the person knew or should have known of the delinquency. This restriction does not apply if the person is paying the delinquent taxes under an installment payment agreement or has deferred or abated a suit to collect delinquent taxes under Tax Code Sections 33.06 or 33.065.³²

SPECIAL PANEL MEMBERS

An appraisal district's board of directors in a county with a population of 1.2 million or more must increase the number of ARB members to include enough ARB members to hear certain complex property issues referred to special panels.³³ ARB members must meet special qualifications to be appointed to the special ARB panels established for certain appraisal districts. Special panel ARB members must:

- hold a law degree;
- hold a Master of Business Administration degree;
- be licensed as a certified public accountant;
- be accredited by the American Society of Appraisers;
- possess an MAI designation;
- possess a certified assessment evaluator designation;
- have at least 10 years' experience in property tax appraisal or consulting; or
- be licensed as a real estate broker or sales agent.³⁴

If an ARB needs special panel members but does not have enough qualified applicants, the board of directors may appoint an individual who holds a bachelor's degree in any field.³⁵

EXHIBIT 3 ARB Appointment

Members or Commissioners	County Population	Appointed By	Term
ARB members	Less than 75,000	Local administrative district judge	2 years
ARB members	75,000 or more	Appraisal district board of directors	2 years
ARB commissioners	Less than 75,000	Local administrative district judge	1 year
ARB special panel members	1.2 million or greater	ARB chair	2 years

APPOINTING THE ARB - SIZE AND TERMS

A local appointing authority appoints ARB members and commissioners, as applicable, and the ARB chair appoints special panel assignments.³⁶ As shown in **Exhibit 3**, the local appointing authority varies based on county population as determined by the latest census.³⁷ ARB members in all counties serve two-year staggered terms beginning Jan. 1. The appraisal district board of directors must adopt a resolution providing for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. When making the initial or subsequent appointments, the applicable appointing authority or the judge's designee, if the appointing authority is the judge, indicates which members will serve one-year terms to comply with required staggered-term provisions.³⁸

The appraisal district board of directors determines the number of ARB members to serve on the ARB, with a statutory minimum of three members.³⁹ Upon selection,

³² *Tex. Tax Code §6.412(a)(2)(A) and (B)*

³³ *Tex. Tax Code §6.41(b-2)*

³⁴ *Tex. Tax Code §6.425(d)*

³⁵ *Tex. Tax Code §6.425(e)*

³⁶ *Tex. Tax Code §§6.41(d), (d-2), (d-2-1) and 6.425(e)*

³⁷ *Tex. Tax Code §6.41(d) and Tex. Gov't. Code §311.005(3)*

³⁸ *Tex. Tax Code §6.41(e)*

³⁹ *Tex. Tax Code §6.41(b)*

the applicable appointing authority will enter an order designating the individuals as ARB members.⁴⁰

APPOINTMENTS IN LESS POPULOUS COUNTIES

Less populous counties are counties with a population of less than 75,000.⁴¹ The local administrative district judge (judge) is the applicable appointing authority in less populous counties.⁴²

The judge may make ARB appointments directly or may, by written order, appoint from three to five persons to perform the duties of ARB commissioners.⁴³ Appointed ARB commissioners must have the same qualifications as ARB members.⁴⁴ ARB commissioners serve a one-year term beginning Jan. 1.⁴⁵ The judge may reappoint ARB commissioners to successive terms at his or her discretion.⁴⁶

ARB commissioners can also serve as ARB members.⁴⁷ They meet to perform their duties as directed by the judge.⁴⁸ The appraisal district must provide the judge or the ARB commissioners, as the case may be, the number of positions requiring ARB appointment.⁴⁹ The appraisal district must also provide the judge or ARB commissioners any reasonable assistance they request.⁵⁰

ARB commissioners must provide a list of proposed ARB members to the judge when requested, but no later than Jan. 1 of each year. The list must include at least five more names than the number of ARB positions to be filled. The judge may accept the proposed names or reject the list and return it to the ARB commissioners. If the judge

rejects the list the ARB commissioners must propose a new list until it is acceptable.⁵¹

An ARB member, chief appraiser, an appraisal district agent or employee, board of directors member, property tax consultant or authorized representative commits an offense if the person communicates with the judge regarding ARB member appointment except as provided by law.⁵²

APPOINTMENTS IN POPULOUS COUNTIES

Populous counties are counties with a population of 75,000 or more.⁵³ The appraisal district board of directors is the applicable appointing authority in populous counties.⁵⁴ The appraisal district board must make ARB appointments by majority vote, with at least two votes in favor cast by elected board members.⁵⁵

The appraisal district must provide the board of directors the number of positions requiring ARB appointment.⁵⁶ The appraisal district must also provide the board of directors any reasonable assistance they request.⁵⁷ The board of directors in a county with a population of 1.2 million or more must select an adequate number of qualified individuals to permit the ARB chair to fill special panel positions.⁵⁸

An ARB member, chief appraiser, an appraisal district agent or employee, property tax consultant or authorized representative commits an offense if the person communicates with the board of directors regarding ARB member appointment except as provided by law.⁵⁹

⁴⁰ *Tex. Tax Code §6.41(d-10)*

⁴¹ *Tex. Tax Code §6.03(a)*

⁴² *Tex. Tax Code §6.41(d)*

⁴³ *Tex. Tax Code §6.41(d-2)*

⁴⁴ *Tex. Tax Code §6.41(d-2)*

⁴⁵ *Tex. Tax Code §6.41(d-8)*

⁴⁶ *Tex. Tax Code §6.41(d-8)*

⁴⁷ *Tex. Tax Code §6.41(d-6)*

⁴⁸ *Tex. Tax Code §6.41(d-4)*

⁴⁹ *Tex. Tax Code §6.41(d-5)*

⁵⁰ *Tex. Tax Code §6.41(d-5)*

⁵¹ *Tex. Tax Code §6.41(d-7)*

⁵² *Tex. Tax Code §6.41(i)*

⁵³ *Tex. Tax Code §6.0301(a)*

⁵⁴ *Tex. Tax Code §6.41(d)*

⁵⁵ *Tex. Tax Code §6.41(d-2-1)*

⁵⁶ *Tex. Tax Code §6.41(d-5)*

⁵⁷ *Tex. Tax Code §6.41(d-5)*

⁵⁸ *Tex. Tax Code §6.41(d-9)*

⁵⁹ *Tex. Tax Code §6.41(i)*

EXHIBIT 4 Code of Judicial Conduct*

Preamble

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code of Judicial Conduct are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

- A Judge Should Uphold the Integrity and Independence of the Judiciary.
- A Judge Should Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.
- A Judge Should Perform the Duties of Judicial Office Impartially and Diligently.
- A Judge Should Conduct the Judge's Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations.
- A Judge Should Refrain from Inappropriate Political Activity.
- A Judge Shall Comply with the Code of Judicial Conduct.

*The Code of Judicial Conduct includes eight canons; the last two are procedural in nature and are not included here. Each canon is described in much greater detail at <https://www.txcourts.gov/media/1461500/texas-code-of-judicial-conduct.pdf>.

Source: Office of Court Administration, 2025.

ARB MEMBER REMOVAL

The applicable appointing authority or the judge's designee, if the appointing authority is the local administrative district judge, may remove an ARB member for the following reasons:

- ARB member's relative is a fee appraiser or tax consultant appearing before the ARB;⁶⁰
- ARB member owes delinquent property taxes under certain circumstances;⁶¹
- ARB member or his or her spouse has a substantial interest in an appraisal district or taxing unit contract;⁶²
- ARB member is involved in an ex parte communication about a protest outside of the hearing;⁶³

- 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;⁶⁴
- ARB member fails to attend ARB meetings as established by the appraisal district board's policy;⁶⁵ or
- evidence of the ARB member's repeated bias or misconduct.⁶⁶

Not later than 90 days after learning of a potential ground for removal, the appraisal district board of directors, the local administrative district judge or the judge's designee that appointed an ARB member must remove the member or find by official action that removal is not warranted.⁶⁷

⁶⁰ Tex. Tax Code §§6.41(f)(1) and 6.412

⁶¹ Tex. Tax Code §§6.41(f)(1) and 6.412

⁶² Tex. Tax Code §§6.41(f)(1) and 6.413

⁶³ Tex. Tax Code §§6.41(f)(1) and 41.66(f)

⁶⁴ Tex. Tax Code §§6.41(f)(1) and 41.69

⁶⁵ Tex. Tax Code §6.41(f)(2)

⁶⁶ Tex. Tax Code §6.41(f)(3)

⁶⁷ Tex. Tax Code §6.41(f)

ARB members can find throughout the Tax Code directives that define the limits of their authority. In addition, the ARB should conform to the highest ethical standards. The *Code of Judicial Conduct (Exhibit 4)* governs the conduct of judges and may serve as a guide for ARB members.

APPOINTMENT OF TEMPORARY ARB MEMBERS

The appraisal district board of directors must adopt and implement a policy concerning the temporary replacement of an ARB member who has communicated with another person in violation of Tax Code Section 41.66(f) (see Chapter 4 of this manual). At each protest hearing, an ARB member must sign an affidavit that the member has not communicated about certain elements of the protest with another person except during the protest hearing. If an ARB member cannot sign the affidavit, the ARB member cannot hear that property's protest.⁶⁸

The appraisal district's board of directors' policy on appointing ARB members should provide for naming temporary ARB members.⁶⁹ For example, if the ARB has enough members to place one regular ARB member on a panel needing a temporary member, the board of directors' policy may choose to use current members as temporary panel replacements. On the other hand, a board of directors' policy may prefer to designate several eligible individuals to serve only as temporary replacements for removed members.

APPOINTMENT OF AUXILIARY ARB MEMBERS

The Tax Code also authorizes appraisal district directors to appoint auxiliary ARB members to hear property owner protests and assist the board in performing its duties. The

appraisal district directors by resolution select the number of auxiliary members.⁷⁰

Auxiliary board members are appointed in the same manner and for the same term as regular board members and are subject to the same eligibility requirements and restrictions. In addition to hearing property owner protests and sitting on hearing panels, auxiliary members are entitled to make recommendations to the ARB regarding a protest. Auxiliary members sitting on a hearing panel are considered regular board members for all purposes relating to the conduct of a hearing. An auxiliary member is not entitled to vote on the board's protest determination, does not count toward a quorum and cannot serve as ARB chair or secretary.⁷¹ An auxiliary member may not hear a protest before a special panel established by Tax Code Section 6.425 unless the member is eligible for special panel appointment.⁷²

ACCESS TO CRIMINAL HISTORY RECORD INFORMATION

The Tax Code authorizes appraisal districts to obtain criminal history records related to a person applying for ARB appointment from the Federal Bureau of Investigation (FBI), Department of Public Safety (DPS) and any other criminal justice agency in this state.⁷³ An appraisal district may provide the local administrative judge or the ARB commissioners the criminal history record information obtained from DPS or any other criminal justice agency in this state.⁷⁴

The appraisal district may not release or disclose criminal history record information obtained from the FBI. The appraisal district may not release or disclose criminal history record information obtained from DPS or any other criminal justice agency in this state except on court

⁶⁸ *Tex. Tax Code §41.66(g)*

⁶⁹ *Tex. Tax Code §41.66(g)*

⁷⁰ *Tex. Tax Code §6.414(a)*

⁷¹ *Tex. Tax Code §6.414*

⁷² *Tex. Tax Code §6.414(d)*

⁷³ *Tex. Gov't. Code §411.1296(a-1)(1) and (2)*

⁷⁴ *Tex. Gov't. Code §411.1296(c)*

order with written consent from the individual who is the subject of the criminal history record information except as otherwise provided.⁷⁵

The appraisal district must destroy criminal record information after using the information.⁷⁶

OATH OF OFFICE

Newly appointed and reappointed ARB members must sign a statement and take an oath of office before beginning a term. Jan. 1 of the year in which the term begins is the earliest date the oath may be administered. ARB members must be properly sworn before taking any official action. **After the ARB member signs the required statement (Exhibit 5) and takes the oath of office (Exhibit 6), he or she files the statement with the appraisal district office.**⁷⁷ The Secretary of State's Statutory Documents Division provides forms for this purpose online at <https://www.sos.state.tx.us/elections/forms/pol-sub/23-2f.pdf>.

PAY AND TRAINING FOR ARB MEMBERS

When setting its budget, the appraisal district board of directors must include amounts for ARB member (not auxiliary members) per diem (per day) payments and reimbursement of actual and necessary expenses incurred in the performance of their official duties for each day the ARB meets. The budget must also include reimbursement of expenses for auxiliary ARB members, but not per diem.⁷⁸

ARB members, including temporary or auxiliary members, must complete the Comptroller's training course before participating in any hearings. The course must provide at least eight hours of classroom or distance training and education, and the Comptroller

may assess a fee not to exceed \$50 for each person trained whether he or she is an ARB member or not. If the ARB member is appointed *after* the Comptroller's office has offered ARB training courses for that year, the ARB member may participate in hearings, but must complete the new member training course at the first opportunity after the appointment.⁷⁹

The Comptroller's new member training and continuing education cannot be provided by an appraisal district, the chief appraiser or other appraisal district staff, a board of directors member, ARB board member or a taxing unit.⁸⁰ The ARB can retain a certified appraiser to instruct ARB members on valuation methods if the appraisal district budgets for it.⁸¹ An ARB may consider, based on legal advice, training itself concerning procedural and administrative matters, so long as the training does not conflict with appraisal and legal issues addressed in the Comptroller's training courses.

The Tax Code prohibits certain communication about the training courses. Except during a hearing or other ARB proceeding, the following persons cannot communicate with the ARB regarding the Comptroller's training courses or any matter presented or discussed during the courses:

- the chief appraiser;
- other appraisal district employees;
- an appraisal district director;
- an officer or employee of a taxing unit served by the appraisal district; and
- an attorney who represents (or whose firm represents) the appraisal district or taxing unit.⁸²

⁷⁵ *Tex. Gov't. Code §411.1296(d)*

⁷⁶ *Tex. Gov't. Code §411.1296(f)*

⁷⁷ *Tex. Const. art. XVI, §1*

⁷⁸ *Tex. Tax Code §§6.414(f) and 6.42(c)*

⁷⁹ *Tex. Tax Code §5.041(b), (c) and (e)*

⁸⁰ *Tex. Tax Code §5.041(e-3)*

⁸¹ *Tex. Tax Code §5.041(h)*

⁸² *Tex. Tax Code §5.041(g)*

EXHIBIT 5
Form 23-3, Statement of Elected/Appointed Officer

<p>Form #23-3 Rev. 09/2023 Submit to: SECRETARY OF STATE Government Filings Section P O Box 12887 Austin, TX 78711-2887 512-463-6334 512-463-5569 - Fax Filing Fee: None</p>	 STATEMENT OF OFFICER
<p>Statement</p> <p>I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.</p> <p>Title of Position to Which Elected/Appointed: _____</p>	
<p>Execution</p> <p>Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated therein are true.</p> <p>Date: _____</p> <p style="text-align: right;">_____ Signature of Officer</p>	

Source: Texas Secretary of State, 2023.

EXHIBIT 6
Form 23-2, Oath of Office

<p>Form #23-2 Rev. 9/2023 Submit to: SECRETARY OF STATE Government Filings Section P O Box 12887 Austin, TX 78711-2887 512-463-6334 Filing Fee: None</p>	<p>This space reserved for office use</p>  OATH OF OFFICE
<p>IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS, I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.</p> <p style="text-align: right;">_____ Signature of Officer</p> <hr style="border-top: 1px dashed black;"/> <p>State of _____) County of _____)</p> <p>Sworn to and subscribed before me this _____ day of _____, 20____.</p> <p style="text-align: center;">(seal)</p> <p style="text-align: right;">_____ Signature of Notary Public or Other Officer Administering Oath</p> <p style="text-align: right;">_____ Printed or Typed Name</p>	

Source: Texas Secretary of State, 2023.

ARB members should be aware of laws that require mandatory training for public officials on the Texas Open Meetings Act and Public Information Act. The laws require at least two hours of open government training, consisting of a one-hour educational course on the Open Meetings Act and one-hour educational course on the Texas Public Information Act from the Office of the Attorney General (OAG).⁸³ The attorney general may require each public official of a governmental body to complete open records training if the attorney general determines that the governmental body has failed to comply with the Public Information Act. The attorney general will notify public officials in writing of the determination and the requirement to complete the training within 60 days of receiving the notice.⁸⁴

The Open Meetings Act training requirement applies to all elected or appointed officials who routinely participate in meetings subject to that law as part of their regular duties including ARB members. The Public Information Act training requirement applies to elected or appointed officials who respond to public information requests. ARB members have **90 days** to complete the required training and need take the course only once. The OAG provides free training for all public officials through both online and video courses available for viewing at www.texasattorneygeneral.gov/og/open-government-training. Officials may obtain a DVD copy of the training courses by calling the OAG's Public Information and Assistance line at 800-252-8011.

ARB OFFICERS

The applicable appointing authority of the county in which the appraisal district is established selects a chair and a secretary from among the ARB members. If possible, the appointing authority should appoint an ARB chair who has a background in law and property appraisal.⁸⁵

The ARB presiding officer often has the responsibility for ensuring that the ARB conducts hearings properly and follows procedures.

A secretary's responsibilities could include the following: sending required notices, ensuring that meetings are posted and keeping official minutes or audio recordings of ARB proceedings. While the law only requires a presiding officer and a secretary, the ARB may determine if it needs other officers to conduct its business.

The ARB may meet at any time at the presiding officer's call or as provided by ARB rules or procedures. The ARB must meet to examine the appraisal records within 10 days after the date the chief appraiser submits appraisal records to it.⁸⁶

⁸³ *Tex. Gov't. Code §§551.005 and 552.012*

⁸⁴ *Tex. Gov't. Code §552.012(b-1)*

⁸⁵ *Tex. Tax Code §6.42(a)*

⁸⁶ *Tex. Tax Code §6.42(a) and (b)*

Chapter 2

ARB General Operations

By April 1, or as soon thereafter as practicable, if the property is a single-family residence that qualifies for a residence homestead exemption, or by May 1, or as soon thereafter as practicable, for any other property, the chief appraiser must deliver a clear and understandable written notice to a property owner of their property's appraised value.⁸⁷ This notice is required if any of the following applies:

- the property's appraised value is greater than it was in the preceding year;
- the property's appraised value is greater than the value rendered by the property owner;
- the property was not on the appraisal roll in the preceding year;
- a property's exemption or partial exemption approved for the preceding year was canceled or reduced for the current year;⁸⁸
- the property was reappraised in the current year;
- the ownership changed from the preceding year;
- the property owner makes a written request for a notice;⁸⁹
- the property qualifies for the circuit breaker limitation on appraised value for non-homestead real property;⁹⁰ or
- the residential property has not qualified for a homestead exemption in the current tax year and appraisal district records indicate that the property's address is also the owner's address.⁹¹

The chief appraiser must publish notice of the manner in which a property owner can bring a protest before the

ARB. The notice must describe how to initiate a protest, set out the deadlines for filing a protest, explain the availability and purpose of an informal conference with the appraisal district and explain the manner in which a property owner may appeal an ARB order. The Comptroller's model notice is *Property Tax Protest and Appeal Procedures (Exhibit 7)*.⁹²

The notice must appear in a one-quarter-page ad in a newspaper having general circulation in the county for which the appraisal district is established. The notice may not be published in the part of the paper in which legal notices and classified advertisements appear.⁹³ The notice also must comply with Comptroller Rule 9.3064.⁹⁴

The ARB shall deliver a written notice to property owners regarding their hearing not later than the 15th day before its scheduled date. The notice must include the hearing date, time and place; a description of the hearing's subject matter that identifies what is being protested; a statement notifying property owners that they are entitled to a postponement; and how to access the property tax database for the estimated amount of taxes to be imposed on the owner's property by each taxing unit.⁹⁵

The notice of protest shall be delivered by certified mail if the property owner requests this method; however, the ARB may require the property owner to pay the postage.⁹⁶ If the property owner submits Form 50-843, *Request for Electronic Delivery of Communications with a Tax Official*, to the ARB and provides a valid email address, the ARB must deliver the hearing notice electronically.⁹⁷

⁸⁷ *Tex. Tax Code §25.19*

⁸⁸ *Tex. Tax Code §25.193(a)*

⁸⁹ *Tex. Tax Code §25.19(g)*

⁹⁰ *Tex. Tax Code §25.19(b)(4-a)*

⁹¹ *Tex. Tax Code §25.192*

⁹² *Tex. Tax Code §41.70(a)*

⁹³ *Tex. Tax Code §41.70(b)*

⁹⁴ *34 Tex. Admin. Code §9.3064*

⁹⁵ *Tex. Tax Code §41.46(a)*

⁹⁶ *Tex. Tax Code §41.46(d)*

⁹⁷ *Tex. Tax Code §1.085*

Property Tax Protest and Appeal Procedures

50-195 (Rev.10-25/25)
[41.41,41.70]

Property Tax Protest and Appeal Procedures

Property owners have the right to protest actions concerning their property tax appraisals. You may follow these appeal procedures if you have a concern about:

- your property’s appraised (market) value
- the unequal value of your property compared with other properties;
- your property’s inclusion on the appraisal records;
- any exemptions that may apply to you;
- qualification for an agricultural or timber appraisal;
- the taxing units taxing your property;
- the property’s ownership;
- the change of use of land receiving special appraisal;
- failure of the chief appraiser or appraisal review board (ARB) to send a required notice;
- the denial, modification or cancellation of the circuit breaker limitation on appraised value;
- the determination of incorrect appraised value and allocation of value of a structure, archaeological site and land necessary for access under a historic site exemption; or
- any action taken by the appraisal district or ARB that applies to and adversely affects you.

Informal Review

(Insert description of appraisal district’s informal review process and give name and telephone number of person taxpayer should contact.)

Review by the ARB

If you cannot resolve your problem informally with the appraisal district, you have the right to have your case heard by the ARB.

The ARB is an independent board of citizens that hears and determines protests regarding property appraisals or other concerns listed above. It has the power to order the appraisal district to make the necessary changes based on evidence heard during the ARB hearing.

If you file a written request for an ARB hearing (notice of protest) before the deadline, the ARB will set your case for a hearing and send you written notice of the hearing’s time, date, place and subject. If necessary, you may request an evening of Saturday hearing. You may use Comptroller Form 50-132, *Property Appraisal - Notice of Protest*, to file your written request for an ARB hearing.

Prior to your hearing, you may request a copy of the evidence the appraisal district plans to introduce at the hearing to establish any matter at issue. Before a protest hearing or immediately after the hearing begins, you or your authorized representative and the appraisal district are required to provide each other with a copy of any materials (evidence) intended to be offered or submitted to the ARB at the hearing. You may submit evidence for any hearing type either in paper or on a small portable electronic device (such as a CD, USB flash drive or thumb drive) which the ARB will keep. Do NOT bring evidence on a smart phone. Review the ARB’s hearing procedures regarding all the requirements to properly submit evidence on a small portable electronic device.

To the greatest extent practicable, the hearing will be informal. You or your authorized representative may appear in person, by telephone conference or videoconference call or by submitting a written affidavit to present your evidence, facts and argument. You must indicate the type of hearing you request on your written notice. You must file the notice with the ARB not later than the fifth day before the hearing date

if you have not designated an agent under Tax Code Section 1.111, or 10 days before the hearing date if you have designated an agent under Tax Code Section 1.111 to represent you at the hearing. You must provide your evidence and written affidavit before the hearing begins. You may use Comptroller Form 50-283, *Property Owner’s Affidavit of Evidence to the Appraisal Review Board*, to submit evidence for your telephone or video conference call hearing or for hearing by affidavit.

You and the appraisal district representative have the opportunity to present evidence about your case. In most cases, the appraisal district has the burden of establishing the property’s value by a preponderance of the evidence presented.

In certain protests, the chief appraiser has the burden of proving the property’s value by clear and convincing evidence. You should review ARB hearing procedures to learn more about evidence and related matters.

You should not try to contact ARB members outside of the hearing. ARB members are required to sign an affidavit saying that they have not talked about your case before the ARB hears it.

If you believe that the ARB or chief appraiser failed to comply with an ARB procedural requirement, you may file a complaint with the local taxpayer liaison officer. If the ARB or chief appraiser do not resolve it, you can request limited binding arbitration to compel the ARB or the chief appraiser to comply.

Review by the District Court, an Arbitrator or SOAH

After it decides your case, the ARB must send you a copy of its order by certified mail. If you are not satisfied with the ARB’s decision, you have the right to appeal to district court. As an alternative to district court, you may appeal through regular binding arbitration or the State Office of Administrative Hearings (SOAH) if you meet the qualifying criteria.

If you choose to go to district court, you must start the process by filing a petition with the district court within 60 days of the date you receive the ARB’s order. If you choose to appeal through regular binding arbitration, you must file a request for regular binding arbitration not later than the 60th day after you receive notice of the ARB order. Additional information on how to appeal through regular binding arbitration will be included with the ARB’s order of determination. If you choose to appeal to SOAH, you must file an appeal with the appraisal district not later than the 30th day after you receive notice of the ARB’s order. Appeals to district court, regular binding arbitration or SOAH all require payment of certain fees or deposits.

Tax Payment

You must pay the amount of taxes due on the portion of the taxable value not in dispute, the amount of taxes due on the property under the order from which the appeal is taken or the amount of taxes due in the previous year.

More Information

You can get more information by contacting your appraisal district at *(insert appraisal district name, address, telephone number)*.

You can get Comptroller forms and additional information on how to prepare a protest from the Comptroller’s website at: comptroller.texas.gov/taxes/property-tax/.

Deadline for Filing Protests with the ARB*

Usual Deadline

Not later than May 15 (or within 30 days after the appraisal district mailed a notice of appraised value to you, whichever is later).

Late protests are allowed for good cause if you miss the usual deadline. The ARB decides whether you have good cause. Late protests are not allowed after the ARB approves the appraisal records for the year.

Special Deadlines

For change of use (the appraisal district informed you that you are losing agricultural appraisal because you changed the use of your land), the deadline is not later than the 30th day after the notice of the determination was delivered to you.

For ARB changes (the ARB has informed you of a change that increases your tax liability and the change did not result from a protest you filed), the deadline is not later than the 30th day after the notice of the change was delivered to you.

(You may insert deadline for protests concerning omitted property if doing so would avoid taxpayer confusion.)

If you believe the appraisal district or ARB should have sent you a notice and did not, you may file a protest until the day before taxes become delinquent (usually Feb. 1) or no later than the 125th day after the date you claim you received a tax bill from one or more of the taxing units that tax your property. The ARB decides whether it will hear your case based on evidence about whether a required notice was mailed to you.

* The deadline is postponed to the next business day if it falls on a weekend or legal, state or national holiday.

PROFESSIONALISM

A property owner's protest hearing is the ARB's most important opportunity for promoting good public relations. Property owners may base their opinions of the property tax system in general, and the ARB in particular, on their experience at the hearing. Fair and impartial hearings are required, and the ARB should make every effort to ensure that it conducts the hearings in such a manner. The ARB should conduct its business professionally and consider how the public perceives it. It should make every effort to make the hearings welcoming to all parties.

HEARING LOCATION AND PROCEDURES

Generally, the ARB conducts hearings at the appraisal office because of budgetary and administration issues. The ARB may consider conducting some hearings at other locations.

No later than May 15 of each year, the ARB must hold a public hearing to discuss and adopt hearing procedures.⁹⁸ The adopted hearing procedures must incorporate the model hearing procedures developed by the Comptroller's office.⁹⁹ The ARB may adopt procedures that supplement the Comptroller's model hearing procedures if they do not contradict or circumvent the model hearing procedures.¹⁰⁰ Failure to adopt hearing procedures that incorporate the Comptroller's model hearing procedures may result in a property owner requesting Limited Binding Arbitration (LBA).¹⁰¹ ARBs must submit their adopted hearing procedures to the Comptroller's office annually for review.¹⁰² The Comptroller's model hearing procedures are **Exhibit 30** at the end of this manual.

⁹⁸ *Tex. Tax Code §41.01(c)*

⁹⁹ *Tex. Tax Code §41.01(c)*

¹⁰⁰ *Tex. Tax Code §5.103(d)*

¹⁰¹ *Tex. Tax Code §41A.015(a)(1)*

¹⁰² *Tex. Tax Code §§5.103(d) and (e), 41.01(c) and 41.66(a)*

The ARB must submit the adopted procedures to the following entities no later than 15 days after adoption:

- the Comptroller's Property Tax Assistance Division at ptad.arb@cpa.texas.gov;
- the appraisal district board of directors; and
- the appraisal district taxpayer liaison officer (TLO).

The ARB must display copies of the procedures in a prominent place in each room where hearings take place and on the appraisal district's website, if applicable.¹⁰³

The Tax Code directs that hearing procedures "to the greatest extent practicable shall be informal."¹⁰⁴ Hearing procedures are legally required. Well-designed procedures can help the ARB do its work. The Comptroller leaves the last section of the model hearing procedures, *Section VI: Other Issues*, open for editing so that ARBs include their local instructions to better assist the public.

The law requires certain ARB hearing practices. The ARB must give each party the right to offer evidence, examine and cross-examine witnesses and present arguments on protest subjects. A property owner can elect to present his or her case at the hearing either before or after the appraisal district presents its case.¹⁰⁵ The ARB's procedures should reflect these and other hearing rights of property owners.¹⁰⁶

The ARB must adopt a procedure that provides for protest hearings during evening hours or on a Saturday. The board may not schedule the start of a protest hearing on a weekday evening after 7 p.m.¹⁰⁷ The ARB's procedures should inform property owners of these times.

The ARB must provide its hearing procedures to a protesting property owner and make the procedures available to the public.¹⁰⁸

¹⁰³ *Tex. Tax Code §41.01(d) and (e)*

¹⁰⁴ *Tex. Tax Code §41.66(b)*

¹⁰⁵ *Tex. Tax Code §41.66(b)*

¹⁰⁶ *Tex. Tax Code §41.66(a) and (b)*

¹⁰⁷ *Tex. Tax Code §41.71(b)*

¹⁰⁸ *Tex. Tax Code §41.66(a)*

The ARB should review its current written procedures, preferably at the first meeting after Jan. 1, when terms of office for new members begin.¹⁰⁹ The ARB should make it a practice to review its procedures at its first meeting to make certain it incorporates any changes the Legislature may have made that impact ARB operations and property owner remedies.

SCHEDULING

The ARB, through its clerical staff, should assign a case number to each protest and challenge. Scheduling hearings on a protest filed by a property owner who is 65 or older, disabled, a military service member, a military veteran or the spouse of a military member or veteran takes priority over scheduling hearings filed by authorized representatives or other property owners.¹¹⁰ A numbering system helps keep track of all records and evidence. The ARB then places the protests or challenges on a hearing schedule. The schedule states each hearing's date and time, the nature of each protest or challenge, a property description and other information. The ARB may not schedule a hearing before a property owner has filed a protest.¹¹¹

A property owner may appear at the protest hearing in one of these ways:

1. in person to offer evidence and argument;
2. by telephone conference call or videoconference to offer argument with evidence offered and delivered by affidavit before the hearing begins; or
3. by written affidavit to offer evidence and argument delivered to the ARB before the hearing begins.¹¹²

A property owner does not waive the right to appear in person at the protest hearing by submitting an affidavit to the ARB or by electing to appear by telephone conference

call or videoconference. The ARB must consider an affidavit submitted only if the property owner does not appear in person at the hearing.¹¹³

If the property owner states in the affidavit that he or she does not intend to appear at the hearing, or states in the affidavit whether he or she intends to appear in person and has not elected to appear by telephone conference call or videoconference, 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.¹¹⁴

The ARB must conduct a protest hearing by telephone conference call or by videoconference if:

- the property owner provides sufficient written notice to the ARB of the owner's intent to appear by telephone or video conference call; or
- the ARB proposes that the hearing be conducted in that manner and the property owner agrees.

The property owner provides notice either in the notice of protest or by written notice filed with the ARB no later than the fifth day before the hearing date if the property owner does not have an authorized representative, or the 10th day before the hearing date if the property owner has an authorized agent.¹¹⁵ A property owner who appears by telephone or video conference call must offer any evidence by affidavit submitted to the ARB before the hearing begins.¹¹⁶

The ARB must conduct a telephone conference call hearing 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.¹¹⁷ The ARB shall provide a telephone number for the property owner to call to participate in the hearing.¹¹⁸ Property owners are

¹⁰⁹ *Tex. Tax Code §41.01(c)*

¹¹⁰ *Tex. Tax Code §41.66(j-2)*

¹¹¹ *Op. Tex. Att'y Gen. No. GA-311 (2005)*

¹¹² *Tex. Tax Code §41.45(b)*

¹¹³ *Tex. Tax Code §41.45(n)*

¹¹⁴ *Tex. Tax Code §41.45(n)*

¹¹⁵ *Tex. Tax Code §41.45(b-1)*

¹¹⁶ *Tex. Tax Code §41.45(b)*

¹¹⁷ *Tex. Tax Code §41.45(b-2)*

¹¹⁸ *Tex. Tax Code §41.45(b-2)*

responsible for providing access to a telephone conference call hearing to another person that the owner invites to participate in the hearing.¹¹⁹

Videoconference hearings require internet access. Counties with populations less than 100,000 that also lack the technological capability to conduct videoconference hearings are not required to offer them.¹²⁰ Property owners must request videoconference hearings in writing on either the notice of protest or at least five days before the scheduled hearing date if they do not have an authorized representative, or at least 10 days before the scheduled hearing date if they have an authorized representative.¹²¹ The ARB must provide an internet location or uniform resource locator (URL) to the property owner to participate in the videoconference hearing and have equipment set up that allows the ARB members and other parties present for the hearing to have the ability to see and hear the protest. If property owners invite others to participate in the videoconference hearing, the property owners are responsible for providing access to their participants. Property owners opting for videoconference hearings should be made aware that affidavits for presenting evidence are necessary for this hearing type.¹²²

If more than one protest is filed relating to the same property, the ARB must schedule a single hearing on all timely filed protests that relate to the property. The ARB must also schedule joint hearings for all owners of a property owned in fractional or undivided interest. These include mineral properties.¹²³

A hearing on a protest filed by a property owner or his or her authorized representative must be set for a time and date certain. If the hearing is not commenced within two hours of the time set, the ARB must postpone the hearing if requested by the owner or his or her authorized representative.¹²⁴

¹¹⁹ *Tex. Tax Code §41.45(b-3)*

¹²⁰ *Tex. Tax Code §41.45(b-6)*

¹²¹ *Tex. Tax Code §41.45(b-1)*

¹²² *Tex. Tax Code §41.45(b)*

¹²³ *Tex. Tax Code §41.45(a)*

¹²⁴ *Tex. Tax Code §41.66(i)*

ATTORNEY GENERAL OPINION

A 2020 attorney general opinion addresses the Covid-19 pandemic and its effect on ARB procedures. KP-0307 responds to an inquiry regarding the format in which an ARB provided protest hearings and notices during the pandemic. Some districts suspended in-person hearings for health safety concerns. The opinion held that, per Tax Code Section 41.45(b), (b-1) and (n), property owners have a right to an in-person hearing. Tax Code Section 41.45(o) and 34 Texas Administrative Code Section 9.805(d) do not allow ARBs to require videoconferences in lieu of in-person hearings when requested by property owners. Denying a property owner the hearing format they request may result in a lawsuit.

The ARB must grant a property owner or authorized representative request that the ARB schedule hearings on protests concerning up to 20 designated properties, identified in the same notice of protest, to be held consecutively on the same day.¹²⁵

SINGLE-MEMBER PANELS

An ARB can conduct hearings in single-member panels upon the property owner's written request. The property owner can include the request in the notice of protest or submit a separate written request not later than 10 days before the hearing date.¹²⁶

Single-member panels must be available in all counties and ARB members do not have to meet special qualifications to sit on a single-member panel. If the ARB does not accept the recommendation or motion made by a single-member panel, the ARB can determine the protest or send it for a rehearing to a different single-member panel that did not hear the original protest.¹²⁷

¹²⁵ *Tex. Tax Code §41.66(j)*

¹²⁶ *Tex. Tax Code §41.45(b-4)*

¹²⁷ *Tex. Tax Code §41.45(b-5)*

SPECIAL PANELS

In counties with populations of 1.2 million or more, property owners with eligible complex property protests can request a hearing with a special ARB panel.¹²⁸ Eligible property includes property with an appraised value equal to or greater than the minimum amount as determined by the Comptroller that is classified as commercial real or personal property, real and personal property of utilities, industrial and manufacturing real and personal property, and multifamily residential property.¹²⁹

Special panels consist of three members who meet certain eligibility requirements.¹³⁰ If the ARB does not accept the special panel's recommendation, the ARB can send it for a rehearing to a different special panel that did not hear the original protest or, if a different special panel is not available, the ARB can determine the protest.¹³¹

TIME LIMITS

The ARB procedures may include a provision limiting each protest hearing to a reasonable time that allows for full presentation of the property owner's evidence, cross-examination and arguments. This helps ensure the ARB completes hearings in a timely manner. Any limit should be reasonable and flexible.

The hearing procedures may give the presiding officer the authority to extend the hearing. Property owners are entitled to a reasonable amount of time to present relevant evidence and argument. What is reasonable depends on the circumstances of each protest. A residential property protest usually requires less presentation time than a complex protest involving a large industrial property, for example.

¹²⁸ *Tex. Tax Code §6.425(a) and (b)*

¹²⁹ *Tex. Tax Code §6.425(b)(1) and (2)*

¹³⁰ *Tex. Tax Code §6.425(c)*

¹³¹ *Tex. Tax Code §41.45(d-1)*

SUPPORT STAFF AND LEGAL COUNSEL

The appraisal office may provide clerical assistance to the ARB, including assisting the board with scheduling and arranging hearings and sending notices.¹³²

The ARB may employ legal counsel as provided by the appraisal district budget, or the ARB may use the services of the county attorney.¹³³ The county attorney for the county in which the appraisal district is established may provide legal services to the ARB notwithstanding that the county attorney or an assistant to the county attorney represents or has represented the appraisal district or a taxing unit that participates in the appraisal district in any matter.¹³⁴ The appraisal district may specify in its budget whether the ARB must use the county attorney or employ a private attorney. If the budget authorizes the ARB to employ legal counsel, the budget must provide for reasonable compensation for the attorney serving as the ARB's legal counsel. The appraisal district cannot require the board to employ a specific attorney.¹³⁵

The attorney general's office released opinion KP-0432 after a county attorney asked whether they could serve as the appraisal district's legal counsel to fill a vacancy. The summary held that Tax Code Section 6.43(c) would likely conclude that the county attorney is not authorized to serve as legal counsel to the appraisal district.¹³⁶

An attorney or law firm cannot serve as the ARB's attorney, if within the prior year, either has represented a property owner who owns property in the appraisal district, a taxing unit that participates in the appraisal district or the appraisal district in certain matters specified in statute.¹³⁷ The attorney cannot act as an advocate in an ARB hearing or proceeding. The attorney may provide advice to the board during a hearing and must disclose to the board all relevant legal authority in

¹³² *Tex. Tax Code §6.43(f)*

¹³³ *Tex. Tax Code §6.43(a)*

¹³⁴ *Tex. Tax Code §6.43(c)*

¹³⁵ *Tex. Tax Code §6.43(e)*

¹³⁶ *Tex. Att'y Gen. Op. No. KP-0432 (2023)*

¹³⁷ *Tex. Tax Code §6.43(b)*

the controlling jurisdiction that is known to the attorney and not disclosed by the parties. The attorney must disclose a material fact that may assist the board in making an informed decision regardless of whether that fact is adverse to a party.¹³⁸

ARB RECORDS

The ARB should keep good records of proceedings.¹³⁹ It should establish and adopt procedures to ensure that the evidence presented is identified, the procedural requirements of law are met and other information is maintained.

Information maintained by the ARB may be used in litigation. Comptroller Rule 9.803¹⁴⁰ requires the ARB to keep the following records of the hearing:

- the names of the ARB members present and the date;
- the name of the chief appraiser or designee;
- the names of all others appearing on the appraisal district's behalf;
- the name and residence address of the property owner or the challenging taxing unit, as applicable;
- the names of any people appearing on the board's behalf and any protesting or challenging party, a description of their relationship to the party on whose behalf they are appearing and a copy of any legally required written authorization for their appearance in a representative capacity;
- a description of the property subject to protest or challenge;
- the notice of protest, challenge petition or other document that gave rise to the proceedings and any written motions submitted to the board;
- all affidavits signed by the ARB members in accordance with Tax Code Section 41.66(f)-(g);
- an audio recording of testimony presented or a written summary of testimony if no audio recording is made;
- all documents or physical evidence, including affidavits admitted as evidence;
- the name and residence address of every witness and a statement that the witness testified under oath;
- any formal motions made and the ARB's ruling on the motions;
- all written requests for subpoenas, copies of subpoenas issued, all responses to subpoenas and records indicating compliance with Tax Code Section 41.61;
- all records pertaining to service and enforcement pursuant to Tax Code Section 41.62;
- all records pertaining to compensation for subpoenaed witnesses and records indicating compliance with Tax Code Section 41.63;
- the ARB's final order;
- the date of any final order and the date the notice is placed in the mail; and
- all notices pertaining to the protest or challenge the board received pursuant to Tax Code Section 42.06.

Tax Code Section 41.13 requires the appraisal district to maintain a publicly accessible protest hearing database. The chief appraiser must post and maintain searchable information regarding hearing records. The protest hearing records must include:

- members present;
- the date and time;
- property category and account number;
- subject matter; and
- the protest determination, including value determinations (when applicable).¹⁴¹

Prior to Oct. 1 of each year, the chief appraiser must update the protest database.¹⁴² The database must include information for protests relating to the most recent tax year and each year thereafter until the database includes information for the most recent five years.¹⁴³

¹³⁸ *Tex. Tax Code §6.43(d)*

¹³⁹ *Tex. Tax Code §41.68*

¹⁴⁰ *Tex. Admin. Code §9.803*

¹⁴¹ *Tex. Tax Code §41.13(a) and (b)*

¹⁴² *Tex. Tax Code §41.13(c)*

¹⁴³ *Tex. Tax Code §41.13(d) and (e)*

CONFLICTS OF INTEREST

ARB members must comply with all conflict of interest laws. The Local Government Code requires ARB members not to participate in a vote or decision in which they or one of their close relatives has a substantial interest.¹⁴⁴ Under this law, the ARB member must file an affidavit stating the person's interest (**Exhibit 8**).

Substantial interest is defined as the following interest:

- in a business, if one owns 10 percent or more of its voting stock or shares, or owns either 10 percent or more or \$15,000 or more of its fair market value or received more than 10 percent of one's gross income from it in the previous year; or
- in real property, if one owns \$2,500 or more of the property's fair market value, whether title is legal or equitable.¹⁴⁵

The Tax Code bars ARB members from taking part in any property owner protest in which they or one of their close relatives has an interest.¹⁴⁶ The ARB member cannot participate in the protest hearing or determination. When an ARB member determines he or she has an interest in a protest, the ARB member must abstain from joining in any discussions or votes on the issue.¹⁴⁷

If there could be the appearance of favoritism or a conflict of interest, even if the ARB member does not believe he or she would be influenced, the Comptroller's office recommends that the ARB member should not participate in the hearing. The public must perceive the ARB as a fair and impartial body that favors no person, business or property over another.

ARB members should take great care to avoid conflicts of interest or the appearance of improper actions. Keep in mind that an ARB member may not participate in the

determination of a property owner protest in which he or she is interested.¹⁴⁸

If a court finds a legal violation, it may nullify the ARB decision. A Local Government Code Chapter 171 violation could result in the commission of a Class A misdemeanor.¹⁴⁹

¹⁴⁴ *Tex. Local Gov't. Code Chapter 171*

¹⁴⁵ *Tex. Local Gov't Code §171.002*

¹⁴⁶ *Tex. Tax Code §41.69*

¹⁴⁷ *Tex. Tax Code §41.69*

¹⁴⁸ *Tex. Tax Code §41.69*

¹⁴⁹ *Tex. Local Gov't Code §171.006*

EXHIBIT 8
Conflict of Interest Affidavit

Texas Comptroller of Public Accounts

Form
50-229

Conflict of Interest Affidavit

State of Texas

County of _____

Before me, the undersigned authority, on this day personally appeared _____, who being by me duly sworn, on oath deposed and said:

My name is _____. I am a member of the Appraisal Review Board for the _____ County Appraisal District. I own substantial interest in _____.

The nature and extent of this substantial interest is as follows: (initial all that apply)

____ I own 10 percent or more of the voting stock or shares of the above-referenced business entity.

____ I own 10 percent or more or \$15,000 or more of the fair market value of the above-referenced business entity.

____ Funds I received from the above-referenced business entity exceed 10 percent of my gross income for the previous year.

____ I have an interest in the above-referenced real property and the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

____ I am related in the first degree by consanguinity or affinity to a person who has a substantial interest in above referenced business or real property.

sign here ▶ _____

Date _____

SUBSCRIBED AND SWORN TO before me this the _____ day of _____, _____.

sign here ▶ _____

Notary Public, State of Texas

Commission expires _____

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
comptroller.texas.gov/taxes/property-tax

50-229 • 11-16/5

Chapter 3

Six Parts of the ARB Process

Prior to beginning hearings, the ARB must send its adopted procedures to the Comptroller's office for review. The ARB follows its adopted hearing procedures during protest hearings.¹⁵⁰ To allow for transparency, the ARB should prominently post its adopted hearing procedures in each hearing room and on the appraisal district's website (if it maintains one).¹⁵¹

ARBs consider property owner protests in a short time period. The ARB should begin its work by May 15 and must substantially complete its work by July 20.¹⁵² An appraisal district board of directors in a county with a population of at least one million may, by resolution, extend the deadline to Aug. 30.¹⁵³ During this time, ARB members hear and make determinations on property owner protests and taxing unit challenges.

The ARB's review process generally involves the following six parts:

- Part 1.** ARB receives the appraisal records;
- Part 2.** ARB hears and determines taxing unit challenges;
- Part 3.** ARB hears and determines property owner protests;
- Part 4.** ARB issues and sends orders determining protests or challenges to the chief appraiser and parties;
- Part 5.** ARB approves the appraisal records; and
- Part 6.** Chief appraiser certifies an appraisal roll to each taxing unit.

¹⁵⁰ *Tex. Tax Code §41.01(c) and (d)*

¹⁵¹ *Tex. Tax Code §41.01(e)*

¹⁵² *Tex. Tax Code §41.12*

¹⁵³ *Tex. Tax Code §41.12*

PART 1 - ARB RECEIVES APPRAISAL RECORDS

The chief appraiser begins the review process by transferring the appraisal records to the ARB by May 15.¹⁵⁴ The chief appraiser may submit all records at once or may submit them in groups. The chief appraiser submits a sworn statement with the appraisal records as required by Tax Code Section 25.22(b) (**Exhibit 9**).

EXHIBIT 9 Chief Appraiser Certification

I, _____, chief appraiser for _____ Appraisal District, solemnly swear that I have made or caused to be made a diligent inquiry to ascertain all property in the district subject to appraisal by me and that I have included in the records all property that I am aware of at an appraised value determined as required by law.

PART 2 - ARB HEARS TAXING UNIT CHALLENGES

The ARB hears any taxing unit's formal objections to the records. The Tax Code calls a taxing unit hearing a challenge and calls the property owner's hearing a protest.

Taxing unit challenges are limited. Taxing units cannot dispute a particular property's appraised value, but they may challenge the following:

- a property's exclusion from the appraisal records for the taxing unit or the district;
- a grant in whole or in part of a partial exemption, other than an exemption under Tax Code Section 11.35;

¹⁵⁴ *Tex. Tax Code §25.22*

- a determination that land qualifies for special appraisal; and
- failure to identify a taxing unit in which a property is taxable.¹⁵⁵

Taxing units must file challenges before June 1 or within 15 days after the chief appraiser submits the appraisal records, whichever is later.¹⁵⁶ **Exhibit 10** is an example of a challenge petition.

The ARB must notify the taxing unit in writing of the challenge hearing's date, time and place. The ARB sends the notice by first-class mail at least 10 days before the hearing date. The ARB's secretary also must deliver notice of the challenge hearing's date, time and place to each taxing unit in which the property involved in the challenge is or may be taxable.¹⁵⁷ Each taxing unit may attend to offer evidence or argument.¹⁵⁸

When the challenge includes property involving taxable leasehold or another type of interest in property owned by the state or a taxing unit, the state or taxing unit also receives notice of the ARB hearing. The state or taxing unit may appear at the ARB hearing to offer evidence and arguments.¹⁵⁹ If an ARB correction increases a property owner's tax liability, the affected owner must be sent a correction order and given 30 days from the mailing date to file a protest and request a hearing.¹⁶⁰

PART 3 - ARB HEARS PROPERTY OWNER PROTESTS

Generally, the last day for filing most protests is May 15, or not later than 30 days after the date the notice was delivered to the property owner.¹⁶¹ Exceptions to the normal deadline are discussed later in this section.

¹⁵⁵ *Tex. Tax Code §41.03*

¹⁵⁶ *Tex. Tax Code §41.04*

¹⁵⁷ *Tex. Tax Code §41.06*

¹⁵⁸ *Tex. Tax Code §41.05(b)*

¹⁵⁹ *Tex. Tax Code §41.06(c)*

¹⁶⁰ *Tex. Tax Code §§41.11(a) and 41.44(a)(2)*

¹⁶¹ *Tex. Tax Code §41.44(a)(1)*

WHO MAY FILE?

Normally, the person who owned the property Jan. 1 or the person's authorized representative files a protest.¹⁶² A property owner who acquires property between Jan. 1 and the protest deadline may file a protest in the place of the Jan. 1 owner. A property owner who acquires property while a protest is pending may apply to the ARB to continue the protest in the place of the owner who filed the protest.¹⁶³ A person who claims an interest in the property may file a protest even if the appraisal district records do not show the person as the owner.¹⁶⁴ Both previous and current property owners can file.¹⁶⁵ The ARB should hold a joint hearing for both.

The Tax Code allows a lessee who is contractually obligated to reimburse the lessor (property owner) for property taxes to protest to the ARB the leased property's appraised value. The lessee may protest only if the owner does not protest; the protest is limited to a single protest by either the property owner or the lessee. The lessee's right to protest exists for leased personal or real property. The person bringing a protest under these provisions of law is considered the property owner for purposes of the protest.¹⁶⁶ A person leasing property who is contractually obligated to reimburse the lessor for property taxes may designate another person to act as his or her authorized representative for the protest.¹⁶⁷

FILING DEADLINES

The usual deadline for filing most protests is May 15.¹⁶⁸ Filing deadlines that fall on a Saturday, Sunday or a legal state or national holiday are postponed until the next business day.¹⁶⁹

¹⁶² *Tex. Tax Code §§41.41 and 1.111*

¹⁶³ *Tex. Tax Code §41.412*

¹⁶⁴ *Tex. Tax Code §41.44(d)*

¹⁶⁵ *Tex. Tax Code §41.412*

¹⁶⁶ *Tex. Tax Code §41.413*

¹⁶⁷ *Tex. Tax Code §41.413(g)*

¹⁶⁸ *Tex. Tax Code §41.44(a)(1)*

¹⁶⁹ *Tex. Tax Code §1.06*

EXHIBIT 10
Petition Challenging Appraisal Records

Petition Challenging Appraisal Records

Form 50-215

This petition is brought before the Appraisal District Review Board of _____ Case No. _____

County, Texas to challenge the appraisal records for tax year _____. Taxing unit _____

Address _____

Taxing unit challenges the following with respect to the property or geographical area described below:

- an exclusion of property from the appraisal records;
- a grant in whole or in part of a partial exemption, other than an exemption under Tax Code Section 11.35;
- a determination that land qualifies for appraisal as provided by Texas Code Chapter 23, Subchapter C, D, E or H; or
- a failure to identify the taxing unit as one in which a particular property is taxable.

Describe the property involved in this challenge.

Briefly explain why the challenge is necessary.

Name _____ Title _____ Taxing Unit Name _____

sign here 

Signature _____ Date _____

A property owner's notice of protest, payment or other documentation submitted to the appraisal district is considered on time if it is properly addressed with postage or handling charges prepaid and sent by common or contract carrier or regular first-class mail and bears a post office cancellation mark or carrier's receipt mark indicating a date on or earlier than the specified due date and within the specified period, or the property owner furnishes proof that it was deposited with the carrier on or before the due date and within the specified period.¹⁷⁰

The usual deadline may be postponed in a number of cases. If the appraisal district mails a notice of appraised value after the April 1 delivery deadline for residence homesteads and May 1 for other properties, the deadline is 30 days from the mailing date.¹⁷¹ The deadline to protest a change of use determination for agricultural land or determination of refund for heavy equipment dealers is 30 days after notice is delivered to the property owner.¹⁷²

A property owner who misses the original deadline for good cause may still file a protest. The deadline in this case is the day before the ARB approves the appraisal records.¹⁷³ In such a case, the property owner receives a two-step hearing. First, the ARB decides whether the property owner had good cause for missing the deadline. Second, if the ARB determines the owner had good cause, the ARB hears the protest. Good cause is usually something not within the property owner's control. ARB policies should address the issue of what constitutes good cause.

The deadline to protest ARB changes to the appraisal records under Tax Code Chapter 25 is within 30 days of the date notice of the ARB change is delivered to the owner.¹⁷⁴

A property owner may contest a protest filing deadline by claiming the appraisal district or ARB did not mail a required notice. To perfect such a protest, a property owner must pay, before the delinquency date, the amount of taxes due on the portion of the property's taxable value that is the subject of the protest and that is not in dispute. Otherwise, the property owner will forfeit his or her right to a final determination of the protest. The Tax Code authorizes the ARB to excuse this payment requirement if the property owner files an oath of inability to pay the taxes.¹⁷⁵

If a lessee is contractually obligated to reimburse the real property owner for property taxes, the lessor must send to the lessee a copy of the property's notice of appraised value not later than the 10th day after the owner receives the notice. This requirement does not apply if the real property owner and the person leasing the property have agreed in the contract to waive the statutory notice requirements or that the person leasing the property will not protest the property's appraised value. The owner's failure to provide the notice does not affect the protest deadline for the property in question.¹⁷⁶

The law also allows property owners working offshore or on full-time active military duty out of the country on the deadline date to file a late protest. The owner or his or her authorized representative must file the protest before taxes on the property become delinquent. A person working offshore would have to be continuously employed in the Gulf of Mexico for a period of at least 20 days during which the protest deadline passed. Owners may provide evidence of their offshore employment by furnishing the ARB a letter from their employer or supervisor or, if the owner is self-employed, a sworn affidavit. For active-duty military personnel, the property owner must provide a valid military identification card and a deployment order.¹⁷⁷

¹⁷⁰ *Tex. Tax Code §1.08*

¹⁷¹ *Tex. Tax Code §§25.19(a) and 41.44(a)(1)*

¹⁷² *Tex. Tax Code §41.44(a)(3) and (a)(4)*

¹⁷³ *Tex. Tax Code §41.44(b)*

¹⁷⁴ *Tex. Tax Code §41.44(a)(2)*

¹⁷⁵ *Tex. Tax Code §§41.411 and 41.4115*

¹⁷⁶ *Tex. Tax Code §41.413(d)*

¹⁷⁷ *Tex. Tax Code §41.44(c-1) and (c-2)*

FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES

A property owner may lose the right to a final determination of a protest claiming the ARB did not mail a required notice if the owner has not paid certain taxes. The Tax Code provides that the pendency of this protest does not affect the delinquency date for the taxes on the protested property. The delinquency date applies only to the amount of taxes required to be paid. The delinquency date is postponed to the 125th day after the date one or more taxing units first delivered written notices of the taxes due. If the property owner pays the taxes not in dispute, the delinquency date for any additional amount of taxes due on the property is due on receipt of the supplemental tax bill under Tax Code Sections 42.42(b) and (c).¹⁷⁸

A property owner who pays an amount of taxes greater than required does not forfeit the right to a final determination of protest by making the payment. If the protest filed under these provisions is timely, the taxes paid are considered paid under protest, even if paid before the property owner files the motion.¹⁷⁹

NOTICE OF PROTEST

A property owner's written notice of protest may take any form, but must be in writing and show at least the following three elements: the property owner's identification, including a person claiming an ownership interest in the property even if that person is not listed on the appraisal records as an owner; the property that is the subject of the protest; and an indication of the owner's dissatisfaction with some appraisal district determination.¹⁸⁰

A notice of protest is not untimely or insufficient based on a finding of incorrect ownership if the notice identifies the property owner for the tax year at issue or uses a misnomer of a person or who is:

- the property owner at any time during the tax year;
- the person shown on the appraisal records as the property owner, if that person filed the protest;
- a lessee authorized to file a protest; or
- an affiliate of or entity related to a person described above.¹⁸¹

The Comptroller's office prescribes two model notice of protest forms that ARBs and appraisal districts must make easily accessible to the public and deliver to property owners requesting them.¹⁸² The Comptroller's model forms (**Exhibits 11 and 11-A**) permit the property owner to request or decline a copy of the ARB's hearing procedures.¹⁸³ Once a hearing date is set, the property owner is sent a copy of the ARB hearing procedures regardless of whether the property owner requested a copy when filing the protest.¹⁸⁴

Property owners who live in a county with a population of more than 500,000 and are protesting a residence homestead's appraised value or an unequal appraisal may file their protests electronically. Electronic filing is available for all counties that maintain an internet website that is accessible to the public. An electronic notice of protest must include a statement that the protest is brought under Tax Code Sections 41.41(a)(1) or 41.41(a)(2), statement of the property owner's good faith estimate of the property's value and an email address that the appraisal district may use to communicate electronically with the property owner in connection with the protest. The appraisal district must maintain the email address in confidence.¹⁸⁵

Property owners or their authorized representative may request electronic communications with a tax official using Comptroller **Form 50-843, Request for Electronic Delivery of Communications with a Tax Official**. Property owners who request electronic delivery notifications should be aware that a chief appraiser is not required to

¹⁸¹ *Tex. Tax Code §41.44(e)*

¹⁸² *Tex. Tax Code §41.44(d)*

¹⁸³ *Tex. Tax Code §41.66(a)*

¹⁸⁴ *Tex. Tax Code §41.461(a)(3)*

¹⁸⁵ *Tex. Tax Code §41.415*

¹⁷⁸ *Tex. Tax Code §41.4115*

¹⁷⁹ *Tex. Tax Code §41.4115*

¹⁸⁰ *Tex. Tax Code §41.44(d)*

mail the same notice if property owners have successfully submitted their requests for email delivery of notifications.¹⁸⁶

NOTICE OF HEARING

The ARB must provide a protesting property owner, authorized person¹⁸⁷ or authorized representative¹⁸⁸ with written notice that includes the protest hearing's time, date and place; a description of the subject matter being protested sufficient to identify the specific action being protested; a statement that entitles the property owner to a postponement (**Exhibit 12**); and notice of the local property tax database accessible at [Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes).¹⁸⁹ The ARB must deliver the notice to the property owner not later than the 15th day before the hearing date. Property owners may request delivery by certified mail in their notice of protest; however, the board can ask for reimbursement of the postage.¹⁹⁰ The ARB must deliver the hearing notice by email if the property owner or their authorized representative has submitted the electronic communication form for notices from a tax official.¹⁹¹ A property owner may waive in writing his or her right to the hearing notice.¹⁹² Additionally, the chief appraiser is entitled to advance notice of the hearing, but the law does not specify how far in advance.¹⁹³

ARBs in counties with 120,000 or more populations must offer electronic reminders of a scheduled protest hearing's date, time and place by text or email. The ARB must send a text or email reminder if the property owner requested it on the notice of protest or by written request, and includes a verified email address or mobile phone number. The ARB must send the reminder no later than the day before the hearing and not earlier than the

seventh day after receiving the scheduled hearing notice.¹⁹⁴

The state or taxing unit also receives notice of the ARB hearing when the protest hearing concerns property involving taxable leasehold or other type of interest in property owned by the state or taxing unit. The state or taxing unit may appear at the ARB hearing to offer evidence and arguments.¹⁹⁵

RIGHT TO INSPECT APPRAISAL RECORDS

In general, a property owner or the owner's authorized representative is entitled to inspect and copy the appraisal records relating to property of the property owner together with supporting data, schedules and any other material or information that is obtained or used in making appraisals for the appraisal records relating to the property. Confidential information provided to the appraisal district under Tax Code Section 22.27 (other than residential property or vacant land) may not be inspected.¹⁹⁶

A property owner or the owner's authorized representative also has the right to inspect and copy information used or considered in the owner's appraisal from an appraisal firm under contract with the appraisal district to appraise property. The appraisal firm must make the information available for inspection and copying not later than the 15th day after delivery of a written request to inspect the information.¹⁹⁷

If denied the information, the owner or authorized representative may take the denial to the ARB for a special hearing. Failure by the appraisal firm to provide the requested information may result in an ARB decision not to approve the appraisal records relating to the property until the requested information is made available.¹⁹⁸

¹⁸⁶ *Tex. Tax Code §1.085*

¹⁸⁷ *Tex. Tax Code §1.111(j)*

¹⁸⁸ *Tex. Tax Code §1.111(a)*

¹⁸⁹ *Tex. Tax Code §41.46(a)*

¹⁹⁰ *Tex. Tax Code §41.46(a) and (d)*

¹⁹¹ *Tex. Tax Code §1.085*

¹⁹² *Tex. Tax Code §41.46(a)(3)*

¹⁹³ *Tex. Tax Code §41.46(b)*

¹⁹⁴ *Tex. Tax Code §41.46(f)*

¹⁹⁵ *Tex. Tax Code §41.46(c)*

¹⁹⁶ *Tex. Tax Code §25.195*

¹⁹⁷ *Tex. Tax Code §§25.195 and 22.27*

¹⁹⁸ *Tex. Tax Code §25.195(e)*

DELIVERY OF EVIDENCE

At least 14 days before the protest hearing, the chief appraiser will inform owners or their authorized representative of their entitlement to copies of the data, schedules, formulas and all information the chief appraiser will use at their hearing. The chief appraiser may not charge the owners or their authorized representatives for copies regardless of how the copies are prepared, delivered or made available.¹⁹⁹

The chief appraiser shall deliver the information requested:

- by regular first-class mail addressed to the property owner or authorized representative at the address provided in the request;
- electronically, if the property owner or their authorized representative has elected to receive electronic communications from the chief appraiser under Tax Code Section 1.085; or
- by referring the property owner or the authorized representative to a secure internet website.²⁰⁰

SETTLEMENT BY AGREEMENT AND WAIVER OF PROTEST

Appraisal districts must make available and hold informal conferences with property owners who request one in writing with their notice of protest. The appraisal district must hold the informal conference prior to the protest hearing because it provides an opportunity to resolve the dispute before the ARB protest hearing.²⁰¹ Property owners may reach a settlement with the appraisal district by electronic exchange of data, if the law requires the appraisal district to provide for electronic protest filing.²⁰²

If the property owner and appraisal district reach a settlement agreement at the informal meeting or by

electronic exchange, both parties may sign a settlement and waiver of protest form (**Exhibit 13**).

By signing this form, the property owner agrees on a settlement with the appraisal district and withdraws the protest.²⁰³ If the owner's authorized representative signs the form, the agreement between them and the appraisal district is final.²⁰⁴ The Tax Code does not grant ARBs the authority to review or reject agreements between an owner and the appraisal district.²⁰⁵

If the property owner rejects a settlement offer made in person or electronically, the ARB must hear and determine the property owner's protest, provided the owner filed a timely notice of protest.²⁰⁶

JOINT MOTION FOR AGREED ORDER

The chief appraiser and the property owner or their authorized representative may file a joint motion with the ARB notifying the board that they have agreed to the protest's disposition and request the board to issue an agreed order. The joint motion must contain the terms of the protest's disposition. The ARB chair must issue the agreed order not later than the fifth day after the date on which the parties filed the joint motion with the ARB. If the chair is not able to issue the agreed order within the five-day period, the board must issue the agreed order not later than the 30th day after the joint motion's filing date. The chief appraiser and the protesting party may designate in the joint motion that the agreed order is appealable in the same manner as any other ARB determination under Tax Code Section 41.47.²⁰⁷

The ARB should seek legal advice from its attorney concerning how to treat joint motions filed by property owners or their authorized representatives and the chief appraiser.

¹⁹⁹ *Tex. Tax Code §41.461*

²⁰⁰ *Tex. Tax Code §41.461(c)*

²⁰¹ *Tex. Tax Code §41.445*

²⁰² *Tex. Tax Code §41.415*

²⁰³ *Tex. Tax Code §1.111(e)*

²⁰⁴ *Tex. Tax Code §1.111(e)*

²⁰⁵ *Tex. Tax Code §41.01(b)*

²⁰⁶ *Tex. Tax Code §41.415(f)*

²⁰⁷ *Tex. Tax Code §41.47(g) and (g-1)*

EXHIBIT 11
Property Owner's Notice of Protest

Property Owner's Notice of Protest

Form 50-132

for Counties with Populations Greater than 120,000

Appraisal District's County

Appraisal District Account Number (if known)

Tax Year

GENERAL INFORMATION: A property owner or an owner's designated agent can use this form to file a protest with the appraisal review board (ARB) pursuant to Tax Code Section 41.41. Lessees contractually obligated to reimburse a property owner for property taxes may be entitled to protest as a lessee if all Tax Code requirements are met, including those in Tax Code Section 41.413.

FILING INSTRUCTIONS: File this document and all supporting documentation with the appraisal district office in the county in which the property is taxable. **Do not file this document with the Texas Comptroller of Public Accounts.**

SECTION 1: Property Owner or Lessee

Person Age 65 or Older Disabled Person Military Service Member Military Veteran Spouse of a Military Service Member or Veteran

Name of Property Owner or Lessee

Mailing Address, City, State, ZIP Code

Phone Number (area code and number)

SECTION 2: Property Description

Physical Address, City, State, ZIP Code (if different than above)

If no street address, provide legal description:

Mobile Home Make, Model and Identification (if applicable):

SECTION 3: Reasons for Protest

To preserve your right to present each reason for your ARB protest according to law, be sure to select all boxes that apply. Failure to select the box that corresponds to each reason for your protest may result in your inability to protest an issue that you want to pursue.

- | | |
|---|---|
| <input type="checkbox"/> Incorrect appraised (market) value and/or value is unequal compared with other properties. | <input type="checkbox"/> Incorrect appraised or market value of land under special appraisal for ag-use, open-space or other special appraisal. |
| <input type="checkbox"/> Property should not be taxed in _____ (taxing unit). | <input type="checkbox"/> Owner's name is incorrect. |
| <input type="checkbox"/> Property is not located in this appraisal district or otherwise should not be included on the appraisal district's record. | <input type="checkbox"/> Property description is incorrect. |
| <input type="checkbox"/> Failure to send required notice. _____ (type) | <input type="checkbox"/> Incorrect damage assessment rating for a property qualified for a temporary disaster exemption. |
| <input type="checkbox"/> Exemption was denied, modified or canceled. | <input type="checkbox"/> Circuit breaker limitation on appraised value for all other real property was denied, modified or canceled. |
| <input type="checkbox"/> Temporary disaster damage exemption was denied or modified. | <input type="checkbox"/> Incorrect appraised value and allocation of value of a structure, archaeological site and land necessary for access under a historic site exemption. |
| <input type="checkbox"/> Ag-use, open-space or other special appraisal was denied, modified or canceled. | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Change in use of land appraised as ag-use, open-space or timberland. | |

SECTION 4: Additional Facts

What is your opinion of your property's value? (optional) \$ _____

Provide facts that may help resolve this protest:

Empty text box for providing facts that may help resolve the protest.

EXHIBIT 11 (CONCLUDED)
Property Owner's Notice of Protest (page 2)

Property Owner's Notice of Protest for Counties with Populations Greater than 120,000

Form 50-132

SECTION 5: Hearing Type

Do you request an informal conference with the appraisal office before the protest hearing? Yes No

Do you request a single-member ARB panel or a regular panel of at least three members? Single-member panel Regular panel

A property owner does not waive the right to appear in person at a protest hearing by submitting an affidavit to the ARB or by electing to appear by telephone conference call.

I intend to appear in the ARB hearing scheduled for my protest in the following manner (check only one box):

- In person
- By telephone conference call and will submit evidence with a written affidavit delivered to the ARB before the hearing begins.** (may use Comptroller Form 50-283, Property Owner's Affidavit of Evidence)
- By videoconference and will submit evidence with a written affidavit delivered to the ARB before the hearing begins.** (may use Comptroller Form 50-283, Property Owner's Affidavit of Evidence)
- On written affidavit submitted with evidence and delivered to the ARB **before** the hearing begins

SECTION 6: ARB Hearing Notice and Procedures

I request my notice of hearing to be delivered by (check one box only):

- Regular first-class mail
- Certified mail and agree to pay the cost (if applicable)

If a protest goes to a hearing, the ARB automatically sends each party a copy of the ARB's hearing procedures.

I want the ARB to send me a copy of its hearing procedures Yes No

Do you request an electronic reminder by text or email of the date, time and place of your ARB protest hearing? (check one box only):

- Yes, by text to _____
Mobile Phone Number (area code and number)
- Yes, by email to _____
Email Address*
- No

* An email address of a member of the public could be confidential under Government Code Section 552.137; however, by including the email address on this form, you are affirmatively consenting to its release under the Public Information Act.

SECTION 7: Special Panel Request for Property Value of \$57 Million or More

I request a special panel to hear my protest: Yes No

My property is appraised at \$57 million or greater: Yes No

Appraisal district's value assigned to your property \$ _____

Property Classification:

- Commercial real and personal property
- Industrial and manufacturing real and personal property
- Real and personal property of utilities
- Multifamily residential real property

SECTION 8: Certification and Signature

Property Owner Property Owner's Agent Other: _____

print here ▶

Print Name of Property Owner or Authorized Representative

sign here ▶

Signature of Property Owner or Authorized Representative

Date

** If you decide later to appear by telephone conference call or videoconference, you must provide written notice to the ARB at least 10 days before the hearing date. You are responsible for providing access to the call to any person(s) you wish to invite to participate in the hearing. Review the ARB's hearing procedures for county-specific conference call or videoconference procedures.

Reset **Print**

EXHIBIT 11-A
Property Owner's Notice of Protest

Property Owner's Notice of Protest

Form 50-132-A

for Counties with Populations Less than 120,000

Appraisal District's County

Appraisal District Account Number (if known)

Tax Year

GENERAL INFORMATION: A property owner or an owner's designated agent can use this form to file a protest with the appraisal review board (ARB) pursuant to Tax Code Section 41.41. Lessees contractually obligated to reimburse a property owner for property taxes may be entitled to protest as a lessee if all Tax Code requirements are met, including those in Tax Code Section 41.413.

FILING INSTRUCTIONS: File this document and all supporting documentation with the appraisal district office in the county in which the property is taxable. **Do not file this document with the Texas Comptroller of Public Accounts.**

SECTION 1: Property Owner or Lessee

Person Age 65 or Older Disabled Person Military Service Member Military Veteran Spouse of a Military Service Member or Veteran

Name of Property Owner or Lessee

Mailing Address, City, State, ZIP Code

Phone Number (area code and number)

SECTION 2: Property Description

Physical Address, City, State, ZIP Code (if different than above)

If no street address, provide legal description:

Mobile Home Make, Model and Identification (if applicable):

SECTION 3: Reasons for Protest

To preserve your right to present each reason for your ARB protest according to law, be sure to select all boxes that apply. Failure to select the box that corresponds to each reason for your protest may result in your inability to protest an issue that you want to pursue.

- | | |
|---|---|
| <input type="checkbox"/> Incorrect appraised (market) value and/or value is unequal compared with other properties. | <input type="checkbox"/> Incorrect appraised or market value of land under special appraisal for ag-use, open-space or other special appraisal. |
| <input type="checkbox"/> Property should not be taxed in _____ (taxing unit). | <input type="checkbox"/> Owner's name is incorrect. |
| <input type="checkbox"/> Property is not located in this appraisal district or otherwise should not be included on the appraisal district's record. | <input type="checkbox"/> Property description is incorrect. |
| <input type="checkbox"/> Failure to send required notice. _____ (type) | <input type="checkbox"/> Incorrect damage assessment rating for a property qualified for a temporary disaster exemption. |
| <input type="checkbox"/> Exemption was denied, modified or canceled. | <input type="checkbox"/> Circuit breaker limitation on appraised value for non-homestead real property was denied, modified or canceled. |
| <input type="checkbox"/> Temporary disaster damage exemption was denied or modified. | <input type="checkbox"/> Incorrect appraised value and allocation of value of a structure, archaeological site and land necessary for access under a historic site exemption. |
| <input type="checkbox"/> Ag-use, open-space or other special appraisal was denied, modified or canceled. | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Change in use of land appraised as ag-use, open-space or timberland. | |

SECTION 4: Additional Facts

What is your opinion of your property's value? (optional) \$ _____

Provide facts that may help resolve this protest:

EXHIBIT 11-A (CONCLUDED)
Property Owner's Notice of Protest (page 2)

SECTION 5: Hearing Type

Do you request an informal conference with the appraisal office before the protest hearing? Yes No

Do you request a single-member ARB panel or a regular panel of at least three members? Single-member panel Regular panel

A property owner does not waive the right to appear in person at a protest hearing by submitting an affidavit to the ARB or by electing to appear by telephone conference call.

I intend to appear in the ARB hearing scheduled for my protest in the following manner (*check only one box*):

- In person
- By telephone conference call or videoconference and will submit evidence with a written affidavit delivered to the ARB before the hearing begins.* (*may use Comptroller Form 50-283, Property Owner's Affidavit of Evidence*)
- On written affidavit submitted with evidence and delivered to the ARB **before** the hearing begins

SECTION 6: ARB Hearing Notice and Procedures

I request my notice of hearing to be delivered by (*check one box only*):

- Regular first-class mail
- Certified mail and agree to pay the cost (*if applicable*)

If a protest goes to a hearing, the ARB automatically sends each party a copy of the ARB's hearing procedures.

I want the ARB to send me a copy of its hearing procedures Yes No

SECTION 7: Certification and Signature

- Property Owner
- Property Owner's Agent
- Other: _____

print here ▶

Print Name of Property Owner or Authorized Representative

sign here ▶

Signature of Property Owner or Authorized Representative

Date

* If you decide later to appear by telephone conference call or videoconference, you must provide written notice to the ARB at least 10 days before the hearing date. You are responsible for providing access to the call to any person(s) you wish to invite to participate in the hearing. Review the ARB's hearing procedures for county-specific conference call or videoconference procedures.

Reset **Print**

EXHIBIT 12

Appraisal Review Board Protest Hearing Notice

Appraisal Review Board Protest Hearing Notice

Form 50-216

Property Owner

Tax Year(s)

Address, City, State, ZIP Code

Appraisal Review Board for the Appraisal District.

Case Number

Account Number

Property Address or Legal Description

Specific Subject Matter(s) of the Protest Hearing

Dear Property Owner:

The following hearing is scheduled on your filed protest referenced above.

Date: Time:

Place:

Telephone Conference Call Number or Videoconference Access Information:

Failure to appear for your hearing may result in your protest's dismissal and may jeopardize other rights to which you may otherwise be entitled.

Telephone Conference Call or Videoconference: To appear by telephone conference call or videoconference, you must provide the following to the ARB before the hearing:

- 1. Written notice indicating that you want a telephone conference call or videoconference hearing (if you have not done so already) at least 5 days before the hearing if you do not have an authorized representative or 10 days before the date of the hearing if you have an authorized representative; and
2. a written affidavit with your evidence. (You may use Comptroller Form 50-283, Property Owner's Affidavit of Evidence.)

If you wish to invite individuals to participate in your telephone conference call or videoconference hearing, you are responsible for providing them access to the hearing.

Videoconferences: Tax Code Section 41.45(b-6) does not require videoconference hearing availability in counties with a population of less than 100,000 that lack the technological capabilities to conduct a videoconference hearing.

Written Affidavit: To appear by written affidavit, you must attest to the affidavit before a notary public or an office authorized to administer oaths. The affidavit must state whether you intend to appear at the hearing and must be submitted to the ARB before it begins the protest hearing. By submitting an affidavit you do not waive the right to appear in person at the protest hearing. The ARB may consider the affidavit only if you do not appear at the hearing in person.

Evidence Submission: You may submit evidence and/or documentation to support your protest for any hearing type either in paper or on a small portable electronic device (such as a CD, USB flash drive or thumb drive) which the ARB will keep. Do NOT bring evidence on a smart phone. See the ARB's hearing procedures regarding the requirements to properly submit evidence on a small portable electronic device.

Evidence Inspection: At least 14 days before a protest hearing, the chief appraiser must inform the property owner that the owner or agent may request a copy of the data, schedules, formulas and all other information that the chief appraiser will introduce at the hearing.

Property Owner Representation: You may have a representative or agent appear for you. This person must have written authorization to represent you that you personally signed and filed with the appraisal district at or before the protest hearing.

Postponements: On request made to the ARB before the hearing date, a property owner who has not designated an agent under Tax Code Section 1.111 to represent the property owner at the hearing is entitled to one hearing postponement without showing cause. In addition and without limitation as to the number of postponements, the ARB shall postpone the hearing to a later date if good cause is shown by the property owner or the owner's agent or if the chief appraiser consents to the postponement. The hearing may not be postponed to a date less than five or more than 30 days unless agreed to by the chief appraiser and the ARB chair or the chair's representative.

Tax Code Section 1.111 entitles a property owner or agent to a postponement if a scheduled hearing has not commenced within two hours of the time initially set for the hearing.

Property Owner Rights: The Tax Code includes specific provisions regarding your legal rights and responsibilities with regard to protest hearings in addition to those mentioned above. You should carefully read Tax Code Chapter 41 for more information.

Accommodations: If you have further questions or if you require accommodations due to disability, please contact:

Contact Name

Contact Telephone Number

Reset

Print

EXHIBIT 13
Settlement and Waiver of Protest

Texas Comptroller of Public Accounts

Form
50-218

Settlement and Waiver of Protest

To the Appraisal Review Board for _____ County

Case No.: _____

Date Filed: _____

Property Owner: _____

Description of Property:

SETTLEMENT AND WAIVER OF PROTEST

I acknowledge that the subject matter of the protest filed on the above date concerning the property described above has been settled. I hereby withdraw my protest and waive my right to any further proceeding in this matter.

Describe Actions to be Taken:

sign here ▶

Property Owner

sign here ▶

Appraisal District Representative

sign here ▶

Agent's Signature if on Behalf of Property Owner

Date

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
comptroller.texas.gov/taxes/property-tax
50-218 • 11-16/6

PROPERTY OWNER REPRESENTATION

A property owner may have a property tax consultant (also known as an agent) present the protest, provided that the owner, a property manager or other person who has the legal authority to act for the property owner in naming tax agents authorizes the representative's appointment in writing in a form prescribed by the Comptroller's office.²⁰⁸ The authorized representative cannot sign the form on the owner's behalf.²⁰⁹ Generally, the property owner must use Comptroller Form 50-162 for designating an authorized representative (**Exhibit 14**).²¹⁰ If a lessee designated as an authorized representative by the owner designates another, with owner approval, to act as an authorized representative, the lessee should use Form 50-834 (**Exhibit 15**).²¹¹ The ARB may not require a property owner to designate an authorized representative in any other manner.²¹² An owner does not have to file an authorized representative designation form for an attorney, mortgage lender, an owner's employee or a person who simply acts as a courier.²¹³

LESSEE'S REPRESENTATION

A person leasing real property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the property's appraised value if the property owner does not file a protest relating to the property.²¹⁴ The lessee may designate another person to act as an authorized representative in the manner provided by Tax Code Section 1.111. Authorized representatives have the same authority and are subject to the same limitations as property tax consultants designated by property owners.²¹⁵

²⁰⁸ *Tex. Tax Code §1.111(a) and (b)*

²⁰⁹ *Tex. Tax Code §1.111(b)*

²¹⁰ *34 Tex. Admin. Code §9.3044(a)*

²¹¹ *Tex. Tax Code §1.111(a-1) and 34 Tex. Admin. Code §9.3044(i)*

²¹² *Tex. Tax Code §1.111(g)*

²¹³ *34 Tex. Admin. Code §9.3044(f)*

²¹⁴ *Tex. Tax Code §41.413(a) and (b)*

²¹⁵ *Tex. Tax Code §41.413(g)*

GRANTING A HEARING

The ARB must schedule a hearing on a protest filed as required by Tax Code Section 41.44.²¹⁶ The hearing should be scheduled as soon as practicable but no later than 90 days after the ARB approves the appraisal records.²¹⁷ A property owner who is denied a hearing to which he or she was entitled has the right to bring suit directly to district court. The owner may sue directly by filing a petition or an application to force the ARB to provide the hearing. If the court finds that the ARB wrongfully denied the owner a hearing, it will order the ARB to hold the hearing. In addition, the court may award the property owner court costs and attorney's fees.²¹⁸ Tax Code Chapter 41A allows property owners to appeal procedural issues to LBA and an arbitrator may compel the ARB to comply with procedural requirements related to protests, such as being denied a hearing.²¹⁹

A property owner with pooled or unitized mineral interests may file protests with the ARBs of more than one county. The ARB for the county where the production site is located must hear and decide on the protest before the ARB in the other county(ies) may hold a hearing on a protest filed with that ARB. If there are two or more production sites for the pooled or unitized mineral interests, the ARB in the county where at least two-thirds of the area of the mineral interest is located hears and decides the protest before the other ARB(s).²²⁰

CONDUCTING HEARINGS

A majority of ARB members constitutes a quorum that must be present to conduct business.²²¹ Hearings must be conducted according to locally adopted ARB procedures that must incorporate the Comptroller's model hearing procedures (**Exhibit 30**).²²²

²¹⁶ *Tex. Tax Code §41.45(a)*

²¹⁷ *Tex. Tax Code §41.45(a)*

²¹⁸ *Tex. Tax Code §41.45(f)*

²¹⁹ *Tex. Tax Code §41A.015*

²²⁰ *Tex. Tax Code §41.455*

²²¹ *Tex. Tax Code §6.42(a)*

²²² *Tex. Tax Code §§5.103(d) and 41.66*

A property owner or chief appraiser can file a complaint with the appraisal district's TLO alleging that the ARB is not complying with procedural requirements or that the ARB has adopted or implemented hearing procedures that do not comply with the Comptroller's model hearing procedures. The TLO will investigate the reported complaint and report the findings to the appraisal district board of directors. If it determines the complaint's allegations to be true, the board of directors will direct the ARB chair to take remedial action. If the ARB chair fails to take the actions necessary to bring the ARB into compliance, the board of directors may refer the matter to the local administrative district judge with a recommendation to remove the ARB chair from the position as chair.²²³ If the judge agrees with the recommendation of the chair's removal, they must appoint another member to serve as chair.²²⁴ Failure to follow locally adopted ARB procedures may result in a property owner requesting LBA.²²⁵

ARB EX PARTE CONTACTS AND AFFIDAVIT

An ARB member must be very careful to maintain an unbiased approach to each property under protest. An ARB member may not communicate with another person about a protest, including evidence, argument, facts or any merits of the case except during the protest hearing. An ARB member is also prohibited from communicating with another person concerning a property that is the subject of the protest, except when discussing the property in another protest or used before the ARB as a comparison or sample property in another protest or proceeding.²²⁶

The affidavit form prescribed by the Comptroller's office states that the member has not communicated about the property under protest in the ways discussed above (**Exhibit 16**). If the member cannot sign the form, he or she cannot participate in the hearing. The removed member may not hear, discuss or vote on the protest. The

appointing authority can temporarily replace an ARB member who must be removed from a protest hearing.²²⁷ The ARB must provide the property owner or authorized representative documents indicating that the members present at the hearing signed the required affidavit.²²⁸

An ARB member who communicates with the chief appraiser, an appraisal district employee or a board of directors member concerning a property owner protest outside of the hearing may be penalized. The chief appraiser, appraisal district employee, board of directors member, property tax consultant or an attorney is also subject to a penalty if he or she communicates with an ARB member with the intent to influence an ARB decision. Both offenses are punishable as Class A misdemeanors.²²⁹

The same penalty does not apply if an ARB member talks to a property owner outside of a hearing. The ARB member cannot sign the sworn affidavit and cannot participate in that property owner's hearing.

The ex parte prohibition does not apply to discussions between the ARB and its attorney, between the ARB and the chief appraiser or another employee or a board of directors member, or between the ARB and a property tax consultant or attorney representing a property owner protest if the communications are limited to and involve the following:

- a hearing on a protest or other proceeding before the ARB;
- a social conversation;
- administrative, clerical or logistical matters related to the scheduling and operation of hearings;
- processing of documents, the issuance of orders, notices or subpoenas;
- necessary and appropriate conversation to enable the local administrative district judge to determine whether to appoint, reappoint or remove a person from the ARB; or
- ARB operations.²³⁰

²²³ *Tex. Tax Code §41.66(q)*

²²⁴ *Tex. Tax Code §41.66(q)*

²²⁵ *Tex. Tax Code §41A.015(a)(1)*

²²⁶ *Tex. Tax Code §41.66(f)*

²²⁷ *Tex. Tax Code §41.66(g)*

²²⁸ *Tex. Tax Code §41.66(p)*

²²⁹ *Tex. Tax Code §6.411 (a), (b) and (d)*

²³⁰ *Tex. Tax Code §6.411(c) and (c-1)*

EXHIBIT 14
Appointment of Agent for Property Tax Matters

Texas Comptroller of Public Accounts

Form
50-162

Appointment of Agent for Property Tax Matters

This form is for use by a property owner in designating a lessee or other person to act as the owner's agent in property tax matters. You should read all applicable law and rules carefully, including Tax Code Section 1.111 and Comptroller Rule 9.3044. This designation will not take effect until filed with the appropriate appraisal district. Once effective, this designation will be in effect until the earlier of (1) the date of a written revocation filed with the appraisal district by the owner or the owner's designated agent, or (2) the expiration date, if any, designated below.

In some cases, you may want to contact your appraisal district or other local taxing units for free information and/or forms concerning your case before designating an agent.

Appraisal District Name

Date Received *(appraisal district use only)*

STEP 1: Owner's Name and Address:

Name

Telephone Number *(include area code)*

Address

City, State, Zip Code

STEP 2: Identify the Property for Which Authority is Granted. Identify all property for which you are granting the agent authority and, unless granting authority for all property listed for you, provide at least one of the property identifiers listed below (appraisal district account number, physical or situs address, or legal description). A chief appraiser may, if necessary to identify the property, request additional information. In lieu of listing property below, you may attach a list of all property to which this appointment applies, denoting the total number of additional pages attached in the lower right-hand corner below.

(check one)

all property listed for me at the above address

the property(ies) listed below:

Appraisal District Account Number

Physical or Situs Address of Property

Legal Description

Appraisal District Account Number

Physical or Situs Address of Property

Legal Description

Appraisal District Account Number

Physical or Situs Address of Property

Legal Description

Appraisal District Account Number

Physical or Situs Address of Property

Legal Description

If you have additional property for which authority is granted, attach additional sheets providing the appraisal district account number, physical or situs address, or legal description for each property.

Identify here the number of additional sheets attached:

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
comptroller.texas.gov/taxes/property-tax
50-162 • 12-16/13

EXHIBIT 14 (CONCLUDED)
Appointment of Agent for Property Tax Matters (page 2)

Texas Comptroller of Public Accounts

Form
50-162

STEP 3: Identify the Agent:

Name _____ Telephone Number (include area code) _____

Address _____

City, State, Zip Code _____

STEP 4: Specify the Agent's Authority

The agent identified above is authorized to represent me in (check one):

- all property tax matters concerning the property identified
- the following specific property tax matters:

The agent identified above is authorized to receive confidential information pursuant to Tax Code Sections 11.48(b)(2), 22.27(b)(2), 23.123(c)(2), 23.126(c)(2) and 23.45(b)(2): Yes No

I hereby direct, as indicated below, the appraisal district, appraisal review board, and each taxing unit participating in the appraisal district to deliver the documents checked below to the agent identified above regarding the property identified. I acknowledge that such documents will be delivered only to the agent at the agent's address indicated above and will not be delivered to me unless the affected offices choose to send me copies or are otherwise required by law. I understand that these documents can affect my legal rights and that the appraisal district, appraisal review board and the taxing units are not required to send me copies if I direct them to deliver the documents to my agent.

- all communications from the chief appraiser
- all communications from the appraisal review board
- all communications from all taxing units participating in the appraisal district

STEP 5: Date the Agent's Authority Ends. Pursuant to Tax Code Section 1.111(c), this designation remains in effect until the date indicated or until a written revocation is filed with the appraisal district by the property owner or the owner's designated agent. A designation may be made to expire according to its own terms but is still subject to prior revocation by the property owner or designated agent. Pursuant to Tax Code Section 1.111(d), a property owner may not designate more than one agent to represent the property owner in connection with an item of property. The designation of an agent in connection with an item of property revokes any previous designation of an agent in connection with that item of property. By designating an agent on this form, previous designations of other agents in connection with the items of property shown on the form are revoked.

Date Agent's Authority Ends _____

STEP 6: Identification, Signature, and Date:

sign here ▶

Signature of Property Owner, Property Manager or Other Person _____ Date _____
Authorized to Act on Behalf of the Property Owner*

print here ▶

Printed Name of Property Owner, Property Manager or Other Person _____ Title _____
Authorized to Act on Behalf of the Property Owner

The individual signing this form is (check one):

- the property owner
- a property manager authorized to designate agents for the owner
- other person authorized to act on behalf of the owner other than the person being designated as agent

* This form must be signed by the property owner, a property manager authorized to designate agents for the owner or other person authorized to act on behalf of the owner other than the person being designated as agent. If you are a person other than the property owner, the appraisal district may request a copy of the document(s) authorizing you to designate agents or act on behalf of the property owner.

If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Penal Code Section 37.10.

For more information, visit our website: comptroller.texas.gov/taxes/property-tax

Page 2

EXHIBIT 15

Lessee's Designation of Agent for Property Tax Matters

Texas Comptroller of Public Accounts

Form 50-834

Lessee's Designation of Agent for Property Tax Matters

This form is for use by a lessee to designate a person to act as the lessee's agent in property tax matters pursuant to Tax Code Section 1.111(a-1). Note: Only a lessee who has been designated previously by the property owner under Tax Code Section 1.111(a) as the property owner's agent as shown by execution of Form 50-162, Appointment of Agent for Property Tax Matters, may use this form to designate a person to act as the lessee's agent in property tax matters. An agent designated by a lessee under Tax Code Section 1.111(a-1) has the same authority and is subject to the same limitations as an agent designated by a property owner under Tax Code Section 1.111(a).

STEP 1: Lessee and Property Owner Contact Information

Form fields for Lessee and Property Owner contact information including Name, Mailing Address, Primary Phone Number, Email Address, City, County, State, and ZIP Code.

STEP 2: Property Identification

Provide the physical or situs address, the legal description or the appraisal district account number of the property for which you are designating an agent to act for you in property tax matters. A chief appraiser may request additional information to identify the property.

Form fields for Property Identification including Physical Address, City, County, State, ZIP Code, Legal Description, and Appraisal District Account Number.

STEP 3: Agent Designation

The following individual is designated to act as agent for the lessee and owner of the property identified in Step 2 in property tax matters pursuant to Tax Code Section 1.111(a-1) (only one individual's name is permitted).

Form fields for Agent Designation including Name of Agent, Primary Phone Number, Email Address, Mailing Address, City, County, State, and ZIP Code.

STEP 4: Specify the Agent's Authority:

The agent identified above is authorized to represent me in (check one):

- all property tax matters concerning the property identified in Step 2
the following specific property tax matters concerning the property identified in Step 2:

The agent identified above is authorized to receive confidential information pursuant to Tax Code Sections 11.48(b)(2), 22.07(e), 22.27(b)(2), 23.123(c)(2), 23.1242(p), 23.126(c)(2), 23.127(l), 23.128(p) and 23.45(b)(2): Yes No

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website: comptroller.texas.gov/taxes/property-tax 50-834 • 12-16/3

EXHIBIT 15 (CONCLUDED)

Lessee's Designation of Agent for Property Tax Matters (page 2)

Texas Comptroller of Public Accounts

Form 50-834

STEP 4: Specify the Agent's Authority: (continued)

I hereby direct, as indicated below, the appraisal district, appraisal review board and each taxing unit participating in the appraisal district to deliver the documents checked below to the agent identified above regarding the property identified. I acknowledge that such documents will be delivered only to the agent at the agent's address indicated above and will not be delivered to me unless the affected offices choose to send me copies or are otherwise required by law. I understand that these documents can affect my legal rights and that the appraisal district, appraisal review board and the taxing units are not required to send me copies if I direct them to deliver the documents to my agent.

- all communications from the chief appraiser
all communications from the appraisal review board
all communications from all taxing units participating in the appraisal district

STEP 5: End of Agent's Authority

Under Tax Code Section 1.111(c), the designation of an agent on this form remains in effect until the date indicated below or until a written revocation is filed with the appraisal district by the property owner, the lessee or the designated agent. A designation may be made to expire according to its own terms but is still subject to prior revocation by the property owner, the lessee or the designated agent. Under Tax Code Section 1.111(d), only one agent may be designated in connection with an item of property at a time; the subsequent designation of an agent in connection with an item of property revokes any previous designation of an agent in connection with that item of property. By designating an agent on this form, previous designations of other agents in connection with the property identified in Step 2 of this form are revoked.

Date Agent's Authority Ends:

STEP 6: Lessee's Authorization

I, Printed Name of Lessee or Authorized Individual

swear or affirm the following with regard to the property identified in Step 2 above: (1) that I am the lessee of the property, or another person authorized to act on behalf of the lessee in this matter other than the agent designated in Step 3 above; (2) that the property owner previously designated the lessee under Tax Code Section 1.111(a) to act as the owner's agent and executed Form 50-162, Appointment of Agent for Property Tax Matters to that effect; and (3) that the agent designated in Step 3 of this form is authorized to act on behalf of the lessee and the property owner in property tax matters as indicated in this form.

sign here

Signature of Lessee or Authorized Individual Title Date

Mailing Address Primary Phone Number (area code and number) Email Address*

STEP 7: Property Owner's Approval

I, Printed Name of Property Owner or Authorized Individual

swear or affirm the following with regard to the property identified in Step 2 above: (1) that I am the property owner, or another person authorized to act on behalf of the owner in property tax matters other than the agent designated in Step 3 above or the lessee identified herein; (2) that the property owner previously designated the lessee identified above under Tax Code Section 1.111(a) to act as the owner's agent and executed Form 50-162, Appointment of Agent for Property Tax Matters to that effect; and (3) that the property owner approves of the lessee's designation of the agent identified in Step 3 of this form to act in property tax matters as indicated in this form.

sign here

Signature of Property Owner or Authorized Individual Title Date

Signer's Mailing Address Primary Phone Number (area code and number) Email Address*

* An email address of a member of the public could be confidential under Government Code Section 552.137; however, by including the email address on this form, you are affirmatively consenting to its release under the Public Information Act.

** If you are a person authorized to act in this matter on behalf of the property owner or the lessee (other than a person designated as the agent in Step 3,) the appraisal district may request a copy of the document(s) authorizing you to act on behalf of the property owner or lessee in this matter.

EXHIBIT 16
Appraisal Review Board Member Communication Affidavit

Appraisal Review Board Member Communication Affidavit

Form 50-133

Tax year _____

Appraisal District's Name _____

Appraisal District Account Number (if known) _____

GENERAL INSTRUCTIONS: This form is for use by an appraisal review board member to affirm that the member has not communicated with another person in violation of Tax Code Section 41.66(f). Documentation indicating this signed affirmation will be provided to the property owner or his or her designated agent at the hearing's conclusion.

FILING INSTRUCTIONS: Each ARB member must sign an affidavit at the beginning of a protest hearing pursuant to Tax Code Section 41.66(g).

SECTION 1: Property Description

Physical Address, City, State, Zip Code _____

If no street address, provide legal description.

Mobile Home Make, Model and Identification Number (if applicable) _____

SECTION 2: Affirmation and Signature

State of Texas

County of _____

Before me, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:
Affiant Name

My name is _____. I have not communicated with another person in violation of Tax Code Section 41.66(f).

Signed on this _____ day of _____, 20 _____

Affiant Signature _____

SWORN TO AND SUBSCRIBED before me on the

_____ day of _____, 20 _____

Notary Public, State of Texas

My Commission Expires _____

Notary's Printed Name _____

APPEARANCE AT THE PROTEST HEARING

As a matter of procedure, the ARB chair calls the cases in the order scheduled and makes certain each party takes an oath promising the accuracy of the party's testimony. All testimony must be given under oath.²³¹

Most property owners will represent themselves at the protest hearing. Some property owners may designate a lessee or authorized representative to present the protest and perform other required actions.²³² An attorney may represent a client without filing a representative designation, as can most mortgage lenders and authorized corporate employees.²³³ The ARB should not recognize other authorized representatives unless the property owner files a properly executed designation of representative form at or before the motion or protest hearing.²³⁴

The law requires a person who provides property tax consulting services for compensation to be certified and registered with the state.²³⁵ If a consultant who is not registered as required by law appears before the ARB, the ARB should seek legal advice on how to address the matter.

As discussed in Chapter 2 regarding scheduling, a property owner may appear in person, by telephone conference call, videoconference or by affidavit. Counties with populations less than 100,000 that lack the technological capability to conduct videoconference hearings do not have to make them available.²³⁶

If the owner appears either by telephone conference call, videoconference or affidavit, they must submit evidence to the ARB as a notarized sworn statement before the hearing begins.²³⁷ A property owner does not waive the right to appear in person at the protest hearing by

submitting an affidavit to the ARB or by electing to appear by telephone conference call.²³⁸ See **Exhibit 17** for the model affidavit.

The owner may submit a notarized letter that includes the owner's name, a property description and evidence or argument. A statement specifying the chief appraiser, appraisal district or ARB's determination from which the owner seeks relief constitutes a sufficient argument.²³⁹

An ARB should consult with its attorney to determine what to do if the property owner does not appear. It should develop procedures on how it will respond in such a case.

POSTPONEMENT OF HEARINGS

Under certain circumstances, property owners or their authorized representative may request that the ARB postpone a protest hearing until a later date.²⁴⁰ Tax Code Sections 41.45 and 41.66 authorize postponements, and the Comptroller's model hearing procedures describes the conditions for postponement. (**Exhibit 30**).

LIMITED BINDING ARBITRATION

Tax Code Section 41A.015 outlines the LBA process that allows property owners who meet certain qualifications to request arbitration to compel the appraisal district or ARB to comply with specific procedural requirements. LBA has specific notice requirements and filing deadlines.²⁴¹ The Comptroller's office can only appoint arbitrators who are licensed attorneys to hear LBA cases.²⁴² **Exhibit 18** provides a visual representation of the LBA process, which begins after a property owner files a protest under Tax Code Chapter 41. The LBA's determination may result in a new ARB hearing.²⁴³

²³¹ *Tex. Tax Code §41.67(a)*

²³² *Tex. Tax Code §§1.111 and 41.66(c)*

²³³ *34 Tex. Admin. Code §9.3044(f)*

²³⁴ *Tex. Tax Code §1.111(b)*

²³⁵ *Tex. Occ. Code §1152.002(b)*

²³⁶ *Tex. Tax Code §41.45(b-6)*

²³⁷ *Tex. Tax Code §41.45(b)*

²³⁸ *Tex. Tax Code §41.45(n)*

²³⁹ *Tex. Tax Code §41.45(i) and (j)*

²⁴⁰ *Tex. Tax Code §§41.45 and 41.66*

²⁴¹ *Tex. Tax Code §41A.015*

²⁴² *Tex. Tax Code §41A.015(p)(1)*

²⁴³ *Tex. Tax Code §41A.015(j)(2)(B)*

EXHIBIT 17
Property Owner's Affidavit of Evidence

Property Owner's Affidavit of Evidence

Form 50-283

Tax Year _____

Appraisal District's Name _____

Appraisal District Account Number (if known) _____

GENERAL INSTRUCTIONS: This form is for use by a property owner to offer and submit evidence and/or argument for an appraisal review board (ARB) protest hearing by telephone conference call, videoconference or written affidavit pursuant to Tax Code Section 41.45.

FILING INSTRUCTIONS: This affidavit and evidence for the hearing may be submitted to the ARB either in paper or 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 file this document with the Texas Comptroller of Public Accounts.**

SECTION 1: Property Owner or Lessee

Name of Property Owner or Lessee _____

Mailing Address, City, State, ZIP Code _____

Phone Number (area code and number) _____

Email Address* _____

SECTION 2: Property Description

Physical Address, City, State, ZIP Code (if different than above) _____

If no street address, provide legal description: _____

Mobile Home Make, Model and Identification Number (if applicable) _____

SECTION 3: Reasons for Protest

To preserve your right to present each reason for your ARB protest according to law, be sure to select all boxes that apply. Failure to select the box that corresponds to each reason for your protest may result in your inability to protest an issue that you want to pursue.

- | | |
|---|---|
| <input type="checkbox"/> Incorrect appraised (market) value and/or value is unequal compared with other properties. | <input type="checkbox"/> Change in use of land appraised as ag-use, open-space or timberland. |
| <input type="checkbox"/> Property should not be taxed in _____ (name of taxing unit). | <input type="checkbox"/> Incorrect appraised or market value of land under special appraisal for ag-use, open-space or other special appraisal. |
| <input type="checkbox"/> Property is not located in this appraisal district or otherwise should not be included on the appraisal district's record. | <input type="checkbox"/> Owner's name is incorrect. |
| <input type="checkbox"/> Failure to send required notice. _____ (type) | <input type="checkbox"/> Property description is incorrect. |
| <input type="checkbox"/> Exemption was denied, modified or canceled. | <input type="checkbox"/> Incorrect damage assessment rating for a property qualified for a temporary disaster exemption. |
| <input type="checkbox"/> Temporary disaster damage exemption was denied or modified. | <input type="checkbox"/> Circuit breaker limitation on appraised value for non-homestead real property was denied, modified or canceled. |
| <input type="checkbox"/> Ag-use, open-space or other special appraisal was denied, modified or canceled. | <input type="checkbox"/> Incorrect appraised value and allocation of value of a structure, archaeological site and land necessary for access under a historic site exemption. |
| | <input type="checkbox"/> Other: _____ |

SECTION 4: Evidence

Attach evidentiary materials (such as letters, receipts, deeds, photographs, etc.) to be submitted with this affidavit.

Provide the total number of pages or images submitted as evidence with this affidavit: _____

SECTION 5: Statement of Facts or Arguments

State all facts or arguments that may help resolve your case.

EXHIBIT 17 (CONTINUED)

Property Owner's Affidavit of Evidence (page 2)

SECTION 6: Hearing Type

Indicate how you intend to participate in the ARB hearing regarding your protest (select only one box).

- I do not intend to appear at the hearing in person, by telephone conference call or by videoconference.
I intend to appear in person at the hearing.
I intend to appear by telephone conference call for the hearing.
I intend to appear by videoconference for the hearing.

NOTE: If you decide later to appear by telephone conference call or videoconference, you must provide written notice to the ARB at least 10 days before the hearing date and submit your evidence with an affidavit (if not previously done).

SECTION 7: Name and Signature

State of Texas
County of

Before me, the undersigned authority, personally appeared, who, being by me duly sworn, deposed as follows:
Affiant Name

- 1. My name is. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts stated in this affidavit as well as any materials attached to this affidavit.
2. Any materials submitted with this affidavit as evidence were generated or collected by me or for me, and are the original or exact duplicates of the original.
3. Any materials I am submitting as evidence comprise a total of pages or images and are described in Section 4 of this affidavit.
4. The facts contained in this affidavit are true and correct, and the information reflected in any evidentiary materials attached to this affidavit are true and correct.

Signed on this day of, 20

Affiant Signature

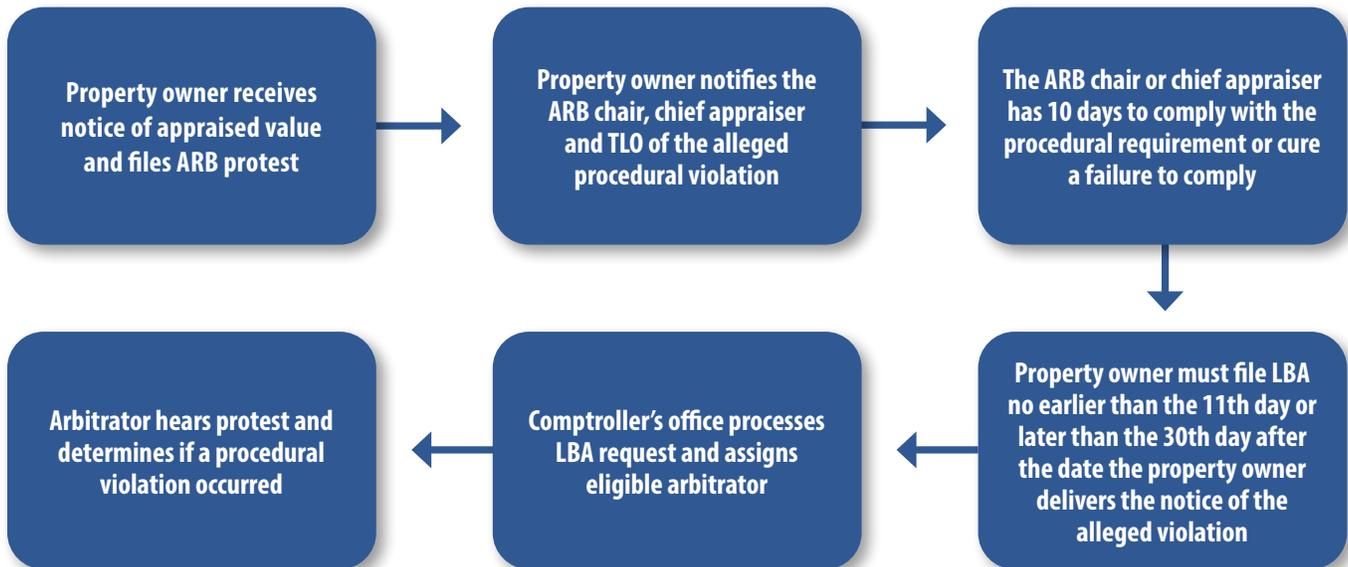
SWORN TO AND SUBSCRIBED before me on the
day of, 20
Notary Public, State of Texas
My Commission Expires
Notary's Printed Name

*An email address of a member of the public could be confidential under Government Code Section 552.137; however, by including the email address on this form, you are affirmatively consenting to its release under the Public Information Act.

**You may change your mind and appear in person at the ARB hearing. You do not waive the right to appear in person at the hearing by submitting this affidavit to the ARB. If you indicate that you intend NOT to appear at the hearing or you do not complete this section of the form and you do not elect to appear by telephone conference call or videoconference, the ARB is not required to consider the affidavit at a scheduled hearing, and may consider the affidavit at a hearing designed for the specific purpose of processing affidavits.

Reset Print

EXHIBIT 18
LBA Process Overview



A property owner can request LBA to compel the ARB or chief appraiser, as appropriate, to:

- comply with the ARB's adopted hearing procedures and rescind procedural rules that do not comply with the Comptroller's model hearing procedures;²⁴⁴
- schedule a protest hearing as required by law;²⁴⁵
- deliver a copy of the *Taxpayer Assistance Pamphlet*, the ARB hearing procedures or information on a property owner's right to request evidence the chief appraiser will introduce at the ARB hearing at least 14 days before the scheduled hearing;²⁴⁶
- allow the property owner to offer evidence, examine or cross-examine witnesses or other parties, and present arguments during a hearing;²⁴⁷
- set a hearing for a time and date certain and postpone a hearing that does not begin within two hours of the scheduled time;²⁴⁸

- schedule protest hearings concerning multiple properties identified in the same notice of protest on the same day at the request of the property owner or the property owner's authorized representative;²⁴⁹ or
- refrain from using or offering as evidence information the property owner requested that was not delivered to the property owner at least 14 days before the hearing.²⁵⁰

Each of these statutory or procedural requirements relate to the ARB protest process. The ARB, chief appraiser and property owner are parties to the LBA.²⁵¹

LBA REQUEST

Before a property owner can request LBA, they must first notify the chief appraiser, ARB chair and TLO of the alleged procedural violation on or before the fifth business day after the date the ARB or chief appraiser

²⁴⁴ Tex. Tax Code §41A.015(a)(1)

²⁴⁵ Tex. Tax Code §41A.015(a)(2)

²⁴⁶ Tex. Tax Code §41A.015(a)(3)

²⁴⁷ Tex. Tax Code §41A.015(a)(4)

²⁴⁸ Tex. Tax Code §41A.015(a)(5)

²⁴⁹ Tex. Tax Code §41A.015(a)(6)

²⁵⁰ Tex. Tax Code §41A.015(a)(7)

²⁵¹ Tex. Tax Code §41A.015(h)

was required to comply with the requirement.²⁵² The property owner must send the notice by certified mail, return receipt requested.²⁵³ The ARB chair or chief appraiser then has 10 days to deliver a written statement confirming they will comply with the procedural requirement or cure a failure to comply.²⁵⁴ If the ARB chair or chief appraiser does not comply or cure a failure to comply within 10 days of the notice, the property owner can file an LBA request.

The property owner cannot file the LBA request sooner than 11 days or later than 30 days from the date the property owner delivered the required notice.²⁵⁵ The property owner files the LBA request directly with the Comptroller's office. A property owner can request a single LBA for more than one property, more than one protest hearing that occurred in the same tax year or more than one procedural violation if they meet the notice and filing requirements for each alleged violation.²⁵⁶

A property owner must complete the Comptroller's *Request for Limited Binding Arbitration* (Form AP-241), attach a copy of the appraisal district's *Notice of Appraised Value* for the property subject to LBA and include a check or money order payable to the Comptroller of Public Accounts for the required deposit amount. The request form requires the property owner to:

- make a statement indicating that he or she has provided the written notice to the chief appraiser, ARB chair and TLO;²⁵⁷
- make a statement indicating they included the required deposit with the request;²⁵⁸
- identify the procedural requirement with which the chief appraiser or ARB allegedly failed to comply;²⁵⁹

²⁵² *Tex. Tax Code §41A.015(b)(1)*

²⁵³ *Tex. Tax Code §41A.015(b)(1)*

²⁵⁴ *Tex. Tax Code §41A.015(b)(2)*

²⁵⁵ *Tex. Tax Code §41A.015(d)*

²⁵⁶ *Tex. Tax Code §41A.015(o)*

²⁵⁷ *Tex. Tax Code §41A.015(f)(1)*

²⁵⁸ *Tex. Tax Code §41A.015(f)(2)*

²⁵⁹ *Tex. Tax Code §41A.015(f)(3)*

- describe the action taken or not taken by the chief appraiser or ARB regarding the procedural requirement;²⁶⁰
- provide a description of the property to which the award will apply;²⁶¹ and
- any other information reasonably necessary for the Comptroller to appoint an arbitrator.²⁶²

A property owner who files suit under Tax Code Chapter 42 regarding the same issues for the same properties in the same tax year waives his or her right to request LBA and the arbitrator must dismiss the arbitration proceeding. A property owner must decide between filing an appeal in district court and requesting LBA.

DISMISSAL WITH PREJUDICE

The arbitrator determines compliance with procedural requirements and must dismiss any request not meeting jurisdictional requirements. An arbitrator will dismiss an LBA request with prejudice for lack of jurisdiction for the following reasons:

- The property owner or authorized representative did not file a protest under Tax Code Chapter 41 for the subject property.
- Taxes on the subject property are delinquent for any prior year, the property owner did not pay the taxes in full for the year at issue, or did not defer the taxes under Tax Code Sections 33.06 or 33.065; or the property owner did not pay the undisputed tax amount before the statutory delinquency date.
- The owner or authorized representative did not deliver written notice to the ARB chair, chief appraiser and TLO for the applicable appraisal district as required by Tax Code Section 41A.015(b)(1).
- The property owner did not file the request earlier than the 11th day or later than the 30th day after the notice required by Tax Code Section 41A.015(b)(1) was delivered to the ARB chair, chief appraiser and TLO.

²⁶⁰ *Tex. Tax Code §41A.015(f)(4)*

²⁶¹ *Tex. Tax Code §41A.015(f)(5)*

²⁶² *Tex. Tax Code §41A.015(f)(6)*

- The ARB or chief appraiser complied with the procedural requirement that was the subject of the LBA request.²⁶³

LBA HEARING AND DETERMINATION

The arbitrator must manage the LBA according to Tax Code Chapter 41A and Comptroller rules. The ARB can appear by counsel, chair or a person the chair designates. The chief appraiser may appear by counsel, in person or by a designated employee, and the property owner may appear by counsel or other representation including a licensed real estate broker or salesperson, tax consultant or certified public accountant.²⁶⁴

After hearing both sides, the arbitrator must render a decision and complete Form 50-890, *Limited Binding Arbitration Determination*. The arbitrator must send the completed form to the Comptroller's office and copies to the property owner, ARB chair and the chief appraiser by email.²⁶⁵ The arbitrator's decision must include a determination of whether the ARB or chief appraiser failed to comply with a procedural requirement as alleged in the LBA request.²⁶⁶ If the arbitrator determines that the ARB or chief appraiser failed to comply with a procedural requirement as the request alleged, the arbitrator must direct the ARB or chief appraiser to comply with the procedural requirement, or, if the protest hearing has been held and the ARB has issued an order determining the protest, the arbitrator must direct the ARB to rescind the order and hold a new hearing that complies with the procedural requirement.²⁶⁷ The arbitrator's determination is final and cannot be appealed, except as permitted under Civil Practice and Remedies Code Section 171.088.

If the arbitrator determines that the ARB or chief appraiser complied with the procedural requirement, the Comptroller's office pays the arbitrator's fee out of the

property owner's arbitration deposit.²⁶⁸ If the arbitrator determines that the ARB or chief appraiser failed to comply with the procedural requirement, the appraisal district must pay the arbitrator's fee and the deposit will be refunded to the property owner, less the Comptroller's \$50 administrative fee.²⁶⁹ The ARB or the chief appraiser, as soon as practicable after receiving notice of a determination, must take any action required to comply with the determination.²⁷⁰

A determination under this section does not affect the property owner's right to appeal the final ARB determination to district court under Tax Code Chapter 42 or to pursue any other statutory remedy.²⁷¹

PART 4 - ARB ISSUES ORDERS OF DETERMINATION

The ARB may rule on a protest at the protest hearing's conclusion or may postpone the decision to a later date. If the ARB divides into panels to hear separate cases, a panel cannot make a final decision. An ARB's decision is *not final* until a majority of the entire ARB approves the panel's recommendation.²⁷²

The ARB's procedures should address how the ARB will handle panel recommendations. The ARB conducts another panel hearing if the full ARB rejects a panel's decision. The second panel must be composed of ARB members who did not hear the initial protest. If three members are not available to make up a new panel, the full ARB may determine the protest. The ARB must notify the property owner of the new hearing in the same manner provided for a regular ARB hearing.²⁷³ If a special panel makes a recommendation that the ARB does not accept, the ARB may refer it for a rehearing to a different special panel composed of ARB members who did not

²⁶³ Tex. Tax Code §41A.015

²⁶⁴ Tex. Tax Code §41A.015(h)

²⁶⁵ Tex. Tax Code §41A.015(i)

²⁶⁶ Tex. Tax Code §41A.015(j)(1)

²⁶⁷ Tex. Tax Code §41A.015(j)(2)

²⁶⁸ Tex. Tax Code §41A.015(l)(1)

²⁶⁹ Tex. Tax Code §41A.015(k)

²⁷⁰ Tex. Tax Code §41A.015(m)

²⁷¹ Tex. Tax Code §41A.015(n)

²⁷² Tex. Tax Code §41.45(d-2)

²⁷³ Tex. Tax Code §41.45(d) and (d-3)

hear the initial protest.²⁷⁴ If at least three other special panel members are not available, the ARB will make the determination.²⁷⁵ Similarly, if the ARB does not accept a single-member panel's recommendation, it can determine the protest or refer the matter to a different single-member panel for rehearing.²⁷⁶

If the ARB postpones a decision, it must tell the parties when it will make the final decision by delivering a notice of hearing. The ARB must make any postponed decisions in open sessions.²⁷⁷

ARBs may not make an appraised value determination greater than the appraised value shown in the appraisal records as submitted to the ARB. An exception applies if the property owner requests and agrees to a greater value. This is not applicable if the protest subject concerns an exemption's cancellation, modification or denial or the determination that the property does not qualify for appraisal as provided by Tax Code Chapter 23, Subchapter C (Land Designated for Agricultural Use), D (Appraisal of Agricultural Land), E (Appraisal of Timberland) or H (Appraisal of Restricted-use Timberland).²⁷⁸

Generally, the ARB's final orders come in two forms: orders determining property owners' protests²⁷⁹ and orders determining taxing units' challenges.²⁸⁰ These are written orders specifying the ARB's disposition of the protests and challenges.²⁸¹ For appraised value determination protests, the ARB's order must list the appraised value of the land and improvements separately when concerning real property appraisal as allocated by the chief appraiser in the appraisal records and as finally determined by the ARB.²⁸² The ARB records should indicate the ARB's determination on each issue

²⁷⁴ Tex. Tax Code §41.45(d-1)

²⁷⁵ Tex. Tax Code §41.45(d-1)

²⁷⁶ Tex. Tax Code §41.45(b-5)

²⁷⁷ Tex. Tax Code §41.45(d-3)

²⁷⁸ Tex. Tax Code §41.47(c-2)

²⁷⁹ Tex. Tax Code §41.47

²⁸⁰ Tex. Tax Code §41.07

²⁸¹ Tex. Tax Code §§41.07(a) and 41.47(a)

²⁸² Tex. Tax Code §41.47(c)

addressed during the hearing. **Exhibit 19** shows an example of an *Order Determining a Protest or Notice of Dismissal*. This form's use is not mandatory; however, it identifies the range of issues that may be the subject of any ARB protest. The ARB order for each protest should identify specifically each issue the ARB heard during the protest hearing, state the ARB's decision on each issue and provide the ARB's determination of value as well as the value as shown on the appraisal records. **Exhibit 19** also includes a *Notice of Final Order*, a *Notice of Issuance of ARB Order to Taxing Unit* and an *Order to Correct Appraisal Records*.

If the ARB dismisses a protest on jurisdictional grounds, it must provide its justification in writing. The *Order Determining Protest or Notice of Dismissal* form now includes space for the board to substantiate its decision in writing.²⁸³

The ARB must send the order of determination by certified mail or electronically if the property owner or their authorized representative has elected to receive electronic communications under Tax Code Section 1.085.²⁸⁴

ARBs located in counties with a population of less than four million must send the order of determination along with the ARB survey and instructions no later than 30 days after the hearing date. In larger counties with populations greater than four million, the board has 45 days to send out its determination and the ARB survey and instructions.²⁸⁵

PART 5 - ARB APPROVES APPRAISAL RECORDS

The ARB should approve appraisal records by July 20 or Aug. 30.²⁸⁶

Taxing units may sue the ARB or chief appraiser in district court for failure to meet the deadlines. If the court finds

²⁸³ Tex. Tax Code §41.47(a)

²⁸⁴ Tex. Tax Code §41.47(d)

²⁸⁵ Tex. Tax Code §41.47(d)(2)

²⁸⁶ Tex. Tax Code §41.12(a)(4)

the ARB missed the deadline for a good reason, it must set a new deadline. If the court finds there was not a good reason, the deadline becomes 10 days from the date the court signs the judgment. The court may enforce its deadlines by holding parties in contempt or may make any other order necessary to ensure compliance.²⁸⁷

It may be impossible or impractical to approve all the appraisal records by the July 20 deadline. The ARB must substantially complete all protest hearings before approving the appraisal records. If the sum of appraised values of property on which property owners have filed protests but have not received determinations is more than 5 percent of the total appraised value of other properties in the appraisal district, the ARB cannot approve the appraisal records.²⁸⁸

To help achieve 95 percent completion of the appraisal records, the ARB may wish to hear protests first on properties with larger appraised values before it hears protests on properties with lower appraised values.

An appraisal district board of directors in a county with a population of at least one million may change the threshold percentage from 95 percent to 90 percent.²⁸⁹ In other words, the value involved in pending protests at the time of appraisal record approval may not be more than 10 percent of the appraised value of properties that are not under protest in the appraisal district.

If the ARB believes it will not complete its review by July 20, or Aug. 30 in the larger counties, it should notify the chief appraiser and the taxing units of the earliest estimated completion date and explain the reasons for the delay. The ARB should make every effort to meet the July 20 or Aug. 30 deadlines.

²⁸⁷ *Tex. Tax Code §43.04*

²⁸⁸ *Tex. Tax Code §41.12*

²⁸⁹ *Tex. Tax Code §41.12(c)*

PART 6 - CERTIFICATION

The appraisal records, as the ARB changes and approves them, constitute the appraisal district's appraisal roll. The chief appraiser must prepare and certify each taxing unit's appraisal roll to its tax assessor by July 25.²⁹⁰ If by July 20 the ARB has not approved the appraisal records, the chief appraiser will prepare and certify to the tax assessor an estimate of the taxable property value in each taxing unit not later than July 25.²⁹¹

When protests are still pending after certification, the chief appraiser gives each taxing unit a list of pending protests with the taxing unit's certified appraisal roll.²⁹²

The list must show each property and give two values for each – the appraisal district's proposed value and the value claimed by the property owner. The chief appraiser must estimate a property's probable value if the owner does not indicate a value in the protest. The taxing unit uses the lower of the two values in calculating its non-revenue and voter-approval tax rates.²⁹³

A taxing unit cannot levy a tax on a property under protest until the ARB approves that property's final value. The Tax Code contains procedures for adding approved supplemental records to appraisal and tax rolls.²⁹⁴

²⁹⁰ *Tex. Tax Code §26.01(a)*

²⁹¹ *Tex. Tax Code §26.01(a-1)*

²⁹² *Tex. Tax Code §26.01(c)*

²⁹³ *Tex. Tax Code §26.01(c)*

²⁹⁴ *Tex. Tax Code §§25.23, 25.25 and 26.15*

EXHIBIT 19
Order Determining Protest or Notice of Dismissal

Order Determining Protest or Notice of Dismissal

Form 50-221

Appraisal Review Board _____ County, Texas

Property Legal Description:

Case No. _____

Owner's Name: _____

Property Account No.: _____

ORDER DETERMINING PROTEST OR NOTICE OF DISMISSAL

On _____, _____, the Appraisal Review Board (ARB) of _____ County, Texas, heard the protest of _____ concerning the appraisal records for tax year _____.

The ARB delivered proper notice of the hearing date, time, place and subject. The property owner or agent and the appraisal district's chief appraiser were given the opportunity to testify and to present evidence. After considering the evidence and arguments presented at the hearing, the ARB has determined that the protest concerned the following action(s) permitted by Tax Code Section 41.41(a):

- incorrect appraised or market value
- unequal appraisal
- inclusion of the property on the appraisal records
- denial in whole or in part of a partial exemption
- determination that land does not qualify for appraisal according to Tax Code Chapter 23, Subchapters C, D, E or H
- determination of the appropriate damage assessment rating under Tax Code Section 11.35
- denial of the circuit breaker limitation on appraised value provided by Tax Code Section 23.231
- determination of the appropriate allocation of value for property that qualifies as an archaeological site under Tax Code Section 11.24.
- any other matter permitted by Tax Code Section 41.41(a)

Based on the evidence, the ARB makes the following determination(s) as indicated by a mark and hereby issues the following as its ORDER DETERMINING PROTEST OR NOTICE OF DISMISSAL:

- The property's appraised value is excessive, and the appraisal records should be changed to: a land value of \$ _____ from the appraisal district land value of \$ _____; and an improvement value of \$ _____ from the appraisal district improvement value of \$ _____.
- The property's market value is excessive, and the appraisal records should be changed to: a land value of \$ _____ from the appraisal district land value of \$ _____; and an improvement value of \$ _____ from the appraisal district improvement value of \$ _____.
- The subject property's appraised or market value is not excessive and the appraisal records should not be changed. The land's appraised value is \$ _____; the improvement's appraised value is \$ _____; and the property's market value is \$ _____.
- The subject property's appraised or market value should be increased, as requested and agreed to by the property owner, and the appraisal records should be changed to: a land value of \$ _____ from the appraisal district land value of \$ _____; an improvement value of \$ _____ from the appraisal district improvement value of \$ _____; and the property's market value is \$ _____.
- The subject property was unequally appraised and the appraisal records should be changed to: a land value of \$ _____ from the appraisal district land value of \$ _____; and an improvement value of \$ _____ from the appraisal district improvement value of \$ _____.
- The subject property was not unequally appraised and the appraisal records should not be changed. The land's appraised value is \$ _____; the improvement's appraised value is \$ _____; and the property's market value is \$ _____.

EXHIBIT 19 (CONCLUDED)

Order Determining Protest or Notice of Dismissal (page 2)

Order Determining Protest or Notice of Dismissal

Form 50-221

- The subject property qualified for an archaeological site exemption under Tax Code Section 11.24 and the appraisal records should be changed to: a land value of \$ _____ from the appraisal district land value of \$ _____; and a structural or site value of \$ _____ from the appraisal district structural or site value of \$ _____.
- The subject property qualified for an archaeological site exemption under Tax Code Section 11.24 and the appraisal records should not be changed. The land's appraised value is \$ _____; the structure or site value is \$ _____; and the property's market value is \$ _____.
- The subject property qualified for the exemption for which application was made and the appraisal records should be changed accordingly.
- The subject property does not qualify for the exemption in which an application was submitted and the appraisal records should not be changed.
- The subject property qualified for a temporary exemption under Tax Code Section 11.35 and should be assigned a damage assessment rating of Level _____.
- The subject property qualified for special appraisal and the appraisal records should be changed to reflect an appraised value of \$ _____ from the appraisal district value of \$ _____.
- The subject property qualified for the circuit breaker limitation under Tax Code Section 23.231 and the appraisal records should be changed accordingly.
- The subject property does not qualify for the circuit breaker limitation under Tax Code Section 23.231 and the appraisal records should not be changed.
- The property owner's protest concerning other matters permitted by Tax Code Section 41.41(a) is upheld and the appraisal records should be changed to reflect the following: _____
- The property owner's protest concerning other matters permitted by Tax Code Section 41.41(a) is denied and the appraisal records should not be changed.
- The ARB lacks jurisdiction to determine the protest and hereby dismisses the protest on the following grounds:

If changes to the appraisal records are ordered due to a determination of excessive appraised or market value and also a determination of unequal appraisal, the lower of the two determinations shall be shown in the appraisal records.

sign here ▶

Chair, Appraisal Review Board

Date

Reset

Print

EXHIBIT 20

Request for Electronic Delivery of Communications with a Tax Official

Request for Electronic Delivery of Communications with a Tax Official

Form 50-843

County

Date Received

GENERAL INFORMATION: Tax Code Section 1.085(a-1) requires a tax official to deliver communications to a property owner or the property owner's designated representative electronically if requested using this form. The election remains in effect until rescinded, in writing, by the property owner or the designated representative.

FILING INSTRUCTIONS: This form and all supporting documentation must be filed with the applicable tax official in the county in which the property is located. A separate form must be filed with each tax official. Do not file this document with the Texas Comptroller of Public Accounts.

SECTION 1: Tax Official Selection

Please indicate the tax official with which you are requesting to exchange communications electronically.

- Appraisal District, Appraisal Review Board (ARB), Tax Assessor/Collector, Taxing Unit, Other designated person performing functions on behalf of a tax official

SECTION 2: Property Owner

- Property Owner, Partnership, Corporation, Other (specify):

Name of Property Owner

Primary Phone Number (area code and number)

Physical Address, City, State, ZIP Code

Mailing Address, City, State, ZIP Code (if different than above)

SECTION 3: Authorized Representative

If you are an individual property owner filing this form on your own behalf, skip to Section 4; all other requestors are required to complete Section 3.

Please indicate the basis for your authority to represent the property owner in filing this application:

- Officer of the company, General Partner of the company, Attorney for property owner, Agent for tax matters appointed under Tax Code Section 1.111, Other and explain basis:

Name of Authorized Representative

Title of Authorized Representative

Mailing Address, City, State, ZIP Code

Primary Phone Number (area code and number)

SECTION 4: Property for Which Electronic Communications are to be Exchanged

Appraisal District Account Number(s)

Legal Description (if known)

Chapter 4

Appraisal Concepts: Market Value, Special Appraisals and Unequal Appraisal

PROTEST GROUNDS

Tax Code Sections 41.41(a) and (c) identify the separate grounds or issues that a property owner is entitled to protest:

1. the property's appraised or market value;
2. unequal property appraisal;
3. the property's inclusion on the appraisal records;
4. denial in whole or in part of a partial exemption;
5. determination that the property does not qualify for the circuit breaker limitation on appraised value for non-homestead real property;
6. determination that the property does not qualify for special agricultural or timber appraisal;
7. identification of the taxing units in which the property is taxable;
8. determination of the property's ownership;
9. determination that the use of agricultural or timberland under special appraisal has changed;
10. determination of the appraised value and allocation of value of a structure, archaeological site and land necessary for access under a historic site exemption; or
11. any other action of the appraisal district, chief appraiser or ARB that applies to and adversely affects the property owner.

The final ground for protest is the denial, modification or assessment rating of a property qualified for a temporary

exemption due to damage by disaster under Tax Code Section 11.35.²⁹⁵

This chapter focuses on the following protest grounds and the appraisal concepts related to them:

1. the property's market value;
2. unequal property appraisal;
3. circuit breaker limitations under Tax Code Section 23.231; and
4. special appraisal or appraised value determination.

APPRAISED VALUE REFLECTS MARKET VALUE

The majority of protests filed in Texas each year involve whether the appraisal district correctly appraised the owner's property.²⁹⁶ Tax Code Chapter 23 sets out the standards that apply to appraisals for property tax purposes.²⁹⁷ Tax Code Section 23.01(a) states "Except as otherwise provided by this chapter, all taxable property is appraised at its market value as of January 1."²⁹⁸

Tax Code Section 1.04(7) specifically defines market value as follows:

Market value means the price at which a property would transfer for cash or its equivalent under prevailing market conditions if:

²⁹⁵ *Tex. Tax Code §41.41(a) and (c)*

²⁹⁶ *Tex. Tax Code §41.41(a)(1)*

²⁹⁷ *Tex. Tax Code Chapter 23*

²⁹⁸ *Tex. Tax Code §23.01(a)*

- (A) exposed for sale in the open market with a reasonable time for the seller to find a purchaser;
- (B) both the seller and 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.²⁹⁹

All taxable property must be appraised at its market value unless the law provides for a different value.³⁰⁰ For example, land designated for agricultural use is taxed on its productivity value rather than its market value.³⁰¹

HIGHEST AND BEST USE

Highest and best use is a fundamental appraisal concept that requires understanding of the subject property and the selection of appropriate comparable sales. The concept relies on a property being utilized in a manner that yields the greatest value for the subject. Property must be appraised at its highest and best use rather than at its current use, which may or may not be the same. Highest and best use requires the property's category and purpose be legally permissible, physically possible, financially feasible and maximally productive. The highest and best use of residential homestead property in Texas is always as residence homestead. This is an example of a jurisdictional exception in Texas.³⁰²

Real property located in a designated historic district, or in a zone designated as historic under municipal, state or federal law must be appraised under consideration of those effects on the property's value.³⁰³ Restrictions

placed on historic districts may determine the owner's ability to alter, improve or repair the property and the chief appraiser must consider those factors in the appraisal.³⁰⁴

GENERALLY ACCEPTED APPRAISAL METHODS AND TECHNIQUES

Tax Code Section 23.01(b) sets the following professional standard for determining market value:

The market value of property shall be determined by the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of the property using mass appraisal standards, the mass appraisal standards must comply with the *Uniform Standards of Professional Appraisal Practice*. The same or similar appraisal methods and techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value, and all available evidence that is specific to the value of the property shall be taken into account in determining the property's market value.³⁰⁵

The publications to follow as guidelines recommended in the Tax Code are the Appraisal Institute's *Appraisal of Real Estate* and *Dictionary of Real Estate Appraisal*, The Appraisal Foundation's *Uniform Standards of Professional Appraisal Practice* (USPAP) and a publication that includes information related to mass appraisal.³⁰⁶

WHAT IS USPAP?

Texas law requires an appraisal district to determine a property's market value as of Jan. 1 by the application of generally accepted appraisal methods and techniques.³⁰⁷ If an appraisal district uses mass appraisal methods to

²⁹⁹ Tex. Tax Code §1.04(7)

³⁰⁰ Tex. Tax Code §23.01(a)

³⁰¹ Tex. Tax Code §23.41

³⁰² Tex. Tax Code §23.01(d)

³⁰³ Tex. Tax Code §23.013(e)

³⁰⁴ Tex. Tax Code §23.013(e)

³⁰⁵ Tex. Tax Code §23.01(b)

³⁰⁶ Tex. Tax Code §23.01(h)

³⁰⁷ Tex. Tax Code §23.01(a) and (b)

determine appraised property value — which most do — it must comply with USPAP.³⁰⁸ The Appraisal Foundation, authorized by the U.S. Congress to set appraisal standards and appraiser qualifications, developed USPAP for use by professional appraisers in the United States. The Appraisal Foundation also provides guidance on recognized valuation methods and techniques for all valuation professionals.³⁰⁹ Copies of USPAP are available at www.appraisalfoundation.org.

WHAT IS MASS APPRAISAL?

Appraisal districts must value thousands of properties. They have neither the time nor the money to separately appraise each individual property. Instead, they use mass appraisal which The Appraisal Foundation defines as “the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.”³¹⁰ The Comment to USPAP Standard 5: Mass Appraisal, Development – which applies to appraisal districts performing mass appraisals – states that a “mass appraisal includes:

1. identifying properties to be appraised;
2. defining market area of consistent behavior that applies to properties;
3. identifying characteristics (supply and demand) that affect the creation of value in that market area;
4. developing a model structure that reflects the relationship among the characteristics affecting value in the market area;
5. calibrating the model structure to determine the contribution of the individual characteristics affecting value;
6. applying the conclusions reflected in the model to the characteristics of the property(ies) being appraised; and

³⁰⁸ Tex. Tax Code §23.01(b)

³⁰⁹ <http://www.appraisalfoundation.org/pages/who-we-are>; website of The Appraisal Foundation accessed on July 9, 2025.

³¹⁰ *Uniform Standards of Professional Appraisal Practice*, 2024 Edition, p. 5

7. reviewing the mass appraisal results.”³¹¹

Property Assessment Valuation, an International Association of Assessing Officers’ (IAAO) publication,³¹² explains the difference between mass appraisal and single-property appraisal:

The assessor needs skills in both mass appraisal and single-property appraisal. Mass appraisal skills are used for producing initial values in a revaluation, and single-property appraisal skills are used to defend those values and to appraise special-purpose properties that do not lend themselves to mass appraisal techniques. Simply stated, single-property appraisal, or fee appraisal, is the valuation of a particular property as of a given date; mass appraisal is the systematic appraisal of groups of properties as of a given date, using standardized procedures and statistical testing. The valuation steps in both approaches are similar, but market analysis and quality control are handled differently.³¹³

Fundamentals of Mass Appraisal, another IAAO publication, explains the use of models – representations of how something works – in the mass appraisal context:

Property valuation models express the forces of supply and demand at work in the local market and seek to explain or predict the market value of properties from available real estate data. They are based on the sales comparison, cost, and income approaches to value.

Because the models necessarily reflect the vicissitudes of the marketplace, mass appraisal model building requires sound appraisal theory,

³¹¹ *Uniform Standards of Professional Appraisal Practice*, 2024 Edition, p. 35

³¹² *The IAAO, founded in 1934, is a nonprofit, educational, and research association; it is a professional organization of government assessment officials and others interested in property tax administration with members worldwide from governmental, business and academic communities.*

³¹³ *Garth E. Thimgan, Property Assessment Valuation*, p. 403-404 (2010) (IAAO publication)

data analysis, and research methods. The best models are appropriate, credible, and reliable. Models that reflect the local market are also easier to defend.³¹⁴

THREE APPROACHES TO VALUE

According to Tax Code Section 23.0101, “. . . In determining the market value of property, the chief appraiser shall consider the cost, income, and market data (or sales) comparison methods and use the most appropriate method.”³¹⁵ Tax Code Section 23.013 describes the market data (or sales) comparison method, Tax Code Section 23.012 describes the income method and Tax Code Section 23.011 describes the cost method.³¹⁶ Generally speaking, the sales comparison approach, the income approach and the cost approach are the three standard market valuation methods the appraisal profession recognizes.³¹⁷

MARKET DATA OR SALES COMPARISON APPROACH

The sales comparison approach is the valuation method typically preferred in appraising single-family homes and vacant land in mass appraisal when adequate sales data are available.³¹⁸ Tax Code Section 23.013 states:

- (a) If the chief appraiser uses the market data comparison method of appraisal to determine the market value of real property, the chief appraiser shall use comparable sales data and shall adjust the comparable sales to the subject property.
- (b) A sale is not considered to be a comparable sale unless the sale occurred within 24 months of the date

as of which the market value of the subject property is to be determined, except that a sale that did not occur during that period may be considered to be a comparable sale if enough comparable properties were not sold during that period to constitute a representative sample.

(b-1) Notwithstanding Subsection (b), for a residential property in a county with a population of more than 150,000, a sale is not considered to be a comparable sale unless the sale occurred within 36 months of the date as of which the market value of the subject property is to be determined, regardless of the number of comparable properties sold during that period.

(c) A sale of a comparable property must be appropriately adjusted for any change in the market value of the comparable property during the period between the date of the sale of the comparable property and the date as of which the market value of the subject property is to be determined.

(d) Whether a property is comparable to the subject property shall be determined based on similarities with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability.³¹⁹

INCOME APPROACH

The income approach is most suitable for property types frequently purchased and held for the purpose of producing income, such as apartments, retail properties and office buildings.³²⁰ Tax Code Section 23.012 provides:

- (a) If the income method of appraisal is the most appropriate method to use to determine the market value of real property, the chief appraiser shall:

³¹⁴ Robert J. Gloude-mans, Richard R. Almy, *Fundamentals of Mass Appraisal*, p. 249 (2011)(IAAO publication)

³¹⁵ Tex. Tax Code §23.0101

³¹⁶ Tex. Tax Code §§23.011, 23.012 and 23.013

³¹⁷ Robert J. Gloude-mans, Richard R. Almy, *Fundamentals of Mass Appraisal*, p. 2-3 (2011) (IAAO publication); and Garth E. Thimgan, *Property Assessment Valuation*, p. 68 (2010) (IAAO publication)

³¹⁸ Robert J. Gloude-mans, Richard R. Almy, *Fundamentals of Mass Appraisal*, p. 170 (2011) (IAAO publication)

³¹⁹ Tex. Tax Code §23.013

³²⁰ Robert J. Gloude-mans, Richard R. Almy, *Fundamentals of Mass Appraisal*, p. 176 (2011) (IAAO publication)

(1) analyze comparable rental data available to the chief appraiser or the potential earnings capacity of the property, or both, to estimate the gross income potential of the property;

(2) analyze comparable operating expense data available to the chief appraiser to estimate the operating expenses of the property;

(3) analyze comparable data available to the chief appraiser to estimate rates of capitalization or rates of discount; and

(4) base projections of future rent or income potential and expenses on reasonably clear and appropriate evidence.

(b) In developing income and expense statements and cash-flow projections, the chief appraiser shall consider:

(1) historical information and trends;

(2) current supply and demand factors affecting those trends; and

(3) anticipated events such as competition from other similar properties under construction.³²¹

COST APPROACH

The cost approach is especially useful for property types for which sales and income data are scarce, unique properties and new construction.³²² Tax Code Section 23.011 requires a chief appraiser who uses the cost method to:

(1) use cost data obtained from generally accepted sources;

(2) make any appropriate adjustment for physical, functional or economic obsolescence;

(3) make available to the public on request cost data developed and used by the chief appraiser as applied

to all properties within a property category and may charge a reasonable fee to the public for the data;

(4) clearly state the reason for any variation between generally accepted cost data and locally produced cost data if the data vary by more than 10 percent; and

(5) make available to the property owner on request all applicable market data that demonstrate the difference between the replacement cost of the improvements to the property and the depreciated value of the improvements.³²³

The cost approach is not used to determine the land's market value.

RECONCILIATION

After an appraiser has considered and applied the traditional approaches to value, they must make a final determination as to the subject property's final concluded value. If an appraiser considered the cost approach, income approach and market data (sales comparison) approach to value, there could potentially be three different conclusions. It is then the appraiser's responsibility to make a final value decision. The final decision, or reconciliation, should consider several factors that will consider the quantity and quality of the approaches. First and foremost, the reconciliation should consider which approach is most relevant in the marketplace. For example, if the subject property is an existing shopping center, it may be likely that the income approach is the technique used by sellers and buyers of that property type. Thus, the appraiser may give the most weight to the income approach in this instance. The appraiser should also consider the data's quality. If there were few quality data available in the application of one of the three approaches to value, then the appraiser may give little weight to that approach. Finally, the appraiser should consider the quantity of data. If the marketplace would normally rely on the market data (sales comparison) approach to value a single-family residence,

³²¹ *Tex. Tax Code §23.012*

³²² *Robert J. Gloudemans, Richard R. Almy, Fundamentals of Mass Appraisal, p. 193 (2011) (IAAO publication); and Garth E. Thimgan, Property Assessment Valuation, p. 228 (2010) (IAAO publication)*

³²³ *Tex. Tax Code §23.011*

but the appraiser only had one comparable sale, then the appraiser may have to weight the sales comparison approach less in the reconciliation.

MARKET VALUE VERSUS APPRAISED VALUE

Depending on special circumstances, as authorized by law, a property may be taxed at either its market or appraised value and the property owner may protest either or both values.³²⁴ Tax Code Chapter 23 contains the methods and procedures for market valuation as well as appraisal valuation. Some types of special appraisal include appraising the productivity value of agricultural land or timberland, defining market value for inventory, specifying what constitutes appraised value for certain property types and limiting the value on qualifying residence homesteads.³²⁵ The following paragraphs provide more specific information regarding some of these special appraisals.

AGRICULTURAL AND TIMBER APPRAISAL

Land qualified as agricultural or timberland can be appraised on the basis of its productivity value which is based on the average annual net income typical for that land category.³²⁶ It is also appraised at its market value, which is usually higher than the land's productivity value.

Wildlife management use also qualifies property for productivity valuation. To qualify for wildlife management use, the property must be qualified for agricultural or timberland appraisal at the time the owner changes to wildlife management use. In certain circumstances, an exception exists for land used to protect federally endangered species under a federal permit. An exception exists for conservation or restoration projects in certain

circumstances.³²⁷ Such land qualifies for special use appraisal regardless of its use in prior years.³²⁸

Agricultural use also includes using land to raise or keep bees for pollination or to produce human food or other tangible products having a commercial value, provided that the land used is not less than five or more than 20 acres.³²⁹

An owner may protest the chief appraiser's appraisal, including the market and productivity values.³³⁰

VALUE LIMITATIONS AND RESTRICTIONS

The Tax Code limits appraised values of some properties – residence homesteads – and instructs appraisers to consider certain conditions when appraising other property types for ad valorem tax purposes.

CAP ON INCREASE ON APPRAISED VALUE OF RESIDENCE HOMESTEADS

Tax Code Section 23.23(a) essentially states that a residence homestead's appraised value for a tax year cannot exceed 10 percent of the previous tax year's appraised value. If there are any new improvements to the property, however, the appraiser must include the market value of these improvements in the appraised value for the subsequent tax year as new improvements, but these are not subject to this 10 percent limit or cap.³³¹

When appraising a residence homestead, the chief appraiser must include in the appraisal records both the home's market value and the limited appraised value as provided by Tax Code Section 23.23.³³² A limitation takes effect for a residence homestead on Jan. 1 of the tax year following the first tax year the owner qualifies that property for the residence homestead exemption. For this limitation, a person who acquires property on or after Jan.

³²⁴ *Tex. Tax Code §41.41(a)(1)*

³²⁵ *Tex. Tax Code Chapter 23*

³²⁶ *Tex. Tax Code §§23.51(4) and (5) and 23.52(a)*

³²⁷ *Tex. Tax Code §23.51(7)(A), (B), (C) and (8)*

³²⁸ *Tex. Tax Code §23.51(7)(A),(B) and (C)*

³²⁹ *Tex. Tax Code §23.51(2)*

³³⁰ *Tex. Tax Code §41.41(a)(1)*

³³¹ *Tex. Tax Code §23.23(a)(2)*

³³² *Tex. Tax Code §23.23(b)*

1 and receives a residence homestead exemption for a portion of that tax year is considered to have qualified for the residence homestead exemption as of Jan. 1 of the tax year following the tax year in which the owner acquired the property. The limitation expires on Jan. 1 of the first tax year that neither the owner nor the owner's spouse or surviving spouse qualifies for the residence homestead exemption.³³³

The limited homestead value may increase for any new improvement to the residence homestead.³³⁴ A new improvement does not include ordinary maintenance of the existing structure, the grounds or another property feature.³³⁵ A new improvement also does not include a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage if the replacement structure meets certain criteria.³³⁶

CIRCUIT BREAKER LIMITATIONS ON REAL PROPERTY

The circuit breaker limitation under Tax Code Section 23.231 provides that qualifying real property's appraised value for a tax year cannot exceed 20 percent of the previous tax year's appraised value.³³⁷ To qualify for the circuit breaker limitation, the real property's appraised value must meet the Comptroller's maximum eligibility amount in the year in which the circuit breaker limitation takes effect.³³⁸ The maximum property value for circuit breaker limitation eligibility is available on the Comptroller's website: comptroller.texas.gov/taxes/property-tax/valuing-property.php.

Property receiving a residence homestead exemption or special appraisal under Tax Code Chapter 23, Subchapters C, D, E, F, G or H is not eligible for the circuit breaker limitation.³³⁹ If there are any new improvements to

the property, the appraiser must include the market value of these improvements in the appraised value for the subsequent tax year as new value and are not subject to the 20 percent limitation.³⁴⁰

The circuit breaker limitation takes effect on Jan. 1 of the tax year following the first tax year in which the owner owned the property on Jan. 1. A person who acquired real property before the 2023 tax year is considered to have acquired it on Jan. 1, 2023. The limitation expires on Jan. 1 of the tax year following the tax year in which the owner ceases to own the property.³⁴¹

Real property improvements that are replacement structures after being considered uninhabitable or unusable by casualty, wind or water damage are not treated as new improvements for appraisal purposes. The replacement structures are considered new improvements if the square footage exceeds that of the replaced structure or if the exterior is of higher quality composition than it was previously.³⁴²

The circuit breaker limitation expires on Dec. 31, 2026.³⁴³

METHOD OF APPRAISAL FOR LOW-INCOME OR MODERATE-INCOME HOUSING

Tax Code Section 23.215 identifies the approach to value appraisers must use when appraising nonexempt low-income or moderate-income housing owned by an organization. If this real property meets certain conditions set out in the statute, the chief appraiser must appraise the property using the income method.³⁴⁴ In computing the income for this property, the chief appraiser must recognize the income restrictions of the renters who qualify for these housing units as well as the amount of rent they may be charged.³⁴⁵ The capitalization rate is the

³³³ *Tex. Tax Code §23.23(c) and (c-1)*

³³⁴ *Tex. Tax Code §23.23(a)(2) and (e)*

³³⁵ *Tex. Tax Code §23.23(e)*

³³⁶ *Tex. Tax Code §23.23(f)*

³³⁷ *Tex. Tax Code §23.23(d)*

³³⁸ *Tex. Tax Code §23.23(b) and (j)*

³³⁹ *Tex. Tax Code §23.23(c)*

³⁴⁰ *Tex. Tax Code §23.231(d)(2)(C)*

³⁴¹ *Tex. Tax Code §23.231(f) and (g)*

³⁴² *Tex. Tax Code §23.231(h) and (i)*

³⁴³ *Tex. Tax Code §23.231(k)*

³⁴⁴ *Tex. Tax Code §§23.215(b) and 11.1825(q)*

³⁴⁵ *Tex. Tax Code §11.1825(q)(1)*

same the chief appraiser applies in appraising other rent-restricted properties.³⁴⁶

APPRAISAL CONSIDERATION FOR GOVERNMENT RESTRICTED LAND USE

In those instances where a governmental entity has imposed a restriction on the land's use – such as a restriction to preserve wildlife habitat – and the owner did not consent to it, the chief appraiser must consider the restriction's effect on the property's value.³⁴⁷

UNEQUAL APPRAISAL

Owners may protest both the value and unequal appraisal of their properties. In the typical unequal appraisal case, the property owner claims that the property's appraised value is higher or greater than the median appraised value of a reasonable number of comparable properties appropriately adjusted.³⁴⁸ The Texas Legislature set standards to govern unequal appraisal cases that are similar to the standards for market value cases.³⁴⁹ Tax Code Section 23.01(f) reads as follows:

The selection of comparable properties and the application of appropriate adjustments for the determination of an appraised value of property by any person under Section 41.43(b)(3) or 42.26(a)(3) [in an unequal appraisal case] must be based on the application of generally accepted appraisal methods and techniques. Adjustments must be based on recognized methods and techniques that are necessary to produce a credible opinion.³⁵⁰

The ARB must determine an unequal appraisal protest in the property owner's favor unless the appraisal district establishes that the property's appraisal ratio subject to

the protest is equal to or less than the median level of appraisal of a:

- reasonable and representative sample of other properties;
- sample of properties consisting of a reasonable number of comparable other properties; or
- reasonable number of comparable properties appropriately adjusted.³⁵¹

On the other hand, if the evidence shows that the subject property's appraised value is **greater than** the median appraised value of a reasonable number of comparable properties, appropriately adjusted, then the ARB must determine the protest in the protesting party's favor.

The ARB's evaluation of expert witness testimony – by reference to generally accepted appraisal methods and techniques – should focus on the evidence presented on three key issues:

1. Is the **number** of properties selected for the sample **reasonable**?
2. Is each of the properties in the sample **comparable** to the subject property?
3. Was each comparable property's value **appropriately adjusted** by reference to the subject property?

The following are the types of questions the ARB may ask about the expert's evidence to get answers on these key issues.

First, is the **number** of properties selected for the sample **reasonable**? To determine reasonableness, evidence that answers the following questions may be helpful:

1. How did the appraiser pick the number of comparable properties?
2. What selection method or system did the appraiser use and why?
3. Was the appraiser's selection random?

³⁴⁶ Tex. Tax Code §11.1825(q)(2)

³⁴⁷ Tex. Tax Code §23.22

³⁴⁸ Tex. Tax Code §41.43(b)(3)

³⁴⁹ Tex. Tax Code §23.01(f)

³⁵⁰ Tex. Tax Code §23.01(f)

³⁵¹ Tex. Tax Code §41.43(b)(3)

4. What was the appraiser's reasoning in arriving at that sample number?
5. Is there a statistical basis for the number of sample properties selected given the size of the population in the county of properties just like the subject property?

In one case, *Sagemont Plaza v. Harris County Appraisal District*, 30 S.W.3d 425, 427 (Tex.App. – Corpus Christi, 2000, pet. denied), the court of appeals noted that the owner's expert "applied no statistical formula in his calculation of the appropriate number of sample population size for the median level appraisal determination." In other words, the expert failed to establish the reasonableness of his sample size, one of the critical elements in establishing the median in an unequal appraisal case. As a result, the trier-of-fact could choose to disbelieve this expert's testimony.

The second key issue is whether each of the properties in the sample selected really is **comparable** to the subject property.

In assessing comparability, evidence that answers these questions may be helpful:

- Which characteristics of the subject property did the appraiser select to focus on and why?
- Are all the properties similar in size, location and physical characteristics?
- Are they all in the same or similar neighborhoods or market areas?

The third key issue is whether each comparable property's **value** has been **appropriately adjusted** by reference to the subject property. In assessing an adjustment's appropriateness, these questions may be helpful:

- What method or technique did the appraiser use?
- How did the appraiser select the percentage or dollar adjustment applied?
- Is there any evidence to support the adjustment selected?

An example of how comparability and appropriateness of adjustments can be effectively evaluated is set out in the appellate court opinion in *Weingarten Realty Investors v. Harris County Appraisal District*, 93 S.W.3d 280 (Tex.App. – Houston [14th Dist.] 2002, no pet.).

In *Weingarten*, the Houston court of appeals found that the comparable properties the appraiser used to perform his equal and uniform valuation analysis for a large retail shopping center in Houston were questionably comparable and questionably appropriately adjusted for several reasons.

- The comparable properties were significantly smaller retail centers than the subject property.
- Nine of the 10 comparable properties had per-square-foot appraised values significantly lower than the subject property.
- The appraiser used only 10 comparable properties in the calculation even though there were 191 retail centers in the northwest quadrant of Harris County where the subject was located.
- The appraiser used only portions of the retail centers in the analysis.
- The appraiser used only physical characteristics of condition, age, size and location in adjusting the comparable property values.
- The percentage adjustment for each characteristic of the comparable properties was subjective.

The court of appeals agreed that this testimony properly was rejected as unreliable because the expert "lacked a reliable foundation for his opinions."³⁵²

³⁵² *Weingarten Realty Investors v. Harris CAD*, 93 S.W.3d 280 (Tex.App. – Houston [14th Dist.] 2002, no pet.)

Chapter 5

Other Protest Grounds

This chapter addresses the other protest grounds – Tax Code Sections 41.41(a)(3) through (10) and (c) – which include tax exemptions, taxable situs and property types entitled to special appraisal.

EXEMPTIONS

Property owners and taxing units may appeal the chief appraiser's exemption determinations. An individual property owner may not challenge the granting of an exemption to another property owner.³⁵³ If the chief appraiser denies an exemption application for personal property used to produce income, the property owner must render the property within 30 days of the exemption denial.³⁵⁴ While a property owner can protest an exemption denial, a taxing unit may challenge the granting of an exemption before the ARB, except for temporary disaster exemptions granted by Tax Code Section 11.35.³⁵⁵ Property is taxable unless exempt from taxation by law.³⁵⁶

A partial exemption removes a percentage or a fixed dollar amount of a property's value from taxation. A total exemption excludes the entire property from taxation.

In most cases, the law requires the property owner to apply for the exemption.³⁵⁷ If a property owner fails to file a required application on time, he or she usually forfeits the right to the exemption. Exemption applications ask for most of the information ARB members need to decide an exemption issue. Most exemption cases will depend on one or more of the following three issues: the owner's

qualifications, the property's qualifications or the property's use.

OWNER'S QUALIFICATIONS

Ownership requirements vary by exemption. Exemptions such as those for individuals or families (homestead or disabled veteran exemptions) may require evidence of age, physical condition or disability, military service, family relationship or other factors.³⁵⁸

With some exceptions, Jan. 1 is the date for determining if a property owner qualifies for a specific exemption.³⁵⁹ For example, homeowners who turn 65 or who become disabled during a tax year qualify for the age 65 or older or disabled persons exemption as if the homeowner qualified on Jan. 1 of the tax year and the exemption applies to the entire tax year. This also applies to the exemptions for a homestead donated by a charitable organization to a partially disabled veteran, the surviving spouse of an armed services member killed or fatally injured in the line of duty, the surviving spouse of a first responder killed in the line of duty and the surviving spouse of certain qualifying veterans.³⁶⁰

When the state, a political subdivision of the state and other qualifying organizations acquire property used for public purposes, the chief appraiser determines the property's exemption qualifications as of the acquisition date and the exemption is effective immediately.³⁶¹ Organizations that acquire property after Jan. 1 of a tax year and qualify for an exemption for the applicable portion of the tax year immediately on qualification

³⁵³ *Tex. Tax Code §41.41(a)(4)*

³⁵⁴ *Tex. Tax Code §22.02*

³⁵⁵ *Tex. Tax Code §41.03(a)(2)*

³⁵⁶ *Tex. Tax Code §11.01(a)*

³⁵⁷ *Tex. Tax Code §11.43(a)*

³⁵⁸ *Tex. Tax Code §§11.13, 11.131 and 11.22*

³⁵⁹ *Tex. Tax Code §11.42(a)*

³⁶⁰ *Tex. Tax Code §11.42(c)*

³⁶¹ *Tex. Tax Code §11.42(b)*

include cemeteries, charitable organizations, religious organizations, private schools, community housing development organizations, youth development associations, nonprofit water supply and wastewater service corporations, veteran's organizations, other nonprofit organizations and medical or biomedical property.³⁶² In addition, a person who qualifies for the 100 percent or totally disabled veteran residence homestead exemption after Jan. 1 may receive the exemption for the applicable portion of the tax year immediately on qualification.³⁶³

The general deadline for filing an exemption application is before May 1.³⁶⁴ Charitable organizations improving property for low-income housing and community housing development associations must file the exemption application within 30 days of acquiring the property.³⁶⁵ Certain other organizations must file for exemption within one year of acquiring the property.³⁶⁶

Exemptions for schools, charitable organizations, religious organizations, youth development organizations and water supply and wastewater service corporations require the property owner to have a charter or bylaws dedicating property to that purpose. Special charter provisions must provide for property's disposition upon dissolution to public or charitable organizations. Finally, the organization must operate as a nonprofit organization.³⁶⁷ In some instances, an organization's charter and bylaws may be adequate evidence. Other instances may require evidence about the way the organization or business operates.

PROPERTY'S QUALIFICATIONS AND USE

Many exemptions apply only to specific property classes. The property owner must list all property subject to the

exemption and demonstrate to the ARB that each property meets exemption requirements.

How and when the property owner uses the property is often critical in determining exemption cases. An important factor is whether a property's use is exclusive, primary or incidental. The ARB should consult with legal counsel in interpreting these matters.

In response to natural disasters that have affected Texas counties in recent years, taxing units must offer a temporary exemption for property that qualifies as damaged by disaster following a declaration by the governor. The chief appraiser determines whether an item of qualified property is at least 15 percent damaged by the disaster in order to assign it a damage assessment rating using a Level 1-4 scale with help from resources like FEMA or the county emergency management authority. The damage assessment rating determines what percentage of the property is exempt from taxation effective for the number of days remaining in the tax year after the day on which the governor first makes the disaster area declaration. The temporary disaster area exemption expires on Jan. 1 of the first tax year in which the appraisal district reappraises the property.³⁶⁸ A property owner may protest the determination of the appropriate damage assessment rating for property qualifying for a temporary disaster exemption.³⁶⁹

HISTORIC OR ARCHEOLOGICAL SITES

A property owner that qualifies for a historic or archaeological site exemption under Tax Code Section 11.24, may protest the appraised value and allocation of value of the structure, archaeological site and land necessary for access to the site separately.³⁷⁰

³⁶² *Tex. Tax Code §11.42(d)*

³⁶³ *Tex. Tax Code §11.42(e)*

³⁶⁴ *Tex. Tax Code §11.43(d)*

³⁶⁵ *Tex. Tax Code §11.436(a)*

³⁶⁶ *Tex. Tax Code §11.43(d)*

³⁶⁷ *Tex. Tax Code §§11.18, 11.19, 11.20, 11.21 and 11.30*

³⁶⁸ *Tex. Tax Code §11.35*

³⁶⁹ *Tex. Tax Code §41.41(c)(2)*

³⁷⁰ *Tex. Tax Code §§11.24(c) and 41.41(a)(9)*

TAXABLE SITUS

The word situs, for property tax purposes, refers to the location where property is deemed taxable. The law links a property's taxability to its location. If a taxing unit can legally levy a tax on property, that property has taxable situs in the taxing unit.³⁷¹

A taxing unit may challenge appraisal records that omit property it can tax.³⁷² Similarly, a property owner may protest that the property should not be on the appraisal roll, either for the district or for a taxing unit.³⁷³

The discussion of certain issues related to situs that follows is not intended to be complete and comprehensive. The issues in this area are often complex and technical. The ARB should always consult its legal counsel when questions of law arise.

To disprove any situs in the appraisal district, the property owner must show either that the property has taxable situs in some other appraisal district or that the property is not taxable in this state.³⁷⁴ Exceptions exist for certain portable drilling rigs located in Texas.³⁷⁵ If the property owner proves the property has situs in another appraisal district, the Tax Code directs the chief appraiser to notify the chief appraiser of the other district of that fact.³⁷⁶

REAL PROPERTY

Situs disputes rarely involve real property because it does not move. Real property includes land, improvements, mines, quarries, items fixed to land and interests in real property such as minerals in place.³⁷⁷

A taxing unit can tax real property in its boundaries on Jan. 1.³⁷⁸ Boundary disputes or property description

³⁷¹ *Tex. Tax Code Chapter 21*

³⁷² *Tex. Tax Code §41.03(a)(1) and (4)*

³⁷³ *Tex. Tax Code §§41.41(a)(3) and (6) and 41.42*

³⁷⁴ *Tex. Tax Code §41.42*

³⁷⁵ *Tex. Tax Code §21.02(e)*

³⁷⁶ *Tex. Tax Code §41.42*

³⁷⁷ *Tex. Tax Code §1.04(2)*

³⁷⁸ *Tex. Tax Code §21.01*

disagreements create the most common real property situs problems.

PERSONAL PROPERTY

Most situs problems involve movable personal property or tangible items that are not real property. Personal property that stays in one taxing unit during the year creates no problems. Situs problems usually involve property that crosses boundary lines during the year. The general rule is personal property has situs at its Jan. 1 location unless it was there only temporarily.³⁷⁹ Movable property is taxable in the taxing unit when:

- it is located in that taxing unit for more than a temporary period on Jan. 1;
- it is temporarily somewhere else on Jan. 1, but is normally located in the taxing unit;
- it normally returns to that taxing unit between uses elsewhere; or
- the owner resides or maintains a principal place of business in the taxing unit and the property has no other situs under any of the preceding circumstances.³⁸⁰

PROPERTY CROSSING STATE BOUNDARY LINES

Multi-state situs problems usually involve businesses that operate or move goods in more than one state. Goods and equipment gain taxable situs in Texas if they are present in the state for more than a temporary period. They also gain situs if continually used in Texas.³⁸¹

If they are temporarily outside the state on Jan. 1, but their owner resides here, they still have situs here.³⁸²

Equipment used in several states may be partially taxed in some or all of the states.³⁸³ To receive an allocation in value, a property owner must submit an allocation

³⁷⁹ *Tex. Tax Code §21.02*

³⁸⁰ *Tex. Tax Code §21.02*

³⁸¹ *Tex. Tax Code §11.01*

³⁸² *Tex. Tax Code §11.01(c)(2)*

³⁸³ *Tex. Tax Code §21.03(a)*

application, as well as a rendition, with the chief appraiser in the taxing county.³⁸⁴ A person may protest an allocation's cancellation.³⁸⁵

MULTI-STATE EQUIPMENT

A business that uses equipment in more than one state on a regular basis may qualify for allocation of property value. The chief appraiser reduces the property's value according to the percentage of time or mileage in this state compared with total use in all states that could tax the property.³⁸⁶

Commercial interstate air carriers are allowed to designate the tax situs of their aircraft that land in Texas as either the carrier's principal office in Texas or the Texas airport from which the carrier has the highest number of departures.³⁸⁷ Commercial and business air carriers must apply for tax allocation with the chief appraiser in the appraisal district in which the property has taxable situs.³⁸⁸

GOODS IN INTERSTATE TRANSIT

Items that cross Texas in transit from one state to another do not become taxable in Texas. The transit must be unbroken. If the property stops in Texas for some business purpose unrelated to safe and efficient transportation, it could become taxable in Texas.

PROPERTY CROSSING TAXING UNIT LINES

In most cases, property has situs in the taxing unit where it was located on Jan. 1.³⁸⁹ A property has only one taxable situs in Texas as there is no allocation of property value for property moving among Texas taxing units. For example, if a mobile home moved from one county to another county in the middle of the tax year, it would be taxed in the first county.

³⁸⁴ *Tex. Tax Code §21.09 and 34 Tex. Admin. Code §9.4033(e)*

³⁸⁵ *Tex. Tax Code §21.09(d)*

³⁸⁶ *34 Tex. Admin. Code §9.4033*

³⁸⁷ *Tex. Tax Code §21.05(d)*

³⁸⁸ *Tex. Tax Code §§21.09 and 21.10*

³⁸⁹ *Tex. Tax Code §§21.01 and 21.02*

TAXATION OF BUSINESS PERSONAL PROPERTY USED TO PRODUCE INCOME

The ARB may deal with issues concerning rendered property, such as business personal property. Tax Code Chapter 22 includes mandatory rendition requirements. A rendition identifies, describes and gives the location of taxable property on Jan. 1. Property owners must render annually to appraisal districts all tangible personal property used to produce income in Texas.³⁹⁰ Property owners who elect to not render business personal property valued at \$125,000 or less must certify on a rendition statement or property report that the property's value is not more than \$125,000. At their option, owners and secured parties may render other property types.³⁹¹

Rendition statements filed by property owners include the following:

- property owner's name and address;
- general property description by type or category;
- if classified as inventory – description and general estimate of quantity;
- property's physical location or taxable situs;
- property owner's good faith estimate of the property's market value or, at the owner's option, historical cost when new and the year of the property's acquisition; and³⁹²
- notarized signature unless the person filing the report is a secured party as defined by Tax Code Section 22.01, the property owner, an employee of the property owner, an employee of the property owner on behalf of an affiliated entity of the property owner or on behalf of a property owner who is rendering tangible personal property with a good faith estimate of not more than \$150,000 in total market value.³⁹³

For property with an aggregate value of less than \$20,000, the owner's rendition must contain only the owner's name and address, general property description

³⁹⁰ *Tex. Tax Code §22.01(a)*

³⁹¹ *Tex. Tax Code §22.01(c)*

³⁹² *Tex. Tax Code §22.01(a)*

³⁹³ *Tex. Tax Code §22.24(e)*

by type or category and the property's physical location or taxable situs.³⁹⁴

Rendition forms may permit a property owner to furnish other information not specifically required. For example, a property owner who is not required to give a value estimate may, at the owner's option, provide that opinion. Rendition forms allow the owner to check a box on the form indicating that the information in the previous year's rendition filed by the owner is still accurate.³⁹⁵

The chief appraiser may request a statement from the owner of property valued at \$20,000 or more to explain how the owner arrived at the good faith estimate of the subject property's market value. The statement must summarize the following information to:

- identify the property, including physical and economic characteristics and source of information;
- specify the value estimate's effective date; and
- explain the basis of the rendered value. If the business owner has 50 employees or less, the owner may base the estimate on depreciation schedules used for federal income tax purposes.³⁹⁶

The property owner or owner's authorized representative must deliver the statement in writing or electronically within 21 days after the date of the chief appraiser's request. The statement is inadmissible in an administrative or judicial proceeding, except to determine the following:

- compliance with the Tax Code;
- any effort at tax evasion; or
- the property owner's protest before an ARB.³⁹⁷

The statement is confidential, and the chief appraiser may only disclose it as provided in the Tax Code.³⁹⁸

The general statutory deadline to file a rendition is April 15. A property owner may file a written request on or before April 15 to request an extension of that due date. The chief appraiser must extend that property owner's deadline to May 15. The chief appraiser also may extend the May 15 deadline another 15 days if the property owner shows good cause in writing.³⁹⁹

When a third party, such as an appraisal firm under contract with an appraisal district, appraises the property and the property owner provides substantially equivalent information to this third party, then the owner does not have to file the rendition with the appraisal district.⁴⁰⁰ An owner of property regulated by the Public Utility Commission, Texas Railroad Commission, Surface Transportation Board or Federal Energy Regulatory Commission complies with rendition requirements by submitting a copy of the property's annual regulatory report and sufficient allocation information. The chief appraiser must first make a written request for that report and information.⁴⁰¹ Property owners must deliver these rendition statements and property reports to the chief appraiser not later than April 30, and the chief appraiser may extend the deadline 15 days for good cause.⁴⁰²

Property owners do not have to render exempt property, such as medical or biomedical property, animal feed held for sale at retail, church's personal property or implements of husbandry used for farm, ranch and timber production.⁴⁰³ A person is not required to render personal property that is included in a real property appraisal that takes into account the value of furniture, fixtures and equipment in or on the real property.⁴⁰⁴

A penalty of 10 percent of the total amount of the taxes imposed on the property may be assessed if a person fails to timely file a rendition statement.⁴⁰⁵ While the chief

³⁹⁴ *Tex. Tax Code §22.01(f)*

³⁹⁵ *Tex. Tax Code §22.01(l)*

³⁹⁶ *Tex. Tax Code §22.07(c)*

³⁹⁷ *Tex. Tax Code §22.07(d)*

³⁹⁸ *Tex. Tax Code §22.07(e)*

³⁹⁹ *Tex. Tax Code §22.23(a), (b) and (d)*

⁴⁰⁰ *Tex. Tax Code §22.01(i)*

⁴⁰¹ *Tex. Tax Code §22.01(h)*

⁴⁰² *Tex. Tax Code §22.23(d)*

⁴⁰³ *Tex. Tax Code §22.01(j)*

⁴⁰⁴ *Tex. Tax Code §22.01(m)*

⁴⁰⁵ *Tex. Tax Code §22.28*

appraiser may waive this penalty, the Tax Code does not provide a similar authorization to waive the penalty for fraud or intent to evade a tax.⁴⁰⁶ To receive a penalty waiver, the owner first must send the chief appraiser a written request for failure to timely file a rendition or property report and provide any appropriate supporting documentation before June 1 or within 30 days of being notified of the penalty, whichever is later. The chief appraiser must then determine whether to waive the penalty based on the information submitted and on the following factors:

- the property owner's compliance history;
- type, nature and taxability of the property involved;
- type of business involved;
- completeness of records;
- property owner's reliance on appraisal district advice;
- changes in appraisal district policies affecting renditions; and
- any other relevant factor.⁴⁰⁷

The chief appraiser may waive the penalty if the appraiser determines that the property owner exercised reasonable diligence to comply or has substantially complied with rendition requirements. If the chief appraiser refuses to waive the penalty, the chief appraiser must deliver by first-class mail the denial notice. The owner may protest that decision to the ARB. A chief appraiser and a property owner may enter into a settlement agreement on the matter being protested, if both parties agree there is a mistake.⁴⁰⁸

AGRICULTURAL, TIMBER AND OTHER SPECIAL APPRAISAL

An owner may file an ARB protest if the chief appraiser denies a special appraisal application for any reason. Special appraisal includes agricultural, timber and restricted-use timberland uses described in Tax Code Chapter 23, Subchapters C, D, E, F and H. In determining

⁴⁰⁶ *Tex. Tax Code §22.29*

⁴⁰⁷ *Tex. Tax Code §22.30*

⁴⁰⁸ *Tex. Tax Code §22.30(d)*

if property qualifies for wildlife management use valuation, the law requires the chief appraiser to use standards developed by the Texas Parks and Wildlife Department. If the property owner protests the chief appraiser's decision, the ARB must also use these standards.⁴⁰⁹

Once allowed, agricultural special appraisal applications are not required in subsequent years. However, the chief appraiser may require the property owner reapply if the appraiser has good cause to believe the land's eligibility has ended. The appraiser will send, by certified mail, a notice to the property owner that a new application is required, along with a copy of the application. Before a chief appraiser makes a change of use determination that agricultural land no longer qualifies for special appraisal, the chief appraiser must follow specific notice requirements for landowners who are age 65 or older.⁴¹⁰ The property owner must notify the appraisal office in writing before May 1 after the land's eligibility ends or after a change in the category of agricultural use.⁴¹¹ If the property owner has taken only part of the land out of ag use, they need to show which parts still qualify. If the land has been let lie fallow, the property owner should show that the time it has been out of ag use is not excessive or is part of a typical crop or livestock rotation process for the county.

Generally, the rollback tax, which is based on the difference in market and productivity values for the previous three years, is an additional penalty that applies when an owner of land qualified as open-space land devoted to farm, ranch, wildlife management or timberland purposes on the basis of its productive capacity changes the land's use to a non-agricultural or non-timber use.⁴¹² A property owner subject to a change of use determination may protest the chief appraiser's determination.⁴¹³

⁴⁰⁹ *Tex. Tax Code §23.521(a) and (d)*

⁴¹⁰ *Tex. Tax Code §§1.07(d), 23.54(e) and 23.551*

⁴¹¹ *Tex. Tax Code §23.54(h)*

⁴¹² *Tex. Tax Code §23.55(a)*

⁴¹³ *Tex. Tax Code §41.41(a)(8)*

Some changes to a nonagricultural use do not trigger the rollback tax. Use of qualified agricultural land as the property owner's residence homestead does not trigger the rollback tax.⁴¹⁴ Qualified agricultural land obtained by a religious organization is not subject to the rollback tax if, within five years, the organization converts the land to an eligible religious use provided by Tax Code Section 11.20.⁴¹⁵ Also, there is no rollback tax for qualified land owned by a charitable organization under Tax Code Section 11.18 for providing housing and related services to persons 62 years of age or older in a retirement community and is exempt for that purpose within five years.⁴¹⁶ A change of use by religious organizations and certain cemeteries also will not trigger the rollback tax.⁴¹⁷ Similarly, an organization qualified as a school under Tax Code Section 11.21 is not subject to the rollback tax if the organization converts the land to an eligible use within five years.⁴¹⁸ Qualified agricultural land transferred to the state or a political subdivision to be used for a public purpose is not subject to the rollback tax.⁴¹⁹

Three Comptroller publications explain the rules for qualifying agricultural land and timberland:

- *Manual for the Appraisal of Agricultural Land;*
- *Guidelines for Qualification of Agricultural Land in Wildlife Management Use;* and
- *Manual for the Appraisal of Timberland.*

These publications also discuss in detail deadlines for applying for the appraisal. The chief appraiser must follow these manuals in qualifying and appraising agricultural land and timberland.⁴²⁰

The Comptroller's office also publishes manuals explaining how to qualify for two other types of specially

appraised properties: deed-restricted airport property and recreational park-scenic land.⁴²¹

SPECIAL INVENTORY

The Tax Code provides a special appraisal method for certain inventory types including motor vehicles, heavy equipment, retail manufactured housing and vessels and outboard motors. Owners of these types of special inventory must file a declaration with the chief appraiser on or before Feb. 1 of each year or not later than 30 days of starting a business if the dealer was not in business on Jan. 1. Generally, the dealer must include in the declaration the inventory's current year market value, based on the prior year's inventory sales divided by 12. The chief appraiser must estimate the value of special inventory of an owner who was not a dealer on Jan. 1 of the preceding year by extrapolating sales data, if any, generated in the preceding tax year.⁴²²

Excluded from this process are fleet transactions, transactions between dealers and subsequent sales. Dealers must make monthly reports and prepayments.⁴²³ Property owners may protest to the ARB any appraisal district action that applies to and adversely affects the dealer.⁴²⁴

SEPT. 1 APPRAISAL

A business owner may have his or her inventory appraised at its value on Sept. 1 of the previous year, four months before the normal Jan. 1 date.⁴²⁵ The owner must file a request before Aug. 1 of the previous year to qualify. Since inventories are valued according to the quantity of goods present on the appraisal date, a Sept. 1 appraisal can benefit a property owner who has lower inventory levels in September than in January. Sept. 1 inventory is

⁴¹⁴ Tex. Tax Code §23.55(i)

⁴¹⁵ Tex. Tax Code §23.55(l)

⁴¹⁶ Tex. Tax Code §23.55(o)

⁴¹⁷ Tex. Tax Code §23.55(j), (k) and (l)

⁴¹⁸ Tex. Tax Code §23.55(q)

⁴¹⁹ Tex. Tax Code §23.55(f)(4)

⁴²⁰ Tex. Tax Code §§23.52(d) and 23.73(b)

⁴²¹ Tex. Tax Code §§23.83(e) and 23.93(e)

⁴²² Tex. Tax Code §§23.121-23.129

⁴²³ Tex. Tax Code §§23.121-23.129

⁴²⁴ Tex. Tax Code §41.41(a)(10)

⁴²⁵ Tex. Tax Code §23.12

not available for a dealer's special inventory described previously.

OWNERSHIP ISSUES

An affected person may protest the appraisal district's determination of a property's ownership.⁴²⁶ Jan. 1 is the date for determining ownership and tax liability for a tax year. The person who owns property on Jan. 1 is liable for the year's taxes.⁴²⁷

Administrative policy regarding recording property transfers and ownership interests after Jan. 1 varies among appraisal districts. Some appraisal districts freeze the ownership records as of Jan. 1 and maintain a separate file of subsequent transfers for the next Jan. 1. Others continue to update ownership changes on the appraisal records until the ARB receives them. The term property owner in Tax Code Chapters 41 and 42 may include the Jan. 1 owner, the new owner or both.

FAILURE TO PROVIDE NOTICE

A property owner has the right to protest if the chief appraiser or ARB fails to give the property owner any required tax notices.

A property owner who believes he or she is not receiving all tax notices in a timely manner should contact the appraisal district to ensure that the appraisal district's records correctly reflect the property owner names for each property and mailing address for all notices.

A property owner cannot protest a failure to give notice if the taxes on the property are delinquent. Before the delinquency date, the property owner must pay a partial amount, usually the amount of taxes not in dispute. A property owner may ask the ARB to be excused from prepaying taxes; to do so, he or she must file an oath attesting to an inability to pay the taxes in question and argue that prepaying them would restrain his or her right to access to the ARB. The ARB will hold a hearing and decide the payment terms or conditions.⁴²⁸

OTHER ADVERSE ACTIONS

A chief appraiser may take other actions that adversely affect the property owner, such as canceling an exemption, back assessment or appraising a property or imposing a penalty for late agricultural or timberland appraisal application. The property owner has a right to be notified of these actions and to protest them before the ARB.⁴²⁹

⁴²⁶ *Tex. Tax Code §§23.12(f) and 41.41(a)(7)*

⁴²⁷ *Tex. Tax Code §§23.01, 32.01 and 32.07*

⁴²⁸ *Tex. Tax Code §41.4115*

⁴²⁹ *Tex. Tax Code §41.41(a)(10)*

Chapter 6

Evidence and Burdens of Proof

TYPES OF EVIDENCE

Evidence is all the information – in whatever form – that parties present under oath to the ARB at the hearing in support of their side of the case. Evidence may be in the form of oral testimony, documents or paper writings, electronic presentations or physical objects. Testimony is any oral sworn statement from a witness during the hearing. Documentary evidence includes affidavits (which are written statements signed by the witness under oath), an appraiser’s work papers or report, photographs, data sets, schedules, formulas or some other type of paper writing. Electronic presentations may include PowerPoint presentations or a visit to the Google Earth website. Physical objects may include samples of the building materials used or the soil found on a property.

EXCHANGE OF EVIDENCE

Either before or immediately after the hearing begins, the protesting party and the appraisal district must provide each other with a copy of all of the written materials – documentary evidence – as well as any material preserved on any portable device designed to maintain a reproduction of a document or image – electronic files – that each intends to submit to the ARB as evidence during the hearing.⁴³⁰ The law prohibits the ARB from considering appraisal district information unless the evidence is presented at the protest hearing.⁴³¹ If the property owner requests the information the appraisal district will use or offer at the hearing, the appraisal district must deliver the

⁴³⁰ *Tex. Tax Code §41.45(h)*

⁴³¹ *Tex. Tax Code §41.66(e)*

information at least 14 days before the hearing in order to be used as evidence in the hearing; this concerns documents, argument or testimony.⁴³² This subsection does not apply to rebuttal evidence or argument presented at the hearing by the protesting parties or their authorized representatives.

At a protest hearing, the chief appraiser cannot offer evidence or argument in support of modifying or denying an exemption or special appraisal application other than a reason stated in the notice of same delivered to the applicant, unless the chief appraiser:

- provides written notice to the property owner of the additional reason for modifying or denying the application not later than the 14th day before the hearing date; and
- establishes that the additional reason was not known to the chief appraiser at the time the chief appraiser delivered the notice of modification or denial to the applicant.⁴³³

THE THREE Rs OF EVIDENCE EVALUATION

What evidence should the ARB consider? One legal text summarizes in three words a sound approach to evaluating evidence that is worthy of consideration – relevance, reliability and rightness – the three Rs.⁴³⁴ Each of these three concepts are discussed briefly below. A good understanding of each will enable ARB members to competently evaluate whether the evidence presented

⁴³² *Tex. Tax Code §41.67(d)*

⁴³³ *Tex. Tax Code §41.67(d) and (e)*

⁴³⁴ *Thomas A. Mauet and Warren D. Wolfson, Trial Evidence, p. 2 (5th Ed. 2012)*

during a protest hearing is worthy of consideration in resolving protests.

RELEVANCE

Under Texas Rules of Evidence Rule 401, evidence is relevant if: "(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action."⁴³⁵ In a property tax protest, for example, homeowners may bring in multiple listing service (MLS) sheets of recent sales of similar homes in their neighborhood at \$225,000 to \$250,000 to show that the appraisal district's value of \$300,000 for their home is too high. This is relevant evidence. Another example of relevant evidence is photographs showing the foundation of the property owner's home is sinking or cracked to support a downward adjustment of the appraised value by reference to the comparable properties without this condition. A homeowner's testimony that the taxes on his or her property simply are too high is not relevant. It has no tendency to make any fact in the protest more or less probable and is of no consequence in determining the action. If evidence is not relevant, it is not worthy of ARB consideration in resolving the protest.

RELIABILITY

One legal text summarized the importance of reliable evidence:

There is general agreement that fact resolvers should not base decisions on unreliable evidence. The stakes are too high. Basic fairness is at risk. While steadfast consistency and, certainly, perfection are not attainable in trials, standards of reliability create a way of resolving disputes that has some measure of predictability, order, and rectitude.⁴³⁶

⁴³⁵ *Tex. R. Evid. 401(a) and (b)*

⁴³⁶ *Thomas A. Mauet and Warren D. Wolfson, Trial Evidence, p. 3 (5th Ed. 2012)*

Property tax protests often involve a battle of the experts. For example, the appraisal district's staff member offers his or her expert opinion as to the property's market value and the appraisal's equality. Property owners offer their own expert appraisal opinions on these same issues. The opinions or conclusions of the two sides are very different. The discussion below should provide some guidance for ARB members to use in evaluating each side's testimony.

Witness qualifications

In the typical protest case, two types of witnesses testify: property owners and appraisal professionals. Expert appraisal testimony usually is provided by individuals with the following professional credentials. A registered professional appraiser (RPA) is licensed under Occupations Code Chapter 1151, *Property Taxation Professional Certification Act*, and works for the appraisal district performing appraisal work for property tax purposes under Tax Code Chapters 23 or 25.⁴³⁷ Appraisers hired by property owners (fee appraisers) may be licensed under Occupations Code Chapter 1103, *Texas Appraiser Licensing and Certification Act (TALCA)*, or they may hold a national designation, such as the Appraisal Institute's MAI. It is expected that the work of all appraisal professionals conforms with USPAP. Occupations Code Section 1103.405 requires that appraisers licensed under TALCA comply with the most current edition of USPAP or other standards provided by rule that are at least as stringent.⁴³⁸

Fee appraisers licensed under TALCA may hold dual licensure as property tax consultants or property tax professionals under Occupations Code Chapters 1152 and 1151, respectively. TALCA Rule 155.2, *Work Relating to Property Tax Protest*, imposes certain requirements on these TALCA licensees with dual licensure performing appraisal work in unequal appraisal cases (**Exhibit 21**).⁴³⁹ In that situation, if the TALCA licensee is performing in his

⁴³⁷ *Tex. Occ. Code §1151.002(1)*

⁴³⁸ *Tex. Occ. Code §1103.405*

⁴³⁹ *22 Tex. Admin. Code §155.2*

or her capacity as a property tax consultant – and not under the individual's TALCA license – they must provide a written disclaimer in boldface type advising of this fact and that the appraisal work may not comply with USPAP.⁴⁴⁰

It is important for the ARB to understand not only the credentials that a testifying appraisal witness holds, but also the capacity in which the witness is testifying.

Not only appraisal professionals, but also property owners may testify on appraisal issues at a protest hearing. The Tax Code grants property owners the right to testify in certain cases. Tax Code Section 23.01(g) provides that “property owners representing themselves are entitled to offer an opinion of and present argument and evidence related to the market and appraised value or the inequality of appraisal of the owner’s property.”⁴⁴¹ Whether the witness is a property owner or an appraisal professional, the ARB is to assess the credibility of the person testifying. To that end, the ARB may ask the witness those questions that will assist the ARB in its evaluation.

In addition to assessing each party’s credentials, the ARB is to evaluate each side’s opinion by reference to the foundation upon which each opinion rests. As the Texas Supreme Court pointed out in the landmark case on evaluating the reliability of expert testimony, *E.I. du Pont de Nemours v. Robinson*, 923 S.W.2d 549, 558 (Tex. 1995):

There is a difference between the reliability of the underlying theory or technique and the credibility of the witness who proposes to testify about it. An expert witness may be very believable, but his or her conclusions may be based upon unreliable methodology. As DuPont points out, a person with a degree should not be allowed to testify that the world is flat, that the moon is made of green cheese, or that the Earth is the center of the solar system.⁴⁴²

⁴⁴⁰ 22 Tex. Admin. Code §155.2

⁴⁴¹ Tex. Tax Code §23.01(g)

⁴⁴² *E.I. du Pont de Nemours v. Robinson*, 923 S.W.2d 549, 558 (Tex. 1995)

Professional standards applied

Texas law provides a standard of reliability that the ARB is to apply in evaluating appraisal testimony. Tax Code Section 23.01(b) requires a property’s market value be determined by the application of “generally accepted appraisal methods and techniques.”⁴⁴³ Tax Code Section 23.01(f) provides that the “selection of comparable properties and the application of appropriate adjustments for the determination of an appraised value of property by any person” in an unequal appraisal protest “must be based on the application of generally accepted appraisal methods and techniques.”⁴⁴⁴ Under Texas law, therefore, an opinion or conclusion reached without any basis, or by failing to recognize and apply the appropriate professional standards, is not worthy of ARB consideration. It is unreliable evidence.

What are generally accepted appraisal methods and techniques?

Generally accepted appraisal methods and techniques are those that are recognized in prominent publications of respected professional appraisal organizations and include information relating to mass appraisal. Among the most prominent of these organizations are The Appraisal Foundation, the Appraisal Institute and the IAEO.

The Appraisal Foundation is authorized by Congress as the source of appraisal standards and appraiser qualifications. It publishes USPAP – the generally accepted standards of the appraisal profession. Copies of USPAP are available from The Appraisal Foundation at www.appraisalfoundation.org.

⁴⁴³ Tex. Tax Code §23.01(b)

⁴⁴⁴ Tex. Tax Code §23.01(f)

Texas Administrative Code Section 155.2

Texas Administrative Code

<u>TITLE 22</u>	EXAMINING BOARDS
<u>PART 8</u>	TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
<u>CHAPTER 155</u>	RULES RELATING TO STANDARDS OF PRACTICE
RULE §155.2	Work Relating to Property Tax Protests

-
- (a) The preparation of a report or other work performed for an appraisal district or as part of any property tax consulting services on behalf of another person, that is used to develop, support, or protest an unequal appraisal under Chapter 41, Subchapter C or Chapter 42, Subchapter B of the Tax Code, is considered an appraisal or appraisal practice for the purposes of §155.1 of this chapter (relating to Standards of Practice) and must conform with Uniform Standards of Professional Appraisal Practice (USPAP), if the person preparing the report or other work presents it as the product of a person licensed, certified, registered, or approved under the Texas Appraiser Licensing and Certification Act.
- (b) A person licensed, certified, registered, or approved under the Texas Appraiser Licensing and Certification Act who is also certified as a property tax professional under Chapter 1151 of the Occupations Code or as a property tax consultant under Chapter 1152 of the Occupations Code, must include the USPAP disclaimer set out in subsection (c) of this section whenever that person prepares a report or other work used to develop, support, or protest an unequal appraisal under Chapter 41, Subchapter C or Chapter 42, Subchapter B of the Tax Code, solely under the authority of a property tax professional or consultant certification.
- (c) The USPAP disclaimer required under this section must:
- (1) be located directly above the preparer's signature;
 - (2) be in at least 10-point boldface type; and
 - (3) read as follows: USPAP DISCLAIMER: I AM LICENSED OR CERTIFIED AS A REAL PROPERTY APPRAISER AND A PROPERTY TAX PROFESSIONAL OR CONSULTANT. THIS REPORT WAS PREPARED IN MY CAPACITY AS A PROPERTY TAX PROFESSIONAL OR CONSULTANT AND MAY NOT COMPLY WITH THE REQUIREMENTS FOR DEVELOPMENT OF A REAL PROPERTY APPRAISAL CONTAINED IN THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP) OF THE APPRAISAL STANDARDS BOARD OF THE APPRAISAL FOUNDATION.

Source Note: The provisions of this §155.2 adopted to be effective March 14, 2013, 38 TexReg 1681; amended to be effective December 22, 2013, 38 TexReg 9050; amended to be effective September 7, 2015, 40 TexReg 5789

The Appraisal Institute publishes *The Appraisal of Real Estate* (now in its 15th edition), the quarterly, peer-reviewed *Appraisal Journal* and the *Dictionary of Real Estate Appraisal*. The IAAO publishes the *Property Assessment Valuation* and *IAAO Technical Standards*. These are just a few of the most prominent appraisal sources. When testifying as to their professional opinions, experts are expected to be able to demonstrate that the methods and techniques they applied are generally accepted by reference to publications of professionally recognized appraisal organizations. If the witness cannot do so, the opinion would appear to be unreliable.

A focus during the hearing on the logic of the witness's explanation – by reference to the professional standards or methods applied – will permit the ARB to assess the appraisal testimony's reliability. The bottom line in evaluating any and all testimony can be stated simply: Does the testimony make sense?

RIGHTNESS

Whether it is right to consider evidence – when it is both relevant and reliable – at a protest hearing goes to considerations of unfair prejudice and efficiency. For example, an ARB may decide that it would be a waste of time for several people to testify about the same condition of the same property; one witness is enough. Another example of rightness is the ARB's setting of time limits for protest hearings. To hear every protest in a short time period each year, jurisdictions with thousands of protests would not be able to complete the protest process if the ARB did not impose reasonable time limits.

BURDENS OF PROOF

PREPONDERANCE OF THE EVIDENCE

In an appraised or market value protest and a protest for unequal appraisal, the appraisal district has the burden of establishing the property value by a preponderance of the

evidence.⁴⁴⁵ If the appraisal district fails to meet that standard, the ARB must determine the protest in the property owner's favor.⁴⁴⁶ A preponderance of the evidence and proof by the greater weight of the evidence mean the same thing. The ARB is to consider the evidence – not only the quantity, but more importantly, the quality, each party provides and weigh it. Theoretically, if each party's evidence was placed opposite each other on a set of balance scales, the party whose evidence is heavier – even if only by a very tiny bit – prevails. If the evidence on both sides weighs the same, the property owner prevails.

Appraised values are not presumed to be correct in protest hearings. The appraisal district must present evidence to support the market or appraised value of the property subject to a protest. The appraisal district may offer evidence through testimony or documents and the evidence must be sufficient to meet the district's burden of proof. If the protest concerns unequal appraisal, the district must present evidence to support equality and uniformity of appraisal in the manner required by law.⁴⁴⁷

Under certain circumstances and for certain protests, the appraisal district has the burden of establishing the property's value by clear and convincing evidence.⁴⁴⁸ The property owner has the burden of proof by a preponderance of the evidence concerning protests on other matters such as ownership and exemptions.⁴⁴⁹

CLEAR AND CONVINCING EVIDENCE

In a protest on a property with a market or appraised value of \$1 million or less, the appraisal district has the burden of establishing the property's value by clear and convincing evidence, as opposed to the weight or preponderance of the evidence, when the following conditions are present:

⁴⁴⁵ *Tex. Tax Code §41.43(a)*

⁴⁴⁶ *Tex. Tax Code §41.43(a)*

⁴⁴⁷ *Tex. Tax Code §41.43(b)*

⁴⁴⁸ *Tex. Tax Code §41.43(a-1) and (a-3)*

⁴⁴⁹ *Tex. Tax Code §41.43(d)*

- the property owner or authorized representative delivers an appraisal report to the chief appraiser at least 14 days before the hearing;
- the appraisal must have been performed not later than the 180th day before the first day of the hearing;
- the appraiser is certified under Occupations Code Chapter 1103;
- the appraisal supports the appraised or market value asserted by the property owner;
- the appraisal is attested before an officer authorized to administer oaths; and
- the appraisal includes the certified appraiser's name and address, the property description and statements that the appraised or market value, as applicable, was as of Jan. 1, was determined using appraisal methods authorized or required by Tax Code Chapter 23, and that the appraiser performed the appraisal in accordance with USPAP.⁴⁵⁰

Additionally, in a protest on appraised or market value or unequal appraisal, the appraisal district has the burden of establishing the property's value by clear and convincing evidence if:

- the property's appraised value was lowered in the preceding tax year in a protest or appeal;
- the property's appraised value in the preceding tax year was not established as a result of a written agreement between the property owner or owner's authorized representative and the appraisal district; and
- the property owner files with the ARB and chief appraiser, at least 14 days before the hearing, information that is sufficient to allow for an appraised or market value determination or that the property was appraised unequally.⁴⁵¹

Regarding a property owner's information on file with the ARB at least 14 days before a hearing, Tax Code Section 41.66(f) prohibits any discussions outside the hearing

itself regarding these materials as ex parte communications.

If a property owner does not deliver a required rendition – a property report or information requested by the chief appraiser – prior to the ARB hearing date, the property owner has the burden to prove the property's value to the ARB rather than the appraisal district. The property owner has the burden of proof by a preponderance of evidence under this circumstance and if the owner fails to meet its burden, the ARB must determine the protest in the appraisal district's favor.⁴⁵²

ARBs must also consider the issue of clear and convincing evidence when a property owner brings a protest concerning certain value increases. Clear and convincing evidence means having a measure or degree of proof that produces a firm belief or conviction of the truth of the proposition. The chief appraiser is prohibited from increasing the property's appraised value in the next tax year in which the property is appraised following a final determination of value resulting from an ARB protest, a lawsuit or binding arbitration, unless the appraisal district reasonably supports it by clear and convincing evidence. The clear and convincing evidence must be based on all of the reliable and probative evidence in the record considered as a whole. If an ARB or a court makes a determination of value based on unequal appraisal claims, the appraisal district may meet this clear and convincing evidence requirement by presenting evidence showing that the inequality has been corrected with regard to the properties that were considered to be comparable in determining the subject property's value. The burden of proof is on the chief appraiser to support an increase in the property's appraised value under these circumstances.⁴⁵³

⁴⁵⁰ *Tex. Tax Code §41.43(a-1) and (a-2)*

⁴⁵¹ *Tex. Tax Code §41.43(a-3)*

⁴⁵² *Tex. Tax Code §41.43(d)*

⁴⁵³ *Tex. Tax Code §23.01(e)*

OFFICIAL NOTICE

Generally, the ARB must make its decision only on the evidence brought by the parties. The ARB may also consider certain kinds of basic facts that neither side presents as evidence. This is called taking official notice of a fact.⁴⁵⁴

The ARB, like a judge, may take official notice of any fact that is reasonably certain, either because it is generally known in the community or capable of being easily confirmed by sources whose accuracy cannot reasonably be questioned.⁴⁵⁵ For example, an ARB may take official notice that a house is located near a landfill, a fact which may affect its property value. If it takes official notice of a fact, the ARB must inform both parties and give them an opportunity to argue against this action. The ARB should be careful not to appear as an advocate for either party.

SUBPOENAS AND RECORDS

The ARB and the parties involved in a hearing should gather all evidence relevant to the case. The property owner or a challenging taxing unit has a right to know the basis of the appraisal district's determinations. Similarly, the appraisal district has a right to know relevant facts in the property owner's possession.

To ensure these rights, the Tax Code gives the ARB the power to:

- subpoena witnesses, books, records or other documents; and
- inspect the appraisal office's records or other materials that are not made confidential under the Tax Code.⁴⁵⁶

The ARB may subpoena witnesses, books, records or other documents if the ARB determines it is reasonably necessary. Upon the written request of a party to a protest, the ARB shall issue a subpoena only after holding a hearing to determine whether the requesting party has shown good cause for issuing the subpoena and deposited a sum sufficient to insure payment of the estimated costs of the subpoena's issuance and service and compensation to any persons to whom the subpoena is issued. A subpoena for books, records or other documents may only be issued if a property is under protest and may be issued only to a party to the protest. The ARB may not subpoena books, records or documents that belong to persons other than the property owner or the appraisal district involved in the protest.⁴⁵⁷

WEIGHING THE EVIDENCE

At the conclusion of the hearing, the ARB weighs the evidence to reach its decision. The ARB members evaluate the strength, value and believability of the evidence presented at the hearing by one side as compared to the evidence presented by the other side. In weighing the evidence, the ARB determination will reflect whether the party with the burden of proof that applies in the case has met that burden, typically by a preponderance of the evidence.⁴⁵⁸

⁴⁵⁴ *Tex. Tax Code §41.67(c)*

⁴⁵⁵ *Tex. Tax Code §41.67(c)*

⁴⁵⁶ *Tex. Tax Code §§41.61 and 41.64*

⁴⁵⁷ *Tex. Tax Code §41.61*

⁴⁵⁸ *Tex. Tax Code §41.43*

Chapter 7

Duties After Records Approval

When the ARB approves the appraisal records for the year, the ARB fulfills most of its responsibilities to change the records.⁴⁵⁹ An ARB's duties do not end after it approves the appraisal records. It may need to address other matters throughout the tax year, including late-filed residence homestead exemptions, supplemental records, appraisal roll corrections, failure to deliver notice, cases of substantial error and joint motions on incorrect values.⁴⁶⁰

LATE-FILED EXEMPTION APPLICATIONS

Property owners may file homestead exemption applications after the May 1 filing deadline. Homeowners must apply for the exemption no later than two years after the tax year's delinquency date.⁴⁶¹ Disabled veterans may file an exemption application under Tax Code Section 11.22, but not later than five years after the delinquency date for the taxes on the property.⁴⁶² Homeowners age 65 or older or disabled and individuals who are disabled veterans with donated homes may file an application for this homestead exemption up to one year after the date the person turns 65 or becomes disabled.⁴⁶³ The chief appraiser approves, denies or modifies the exemption as appropriate and submits the proposed change to the records to the ARB.⁴⁶⁴

The Tax Code also provides for late-filed exemption applications for religious organizations, schools, charitable organizations, cotton stored in warehouses,

veteran's organizations, disabled veterans and surviving spouses of disabled veterans and freeport exemptions.⁴⁶⁵

If the chief appraiser approves the late-filed homestead exemption after the ARB approves the appraisal records, the chief appraiser notifies the collector for each taxing unit in which the property is located not later than 30 days after approving the late exemption. The collector then calculates the new lower tax and sends the person who was the property owner on the date the tax was paid a refund.⁴⁶⁶

SUPPLEMENTAL RECORDS

The chief appraiser often prepares and submits supplemental records to the ARB after it approves the initial appraisal records. Supplemental records list property that the chief appraiser discovers was not included in the initial records submitted to the ARB. These records also include property omitted from the appraisal roll in an earlier year.⁴⁶⁷

The ARB reviews and approves supplemental records by the same process used for the original appraisal records. A property owner must file a notice of protest within 30 days after the date notice is delivered as required by Tax Code Section 25.19. The ARB has 30 days after the property owner files the protest to hear and determine it or as soon after that date as possible.⁴⁶⁸ After completing its review, the ARB adopts an order approving the supplemental records (**Exhibit 22**).

⁴⁵⁹ *Tex. Tax Code §41.12*

⁴⁶⁰ *Tex. Tax Code §§25.25, 41.01, 41.08, 41.09 and 41.10*

⁴⁶¹ *Tex. Tax Code §11.431(a)*

⁴⁶² *Tex. Tax Code §11.439(a)*

⁴⁶³ *Tex. Tax Code §11.43*

⁴⁶⁴ *Tex. Tax Code §11.45*

⁴⁶⁵ *Tex. Tax Code §§11.433-11.439I*

⁴⁶⁶ *Tex. Tax Code §11.431(b)*

⁴⁶⁷ *Tex. Tax Code §25.23*

⁴⁶⁸ *Tex. Tax Code §25.23*

EXHIBIT 22

Order Approving Supplemental Records

Texas Comptroller of Public Accounts

Form 50-227

Order Approving Supplemental Appraisal Records

Order Approving Supplemental Appraisal Records for _____

Appraisal Review Board _____ County, Texas

On _____, _____, the appraisal review board (ARB) of _____ County, Texas met to approve supplemental appraisal records for tax year _____.

The ARB finds that the supplemental records, as corrected by the chief appraiser according to the orders of the ARB, should be approved and added to the appraisal roll for the appraisal district.

The ARB therefore APPROVES the supplemental appraisal records as corrected.

Signed on _____, _____

sign here

Chair, Appraisal Review Board

LATE PROTEST BASED ON FAILURE TO DELIVER NOTICE

A property owner may file a protest after the normal protest deadline alleging failure of the ARB or the chief appraiser to provide or deliver a notice required by law. If the property owner can show that a notice was never delivered, the ARB must hear any protest the property owner wishes to bring on the property affected by the notice. The property owner must file before the delinquency date.⁴⁶⁹

Certain notices are required by law. Failure to deliver one of these notices permits the ARB to consider late protests.⁴⁷⁰

A property owner may file a late protest after the normal deadline, but before the delinquency date or no later than the 125th day after the date the property owner claims to have received the tax bill from one or more of the taxing units that tax the property, alleging that the appraisal district or the ARB has not delivered or provided a notice required by law.⁴⁷¹ The owner is entitled to a hearing based solely on whether one or more taxing units timely delivered the tax bill. If the ARB determines that no taxing unit timely delivered a tax bill, the ARB must determine when at least one taxing unit delivered written notice of the taxes. For the purposes of filing the protest and making a tax compliance payment, the delinquency date is postponed to the 125th day after that date.⁴⁷²

Delivery in this context means that the appraisal district mailed the notice correctly addressed to the property owner at the last address furnished by the property owner or delivered the notice by another method as permitted in the Tax Code. Delivery is presumed unless the property owner provides evidence that he or she did not receive the notice.⁴⁷³ In that case, the burden shifts to

the appraisal district to show that it properly mailed the notice to the last correct address in its possession or emailed the notice to a confirmed electronic address as requested in writing by the property owner.

If the appraisal district can show proper mailing, then the property owner is not entitled to a protest hearing under this provision. If the property owner claims no receipt and the appraisal district cannot show proper mailing, then the property owner has shown failure of delivery. If the ARB determines that this is the case, the ARB must then hear and determine any and all protests the property owner wishes to make regarding the property that was the subject of the notice. The property owner must comply with tax payment requirements.

CORRECTIONS AFTER APPROVAL

The ARB has authority to hear motions to correct appraisal rolls.⁴⁷⁴ The chief appraiser also has certain authority to correct errors in approved appraisal records.⁴⁷⁵ Correction procedures vary depending on the type of correction. The ARB may correct some errors up to five years after the year of the error and may correct other errors only if the property owner acts before the tax year's delinquency date.⁴⁷⁶ The filing deadlines and types of corrections are discussed in the following sections.

A person who acquires a property after Jan. 1 of the tax year in question has the same rights to file a motion to correct the property's record as the Jan. 1 owner. The new owner must meet the same deadline. In addition, the new owner may continue any motion the Jan. 1 owner filed.⁴⁷⁷

⁴⁶⁹ *Tex. Tax Code §§41.411 and 41.44(c)*

⁴⁷⁰ *Tex. Tax Code §§41.411 and 41.44(c)*

⁴⁷¹ *Tex. Tax Code §41.411*

⁴⁷² *Tex. Tax Code §41.44(c-3)*

⁴⁷³ *Tex. Tax Code §1.07(c)*

⁴⁷⁴ *Tex. Tax Code §25.25*

⁴⁷⁵ *Tex. Tax Code §25.25(b)*

⁴⁷⁶ *Tex. Tax Code §25.25(c)*

⁴⁷⁷ *Tex. Tax Code §25.25(i) and (j)*

CHANGES BY THE CHIEF APPRAISER

The chief appraiser may change the appraisal roll at any time to correct

- a name or address;
- ownership determination;
- a property description;
- multiple appraisals of the property;
- an erroneous denial or cancellation of a residence homestead exemption if the applicant or recipient is disabled, is 65 or older or is a surviving spouse of a person who qualified for the 65 or older residence homestead exemption;
- an erroneous denial or cancellation of a 100 percent or totally disabled veteran exemption under Tax Code Section 11.131 or a disabled veteran exemption under Tax Code Section 11.22;
- a clerical error; or
- another inaccuracy as prescribed by board rule that does not increase a person's tax liability.⁴⁷⁸

The board must adopt written rules setting out the circumstances under which the chief appraiser may correct errors that affect a person's tax liability. The law is ambiguous, and the ARB should request legal advice about the rules.

Each quarter, the chief appraiser will submit a report to the ARB and appraisal district board of directors showing any appraisal roll changes.⁴⁷⁹ The report must include the property owner's name and property description and can include the type of clerical error or other inaccuracy that caused an error on the appraisal rolls.⁴⁸⁰

The chief appraiser's failure or refusal to make a clerical error change to an appraisal roll is not subject to an ARB action or a property owner lawsuit.⁴⁸¹

⁴⁷⁸ *Tex. Tax Code §25.25(b)*

⁴⁷⁹ *Tex. Tax Code §25.25(b)*

⁴⁸⁰ *Tex. Tax Code §25.25(b)(1) and (2)*

⁴⁸¹ *Tex. Tax Code §25.25(o)*

CHANGES BY THE ARB

On the motion of the chief appraiser or a property owner, the ARB may order changes to the appraisal roll to correct clerical errors that affect a property owner's liability for a tax, multiple appraisals of a property in a single tax year, the inclusion of property that does not exist in the form or at the location described in the appraisal roll, or an error in ownership.⁴⁸² The model order determining these motions to correct is found in **Exhibit 23**.

If the chief appraiser and property owner do not agree on a motion to correct the appraisal records within 15 days after the property owner files the motion, the property owner is entitled to a hearing on the motion if requested. The property owner is entitled to a hearing regardless of whether he or she protested the property value in a prior year. If a hearing request is made on or after Jan. 1 but before Sept. 1, the ARB must schedule the hearing to be held as soon as practicable but not later than 90 days after the date the ARB approves the appraisal records. If the property owner makes the request on or after Sept. 1 but before Jan. 1, the ARB must schedule the hearing as soon as practicable but not later than the 90 days after the hearing request date.⁴⁸³

At least 15 days before the hearing, the ARB must deliver a written notice with the hearing date, time and place to the property owner, chief appraiser and presiding officer of the governing body of each taxing unit in which the property is located. The ARB should conduct these hearings the same way it conducts regular protest hearings. A person forfeits the right to file a motion to correct the appraisal records if taxes are delinquent in a year for which the person seeks a correction.⁴⁸⁴

BEFORE DELINQUENCY DATE

On a motion by the chief appraiser or the property owner, the ARB may order changes to correct certain appraisal

⁴⁸² *Tex. Tax Code §25.25(c)*

⁴⁸³ *Tex. Tax Code §25.25(e)*

⁴⁸⁴ *Tex. Tax Code §25.25(e), (l) and (m)*

errors in the appraisal roll. The deadline for such a motion is before taxes on the property become delinquent.⁴⁸⁵

On joint motion of the property owner and the chief appraiser, the ARB must correct an error that resulted in an incorrect appraised value for the owner's property. The deadline for filing this motion is before the taxes on the property become delinquent.⁴⁸⁶

TYPES OF CORRECTIONS

One of the most common motions to correct is called a 25.25(c) motion because of the Tax Code section involved. The following information describes the types of corrections: clerical errors, multiple appraisals, nonexistent property and errors in ownership. Sample motions are found in **Exhibits 24** and **25**.

The Tax Code describes a clerical error as an error caused by a mistake in writing, copying, transcribing, computer data entry or retrieval or a mathematical error or an error that prevents the appraisal or tax roll from correctly showing what the chief appraiser, ARB or tax assessor said or did.⁴⁸⁷ A clerical error is not a mistake in reasoning or judgment in making a finding or determination.⁴⁸⁸ Appraisal roll corrections can be made for five prior years.⁴⁸⁹

A multiple appraisal occurs when a property is listed in the appraisal records more than once for the same year. On the timely motion of the chief appraiser or the property owner, the ARB may order an appraisal roll correction for a multiple appraisal. The five-year filing deadline applies.⁴⁹⁰ Taxes may not be delinquent for the years corrected.⁴⁹¹

⁴⁸⁵ *Tex. Tax Code §25.25*

⁴⁸⁶ *Tex. Tax Code §25.25(h)*

⁴⁸⁷ *Tex. Tax Code §1.04(18)*

⁴⁸⁸ *Tex. Tax Code §1.04(18)*

⁴⁸⁹ *Tex. Tax Code §25.25(c)(1)*

⁴⁹⁰ *Tex. Tax Code §25.25(c)(2)*

⁴⁹¹ *Tex. Tax Code §25.26*

Non-existent property included on the appraisal roll is property that does not exist in the form or at the location described in the appraisal roll. On the motion of the chief appraiser or the property owner, the ARB may correct, before the end of five years after Jan. 1 of the tax year, any errors involving non-existent property.⁴⁹² Again, taxes may not be delinquent for the years corrected.⁴⁹³

An error in ownership is an error in which the property is shown as owned by a person who did not own the property on Jan. 1 of that year. An appraisal roll correction regarding an error in ownership can be made for any of the five preceding years.⁴⁹⁴

COMBINING AND SEPARATING PARCELS

If a chief appraiser refuses to combine or separate parcels or tracts at the property owner's request, the ARB can order the requested change on a motion to correct filed by the property owner.⁴⁹⁵

TANGIBLE PERSONAL PROPERTY

The ARB, on motion of the chief appraiser or property owner, can direct changes in the appraisal records to correct an inaccuracy that is a result of an error or omission of tangible personal property on a rendition or property report. The written order can be applicable for the current tax year or either of the two preceding tax years. The ARB cannot order the correction if the:

- property owner failed to timely file the rendition statement or property report;
- the property was subject to an ARB protest and order;
- a motion was previously filed to which the parties agreed or the ARB made a determination; or
- the chief appraiser and property owner established the property's appraised value by agreement.⁴⁹⁶

⁴⁹² *Tex. Tax Code §25.25(c)(3)*

⁴⁹³ *Tex. Tax Code §25.26*

⁴⁹⁴ *Tex. Tax Code §25.25(c)(4)*

⁴⁹⁵ *Tex. Tax Code §25.02(f)*

⁴⁹⁶ *Tex. Tax Code §25.25(c-1)*

EXHIBIT 23
Order Determining Motion to Correct Appraisal Roll

Order Determining Motion to Correct Appraisal Roll

Form 50-812

Appraisal Review Board of _____ County, Texas Case Number: _____

Owner's Name: _____ Property Account Number: _____

Property Legal Description:

On _____, _____, _____, the Appraisal Review Board of _____ County, Texas,
Month Day Year

heard the motion of _____ concerning the appraisal roll for tax year _____.
Name

The appraisal review board (ARB) delivered proper notice of the hearing date, time and place. The property owner or agent and the chief appraiser were given the opportunity to testify and to present evidence. After considering the evidence and arguments presented at the hearing, the ARB has determined that the motion concerned the following action(s) permitted by Tax Code Section 25.25 to correct:

- A clerical error for tax year(s) _____.
- Multiple appraisals for tax year(s) _____.
- Inclusion of the property in the form or at the location shown on the appraisal roll for tax year(s) _____.
- Ownership on Jan. 1 of tax year _____.
- An appraisal error resulting in an appraised value that exceeds by one-fourth a residence homestead's correct appraised value for tax year(s) _____.
- An appraisal error resulting in an appraised value that exceeds by one-third a non-residence homestead's correct appraised value for tax year(s) _____.
- An incorrect appraised value based on a joint motion from the property owner and the chief appraiser.
- An error of omission of tangible personal property in a rendition statement or property report for tax year(s) _____.

Based on the evidence, the ARB makes the following determination(s) as indicated by a check mark and hereby issues the following as its ORDER DETERMINING MOTION OR ORDER OF DISMISSAL:

- The ARB lacks jurisdiction to determine the motion and hereby dismisses the motion.
- The appraisal roll has a clerical error that should be changed to reflect a value of \$ _____ from the appraisal district value of \$ _____ for tax year(s) _____.
- The appraisal roll has multiple appraisals and account number _____ should be removed from the appraisal roll for tax year(s) _____.
- The appraisal roll contains the inclusion of property that does not exist in the form or at the location described in the appraisal roll for tax year(s) _____ and should be removed from the appraisal roll(s).
- The appraisal roll will change the owner's name as of Jan. 1 for tax year _____ from _____ to _____ (or unknown).
- The residence homestead property has an error that exceeds by one-fourth the correct value and the appraisal roll should be changed to \$ _____ from the appraisal district value of \$ _____ for tax year _____.
- The non-residence homestead property has a substantial error that exceeds by one-third the correct value and the appraisal roll should be changed to \$ _____ from the appraisal district value of \$ _____ for tax year _____.
- Based on a joint motion of the property owner and the chief appraiser, the appraised value shall be corrected to \$ _____ from the appraisal district value of \$ _____ for tax year _____.
- The property owner's motion concerning other matters permitted by Tax Code Section 25.25 is upheld, and the appraisal records should be changed to reflect the following change(s):

- The property owner's motion concerning matters permitted by Tax Code Section 25.25 is denied and the appraisal records should not be changed.

sign here →

 Chair, Appraisal Review Board

 Date

EXHIBIT 24

Chief Appraiser's (Sample) Motion for Correction of Appraisal Roll

Chief Appraiser's Motion for Correction of Appraisal Roll

Form 50-770

In the County of _____
State of Texas

_____ County
Appraisal Review Board

Movant is _____, Chief Appraiser for the _____ Appraisal District.

Movant brings this motion for a hearing to correct the appraisal roll regarding the following property on the appraisal roll certified by this appraisal review board on the _____ day of _____, _____:

Property description: _____

Property location: _____

Appraisal district property identification number(s): _____

This motion is to correct the following:

- clerical error that affects a property owner's liability for a tax imposed in tax year(s) _____;
- multiple appraisals of a property in tax year(s) _____;
- inclusion of property that does not exist in the form or at the location described in the appraisal roll for tax year(s) _____.
- an error of ownership of a property for tax year(s) _____; or
- an error or omission of tangible personal property in a rendition statement or property report for tax year(s) _____;

Movant states that the property described above is located within the _____ Appraisal District and within the following taxing units:

[Empty box for listing taxing units]

Movant states the specific error(s) this motion seeks to correct is or are:

[Empty box for describing specific errors]

Movant makes this motion pursuant to Tax Code Section 25.25(c) or (c-1) and requests that the appraisal review board schedule a hearing to determine whether to correct the error(s) identified above. Movant requests that the appraisal review board send notice of the time, date and place fixed for the hearing to movant, the property owner and the presiding officer of the governing body of each taxing unit where the property is located not later than 15 days before the scheduled hearing.

Respectfully submitted,

Signature of Movant

Date

A chief appraiser may use this motion to correct, for any of the five preceding years: (1) clerical errors that affect a property owner's liability for a tax imposed in that tax year; (2) multiple appraisals of a property in that tax year; (3) inclusion of property that does not exist in the form or at the location described in the appraisal roll; or (4) an error in ownership. Errors of omission of tangible personal property in a rendition statement or property report may be corrected for the current tax year and either of the preceding two tax years if criteria in 25.25(c-1) is met. Tax Code Section 1.04(18) defines clerical error as an error: (A) that is or results from a mistake or failure in writing, copying, transcribing, entering or retrieving computer data, computing or calculating; or (B) that prevents an appraisal roll or a tax roll from accurately reflecting a finding or determination made by the chief appraiser, the appraisal review board or the assessor; however, clerical error does not include an error that is or results from a mistake in judgment or reasoning in the making of the finding or determination.

EXHIBIT 25

Property Owner's (Sample) Motion for Correction of Appraisal Roll

Property Owner's Motion for Correction of Appraisal Roll

Form 50-771

In the County of _____ State of Texas

_____ County Appraisal Review Board

Movant, _____, is owner of the following property:

Property description: _____

Property location: _____

Appraisal district property identification number(s): _____

Movant brings this motion for a hearing to correct the appraisal roll regarding Movant's above-referenced property on the appraisal roll certified by this appraisal review board on the _____ day of _____, _____.

This motion is to correct the following:

- checkbox clerical error that affects Movant's liability for a tax imposed in tax year(s) _____;
checkbox multiple appraisals of a property in tax year(s) _____;
checkbox inclusion of property that does not exist in the form or at the location described in the appraisal roll for tax year(s) _____;
checkbox an error of ownership of a property for tax year(s) _____; or
checkbox an error or omission of tangible personal property in a rendition statement or property report for tax year(s) _____.

Movant hereby certifies compliance with the provisions of Tax Code Section 25.26.

Movant states that the property described above is located within the _____ Appraisal District and within the following taxing units:

Empty box for listing taxing units.

Movant states the specific error(s) this motion seeks to correct is or are:

Empty box for describing specific errors.

Movant makes this motion pursuant to Tax Code Section 25.25(c) or (c-1) and requests that the appraisal review board schedule a hearing to determine whether to correct the error(s) identified above.

Respectfully submitted,

sign here

Signature of Movant or Authorized Agent*

Date

* A property owner may designate an agent; however, the designation does not take effect with respect to an appraisal district or taxing unit until a copy of the designation form is filed with the appraisal district.

Contact information:

Printed Name of Movant or Authorized Agent

Phone (area code and number)

Current Mailing Address (number and street)

City, State, Zip Code

A property owner may use this motion to correct, for any of the five preceding years: (1) clerical errors that affect a property owner's liability for a tax imposed in that tax year; (2) multiple appraisals of a property in that tax year; (3) inclusion of property that does not exist in the form or at the location described in the appraisal roll; or (4) an error of ownership.

ONE-FOURTH OVER-APPRAISAL ERROR FOR RESIDENCE HOMESTEADS

Prior to the delinquency date, the chief appraiser or property owner may file a motion to correct an appraisal error that results in an incorrect value (**Exhibit 26**). The ARB may correct the error if it results in the appraised value exceeding the correct value of an owner's residence homestead by more than one-fourth.⁴⁹⁷ The calculation method the ARB uses to determine the correct value should be reviewed by its legal counsel and included in its administrative procedures. By way of example, the ARB may include one of the following calculation methods in its procedures:

$(\text{Corrected Value} \times 1/4 \text{ or } 0.25) + (\text{Corrected Value}) =$
Threshold for Current Appraised Value for Residence Homesteads

ONE-THIRD OVER-APPRAISAL ERROR FOR NON-RESIDENCE HOMESTEADS

The chief appraiser or a property owner can file a motion to correct an appraisal error that results in a wrongly appraised value for the owner's non-residence homestead property (**Exhibit 27**).⁴⁹⁸

The ARB may correct this error if the appraised value exceeds the correct value by more than one-third and does not qualify as the owner's residence homestead. The ARB should determine the correct value. It may wish to include its calculation method for the one-third difference in its administrative procedures. By way of example, the ARB may include the following calculation methods in its procedures:

$(\text{Corrected Value} \times 1/3 \text{ or } 33.33\%) + (\text{Corrected Value}) =$
Threshold for Current Appraised Value

An ARB should seek legal advice regarding the calculation methods it ultimately uses.

A party must bring the correction motion before taxes on the property become delinquent. The ARB may correct the value if the property was not the subject of a protest or a written agreement. The ARB may not make a requested appraisal roll correction if the owner's property was the subject of an ARB hearing in which the owner appeared and offered evidence or argument and the ARB made a determination on the merits; or the appraised value was the result of a written agreement between the owner or owner's authorized representative and the appraisal district.⁴⁹⁹

The property owner must pay a late-correction penalty if the ARB makes a change. The amount of the penalty is 10 percent of the taxes due on the new value. The property owner must pay 10 percent penalty to each taxing unit affected by the change.⁵⁰⁰

If the chief appraiser and property owner do not agree on a motion to correct the appraisal records within 15 days after the property owner files the motion, the property owner is entitled to a hearing on the motion if requested.⁵⁰¹

After the ARB grants a hearing it must deliver a 15-day notice of the hearing time, date and place to the chief appraiser, the property owner and presiding officer of the governing body of each taxing unit in which the property is located (**Exhibit 28**).

Each party may present evidence and argument at the hearing and receive written notice of the ARB's determination. The property owner or the chief appraiser may file a suit to compel the ARB to make a change required by law.

JOINT MOTION ON INCORRECT VALUE

The ARB – on a joint motion by the property owner and the chief appraiser – must correct an error that resulted in

⁴⁹⁷ *Tex. Tax Code §25.25(d)*

⁴⁹⁸ *Tex. Tax Code §25.25(d)*

⁴⁹⁹ *Tex. Tax Code §25.25(d-1)*

⁵⁰⁰ *Tex. Tax Code §25.25(d-1)*

⁵⁰¹ *Tex. Tax Code §25.25(e)*

an incorrect appraised value for the owner's property.⁵⁰² The deadline for filing this joint motion is before the delinquency date (**Exhibit 29**).

An agreement between the property owner or the owner's authorized representative and the appraisal district is final. The ARB may not review or reject the agreement.⁵⁰³

FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES

The pendency of a motion filed under Tax Code Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. The delinquency date applies only to the amount of taxes required to be paid (meaning those that are not in dispute). If the property owner pays the taxes not in dispute, Tax Code Section 42.42(c) determines the delinquency date for any additional amount of taxes due and that additional amount is not delinquent before that date.⁵⁰⁴

A property owner who files a motion under Tax Code Section 25.25 must, before the delinquency date, pay the amount of taxes due on the portion of the property's taxable value that is the subject of the motion and that is not in dispute or forfeit the right to proceed to a final determination.

The ARB may excuse the requirement based on an oath of inability to pay.⁵⁰⁵ On a motion of a party, the ARB must determine compliance with these provisions in the same manner and by the same procedure as provided by Tax Code Section 41.4115(d) and may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.⁵⁰⁶

A property owner who pays an amount of taxes greater than required does not forfeit the right to a final determination of the motion by making the payment. If the property owner makes a timely motion under Tax Code Section 25.25, taxes paid on the property are considered paid under protest, even if paid before the motion is filed.⁵⁰⁷

⁵⁰² *Tex. Tax Code §25.25(e) and (h)*

⁵⁰³ *Tex. Tax Code §§1.111(e) and 41.01(b)*

⁵⁰⁴ *Tex. Tax Code §25.26(a) and (b)*

⁵⁰⁵ *Tex. Tax Code §§41.4115(d) and 25.26(d)*

⁵⁰⁶ *Tex. Tax Code §25.26(d)*

⁵⁰⁷ *Tex. Tax Code §25.26(c)*

EXHIBIT 26

Motion for Hearing to Correct One-Fourth Over-Appraisal Error of Residence Homestead

Motion for Hearing to Correct One-Fourth Over-Appraisal Error of Residence Homestead

Form 50-869

In the County of _____ County
State of Texas _____ Appraisal Review Board

Motion to Correct One-Fourth Over-Appraisal Error

Movant _____, Chief Appraiser for the _____ Appraisal District,
or _____, owner of property described as _____,
parcel number _____, brings this motion for a hearing to correct a one-fourth over-appraisal error regarding the described
homestead residence property on the appraisal roll certified by this appraisal review board on _____, _____.

Movant states that the property described above is movant's residence homestead.

Movant states that the property taxes due for the _____ tax year have not become delinquent, and the movant property owner has complied with
the provisions of Tax Code Section 25.26 and has not forfeited the right to appeal for non-payment of taxes.

Movant states that the property described above is located within the _____ Appraisal District. Further, movant states
that the property described above is located within the taxing units listed below.

[Empty box for listing taxing units]

Movant states the one-fourth over-appraisal error is as follows:

[Empty box for describing the appraisal error]

Movant makes this motion pursuant to Tax Code Section 25.25(d)(1) and (e) and requests that the appraisal review board schedule a hearing to determine whether
to correct the error. Movant requests that the appraisal review board send notice of the time, date and place fixed for the hearing, to the presiding officer of the
governing body of each taxing unit where the property is located, not later than 15 days before the scheduled hearing.

Respectfully submitted,

sign here

Signature of Movant

Date

Contact information:

Printed Name of Movant or Authorized Agent

Phone (area code and number)

Current Mailing Address (number and street)

City, State, Zip Code

The property owner, owner's agent designated under Tax Code Section 1.111 or chief appraiser may use this motion to correct an appraisal error that results in a value one-
fourth over the appraised value of a residence homestead.

If this motion changes the appraisal roll, the property owner must pay each affected taxing unit a late-correction penalty equal to 10 percent of the tax amount calculated
on the corrected appraised value under Tax Code Section 25.25(d-1).

EXHIBIT 27

Motion for Hearing to Correct One-Third Over-Appraisal Error of Non-Residence Homestead Property

Motion for Hearing to Correct One-Third Over-Appraisal Error of Non-Residence Homestead Property

Form 50-230

In the County of _____ State of Texas _____ County Appraisal Review Board

MOTION TO CORRECT ONE-THIRD OVER-APPRAISAL ERROR

Movant _____, Chief Appraiser for the _____ County Appraisal District, or _____, owner of property described as _____, parcel number _____, brings this motion for a hearing to correct a one-third over-appraisal error regarding the described non-residence homestead property on the appraisal roll certified by this appraisal review board on _____.

Movant states that the property taxes due for the _____ tax year have not become delinquent, and the movant property owner has complied with the provisions of Tax Code Section 25.26 and has not forfeited the right to appeal for non-payment of taxes.

Movant states that the property described above is located within the _____ County Appraisal District. Further, movant states that the property described above is located within the taxing units listed below.

[Empty box for listing taxing units]

Movant states the one-third over-appraisal error is as follows:

[Empty box for describing the appraisal error]

Movant makes this motion pursuant to Tax Code Section 25.25(d)(2) and (e) and requests that the appraisal review board schedule a hearing to determine whether to correct the error. Movant requests that the appraisal review board send notice of the time, date and place fixed for the hearing, to the presiding officer of the governing body of each taxing unit where the property is located, not later than 15 days before the scheduled hearing.

Respectfully submitted,

sign here

Signature of Movant

Date

Contact information:

Printed Name of Movant or Authorized Agent

Phone (area code and number)

Current Mailing Address (number and street)

City, State, Zip Code

The property owner, owner's agent designated under Tax Code Section 1.111 or chief appraiser may use this motion to correct an appraisal error that results in a value one-third over the appraised value of a non-residence homestead property.

If this motion changes the appraisal roll, the property owner must pay each affected taxing unit a late-correction penalty equal to 10 percent of the tax amount calculated on the corrected appraised value under Tax Code Section 25.25(d-1).

EXHIBIT 28
Notice of Hearing

Notice of Hearing

Form 50-231

This form may be used as notification for a hearing scheduled by the appraisal review board (ARB) to determine the merits of a motion to correct the appraisal roll under Tax Code Section 25.25(c) or (d).

If the chief appraiser and the property owner do not agree to a correction pursuant to Tax Code Section 25.25(c) or (d) before the 15th day after the date the motion is filed, a party bringing a motion is entitled on request to a hearing on and a determination of the motion by the ARB. The ARB shall deliver written notice of the date, time and place of the hearing to the chief appraiser, the property owner and the presiding officer of the governing body of each taxing unit in which the property is located not later than 15 days before the date of the hearing.

County of _____
State of Texas

NOTICE OF HEARING

The _____ County Appraisal Review Board has scheduled a hearing pursuant to Tax

Code Section 25.25 to determine a correction on the appraisal roll for _____, _____, _____, at _____ .m.
(month) (day) (year) (time) (am/pm)

The hearing will be held at _____ .
(place)

This hearing concerns property described as follows:

_____,
(address)

parcel number _____.

**sign
here** ➔

County Appraisal Review Board

EXHIBIT 29

Joint Motion to Correct Incorrect Appraised Value

Joint Motion to Correct Incorrect Appraised Value

Form 50-249

In the County of _____ County
State of Texas Appraisal Review Board

Motion to Correct Incorrect Appraised Value

Movants _____, Chief Appraiser for the _____ County Appraisal District, and
_____, owner of property described as _____,
parcel number _____, bring this joint motion to correct the value on the described property on the appraisal roll approved by
this appraisal review board on _____, _____, and certified to the taxing units on _____, _____.

Movants state that the property taxes due for the _____ tax year have not become delinquent, and the movant property owner has complied with
the provisions of Tax Code Section 25.26 and has not forfeited the right to appeal for non-payment of taxes.

Movants state that the property described above is located within the _____ County Appraisal District. Further, movants state
that the property described above is located within the taxing units listed below:

[Empty box for listing taxing units]

Movants state the incorrect value is as follows:

[Empty box for stating incorrect value]

Movants makes this motion pursuant to Tax Code Section 25.25(h) – (j) and request that the appraisal review board correct the value.

Respectfully submitted,

sign here [arrow] _____ Date _____
Movant Property Owner

sign here [arrow] _____ Date _____
Appraisal District Representative

sign here [arrow] _____ Date _____
Agent's Signature if on Behalf of Property Owner

Chapter 8

Post-ARB Review

Once the ARB sends the property owner a written order and a copy of the Comptroller's ARB survey by certified mail, the owner will determine if they are satisfied with the outcome or decide if they would like to appeal. If the property owner is dissatisfied with the ARB's findings, he or she has the right to file an appeal with the district court in the county in which the property is located, or, in certain instances, request regular binding arbitration or appeal to the State Office of Administrative Hearings (SOAH).⁵⁰⁸

REVIEW IN DISTRICT COURT

Taxing units and property owners may take their appeals to district court. If a property owner submitted a protest or a motion to correct the ARB order, district court may allow property owners to cure their appeal as a timely filed protest.⁵⁰⁹ In addition, a property owner who appeals an ARB decision has a right to court-approved, non-binding arbitration. The Tax Code requires regular binding arbitration if the appraisal district joins in the motion or consents to the court-approved arbitration.⁵¹⁰

A property owner may appeal an ARB order determining a protest, including an ARB determination that the property owner forfeited the right to a final determination under Tax Code Section 25.25, forfeiture of protest for failure to pay delinquent taxes, the ARB's decision that it lacks jurisdiction to make the determination, and refund of prepayment of fleet transaction taxes on heavy equipment.⁵¹¹ The chief appraiser may appeal an ARB order determining a property owner protest if he or she

has the appraisal district board of directors' written approval and the protested property's appraised or market value is \$1 million or more.⁵¹² The chief appraiser may appeal an ARB order on property valued at less than \$1 million only when the board of directors has given written permission and the chief appraiser alleges the property owner or authorized representative committed fraud or made material misrepresentations at the protest hearing.⁵¹³

The court is entitled to make a final determination of a protest under Tax Code Chapter 41, Subchapter C, or a motion to correct under Tax Code Section 25.25, if the property owner can establish that the ARB had jurisdiction to make a final decision the ARB had determined it lacked jurisdiction to make. The final determination made by the court under this subsection can be on any protest ground, regardless of whether property owners indicated it in their notice of protest.⁵¹⁴

If a plea to the district court's jurisdiction is filed on the basis that a property owner failed to exhaust his or her administrative remedies in a property owner's appeal of an ARB order determining a protest under Tax Code Chapter 41, Subchapter C or a Tax Code Section 25.25 motion, then the district court may, in lieu of dismissing the appeal for lack of jurisdiction, remand the action to the ARB with instruction to allow the property owner an opportunity to cure the property owner's failure to exhaust administrative remedies. However, with the agreement of both parties to the appeal and court approval, the court may determine the appeal's outcome.

⁵⁰⁸ *Tex. Tax Code §41.47(d)*

⁵⁰⁹ *Tex. Tax Code Chapter 42*

⁵¹⁰ *Tex. Tax Code §42.225*

⁵¹¹ *Tex. Tax Code §42.01*

⁵¹² *Tex. Tax Code §42.02(a)*

⁵¹³ *Tex. Tax Code §42.02(c)*

⁵¹⁴ *Tex. Tax Code §42.01(c)*

A lessee who is contractually obligated to reimburse the lessor (property owner) for property taxes can appeal an ARB order to district court. If the lessee appeals the order, the lessee is considered the property owner for appeal purposes. The chief appraiser must send any written notice concerning the appeal to the person bringing the appeal.⁵¹⁵

To appeal, a party other than a property owner must file written notice within 15 days after receiving the notice of an ARB-issued order. Taxing units must file this notice with the chief appraiser. The chief appraiser must file the notice with the ARB.⁵¹⁶

If the chief appraiser or a taxing unit initiates an appeal, the chief appraiser must deliver a copy of the notice to the property owner involved within 10 days after the chief appraiser or taxing unit files the notice.⁵¹⁷

The party initiating the appeal then files a petition for review with the district court no more than 60 days after receiving the notice of the ARB's order. A petition filed after the time limit bars district court appeal. These lawsuits are brought against the appraisal district. A petition for review cannot be brought against the ARB. If a petition is brought against the ARB, the appraisal district's attorney may represent the ARB only to file an answer and seek a dismissal of the suit.⁵¹⁸

A person may intervene in a property tax appeal to the district court, if the property that is the subject of the appeal was also the subject of a protest hearing and the person:

- owned the property at the time during the tax year at issue;
- leased the property at any time during the tax year at issue and the person filed the protest that resulted in the issuance of the order under appeal; or

- is shown on the appraisal roll as the property owner or as a lessee authorized to file a protest and the person filed the protest that resulted in the issuance of the order under appeal.⁵¹⁹

REGULAR BINDING ARBITRATION (RBA)

The Tax Code provides an alternative to filing an appeal in district court.⁵²⁰ A property owner or a person leasing property that is contractually obligated to reimburse an owner for property taxes (protesting party) has the right to appeal ARB decisions through RBA outside of the judicial system. A property owner may seek RBA of an ARB order of determination of a protest on a residence homestead's appraised or market value or unequal appraisal, or other property as determined by the order that is valued at \$5 million or less.⁵²¹ A person leasing property may seek RBA if the property's appraised or market value, as determined by the order, is valued at \$5 million or less.⁵²² A lessee who is contractually obligated to reimburse the property owner for taxes imposed on the property can make this appeal if they brought the original protest, or if the property owner does not appeal the order.⁵²³ The lessee appealing the ARB order is considered the property owner for appeal purposes.⁵²⁴

An ARB that delivers to a protesting party an order determining a protest concerning a person's residence homestead or property that qualifies for RBA must include with the order a notice of the property owner's right to binding arbitration and a copy of the form to request RBA.⁵²⁵

Within 60 days of receiving the notice of determination from the ARB, the protesting party must file a request for binding arbitration with the Comptroller's office and

⁵¹⁵ *Tex. Tax Code §42.015*

⁵¹⁶ *Tex. Tax Code §42.06*

⁵¹⁷ *Tex. Tax Code §42.06*

⁵¹⁸ *Tex. Tax Code §42.21*

⁵¹⁹ *Tex. Tax Code §42.016*

⁵²⁰ *Tex. Tax Code Chapter 41A*

⁵²¹ *Tex. Tax Code §§41A.01 and 41A.011*

⁵²² *Tex. Tax Code §41A.011(a) and (a)(2)*

⁵²³ *Tex. Tax Code §41A.011(a)(1)*

⁵²⁴ *Tex. Tax Code §41A.011(b)*

⁵²⁵ *Tex. Tax Code §41A.02*

include a deposit based on the property's type and value. An owner or lessee of contiguous land that has two or more ARB orders of determination only needs to pay a single arbitration deposit.⁵²⁶ The Comptroller's office notifies the appraisal district of the arbitration filing and the appraisal district provides any necessary information to the Comptroller's office for processing.⁵²⁷ As with filing a suit in district court, if the protesting party requests RBA he or she must pay taxes that are not in dispute before the delinquency date.

After the Comptroller's office receives the RBA request, the protesting party and the appraisal district enter into a 45-day settlement period. If the parties do not reach a settlement by the end of the 45-day period, the Comptroller's office appoints an eligible arbitrator from the Comptroller's registry. The Comptroller's office selects the arbitrator based on the protesting party's request for either an arbitrator who resides in the county in which the property is located or an arbitrator who resides outside the county in which the property is located. If there are no available arbitrators for a specified county, the Comptroller's office appoints a substitute. The protesting party cannot request that the Comptroller's office appoint a specific individual as their arbitrator.⁵²⁸

If the arbitrator's decision is closer to the protesting party's opinion of value stated in the RBA request, the appraisal district pays the arbitrator's fee and the Comptroller's office refunds the protesting party's deposit, less a \$50 administrative fee that the law provides that the Comptroller's office retain. If the arbitrator's decision is closer to the ARB-determined value, or equal to half of the difference between the protesting party's value and the ARB's value, the Comptroller's office pays the arbitrator's fee from the protesting party's deposit.⁵²⁹ The Comptroller's office refunds to the property owner or lessee any deposited amount remaining after paying the

arbitrator's fee and the Comptroller's \$50 administrative fee.

Comptroller rules address the administration of this process.

APPEAL TO STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH)

A property owner in any county may appeal an ARB order of determination to SOAH. To qualify, a property owner must be appealing an ARB order of determination brought under Tax Code Section 41.41(a)(1) or (2) if the property's appraised or market value is more than \$1 million. The program applies to an ARB's appraised or market value determination in connection with real or personal property other than industrial property. A property owner wishing to appeal an ARB determination in connection with minerals may do so to SOAH.⁵³⁰

Upon determining a protest, the ARB must deliver notice of the determination to the property owner along with an explanation of the property owner's rights and a copy of the notice of appeal to SOAH.⁵³¹

To appeal an ARB order to SOAH, a property owner must file with the chief appraiser not later than the 30th day after the date the property owner receives notice of the order a completed notice of appeal to SOAH in the form prescribed and file within 90 days after receiving the ARB order a \$1,500 filing fee payable to SOAH. The chief administrative law judge will prescribe the form of notice of appeal. The form must require the property owner to provide a copy of the ARB order; a brief statement that explains the basis for the property owner's appeal; and a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal.⁵³²

As soon as practicable after receiving a notice of appeal, the chief appraiser must indicate, where appropriate,

⁵²⁶ *Tex. Tax Code §41A.03*

⁵²⁷ *Tex. Tax Code §41A.05*

⁵²⁸ *Tex. Tax Code §41A.07*

⁵²⁹ *Tex. Tax Code §41A.09*

⁵³⁰ *Tex. Gov't Code Chapter 2003, Subchapter Z*

⁵³¹ *Tex. Gov't Code §2003.908*

⁵³² *Tex. Gov't Code §§2003.906 and 2003.907*

those entries in the records that are subject to the appeal, submit the notice of appeal and filing fee to SOAH, and request the appointment of a qualified administrative law judge to hear the appeal.⁵³³

Once a judge has been selected to hear the appeal, the administrative law judge will set the location for the hearing. Appeals will only be heard in the cities of Amarillo, Austin, Beaumont, Corpus Christi, El Paso, Fort Worth, Houston, Lubbock, Lufkin, McAllen, Midland, San Antonio, Tyler and Wichita Falls. If a property is in all or part of one of the municipalities listed, the appeal will be heard in that location. If no part of the property is in a municipality listed, the appeal will be heard in the municipality that is nearest to the subject property.⁵³⁴

⁵³³ *Tex. Gov't Code §2003.906*

⁵³⁴ *Tex. Gov't Code §§2003.902 and 2003.909*

EXHIBIT 30
Model Hearing Procedures



Model Hearing Procedures for
Appraisal Review Boards

I. ARB Membership

[Tax Code Section 5.103(b)(12), (15), and (16)]

1. Administration of ARB Appointments

ARB members have no statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an individual is contacted by an ARB member regarding requesting an appointment to the ARB, the member must direct the individual to the person designated to receive applications or requests for ARB appointment.

2. Conflicts of Interest

Each ARB member must ensure that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or that restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chair in addition to any other individual or entity as required by law. The chair must 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 cannot participate in a protest hearing. If the conflict exists due to the provisions of Local Government Code Chapter 171, the member must file an affidavit with the ARB secretary. The ARB member must file the affidavit 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, the ARB member does not have to file an affidavit but must recuse himself or herself immediately from the hearing and report the conflict to the ARB chair or secretary.

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

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 has interest (i.e. Tax Code Section 41.69 does not require the interest to be substantial). 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 must immediately contact the ARB chair to address the matter.

In the recusal process, the ARB member cannot hear the protest, deliberate on the protest or vote on the matter that is the subject of the protest.

3. Ex Parte and Other Prohibited Communications

ARB members must not engage in prohibited ex parte or other communications. If one or more individuals approach the ARB member and appear to engage or attempt to engage in a prohibited communication, the ARB member must 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 must ensure that he or she understands the statutory duties of the ARB and complies with all statutory requirements in performing statutory duties as an ARB member. Tax Code Section 41.01 addresses the duties of the ARB and the actions they are authorized to make.

2. Notices Required Under the Property Tax Code

Each ARB member must obtain and maintain familiarity with the property tax notices required under the Tax Code. If an ARB member believes that any required notice is not being provided or does not meet the requirements of applicable law, the ARB member must promptly notify the ARB chair. The ARB chair must investigate each report and take appropriate action to correct all verified problems.

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

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 must be carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) must be uniformly applied. The ARB should give due consideration to good cause claims in a manner that properly respects the rights of property owners and their agents 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 must schedule a hearing when a timely notice of protest is filed and, in doing so, the appraisal district can provide the ARB with clerical assistance.

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

Pursuant to Tax Code Section 41.66(i), the ARB must schedule hearing requests filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date.

3. Scheduling Hearings for Multiple Accounts

If requested by a property owner or designated agent, the ARB must schedule consecutive hearings on the same day on protests concerning up to 20 designated properties. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: “request for same-day protest hearings.” A property owner or designated agent can file more than one such request in the same tax year. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule protest hearings concerning more than 20 properties filed by the same property owner or designated agent and may use different panels to conduct the hearings based on the ARB’s customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Tax Code Section 41.66(j).

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

4. ARB Panel Assignments [Tax Code sections 41.66 (k)(k-1) and 41.45(d)(d-1)]

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

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

Tax Code Section 41.66(k-1) allows a property owner or agent to request a special ARB panel to hear a complex property protest if in a county with a population of 1.2 million or more. The owner or agent must consent to a special panel reassignment and may request a postponement if they disagree with the reassignment.

5. Postponements Under Tax Code Section 41.45(e)

A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause. The property owner must request the postponement before the hearing date in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing to a later date if the property owner or designated agent shows good cause for the postponement, as defined in Tax Code Section 41.45(e-2). The property owner or designated agent must request the postponement in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair.

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

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

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

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

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

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

7. Postponements Under Tax Code Section 41.45(g)

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

- (1) the property owner or the owner's agent is also scheduled to appear at an ARB protest hearing in another appraisal district;
- (2) the other scheduled ARB protest hearing is scheduled to occur on the same date as the hearing set by this ARB;

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

- (3) the hearing notice delivered to the property owner or the owner's agent by the other ARB bears an earlier postmark than the hearing notice delivered by this ARB or, if the postmark date 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 postponement request a copy of the hearing notice delivered to the property owner or the owner's agent by the other ARB.

8. Postponements Under Tax Code Section 41.66(h)

The ARB must postpone a hearing (one time only) if the property owner or the designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

9. Postponements Under Tax Code Section 41.66(i)

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

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

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

A property owner or agent must consent to a special panel ARB hearing reassignment or

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

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

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

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

This introductory statement must be read at the beginning of each hearing:

We are the appraisal review [board or panel] that will hear your protest today. We are not employees of the appraisal district. We are appointed to perform an independent review of your protest. You can complete a survey regarding your experience today [provide instructions on how to fill out the survey]. The survey is voluntary. You also have the right to appeal our decision. We will provide the appeal information to you with our determination.

The ARB or ARB panel does not have to read the statement above if the owner or agent has previously appeared before the ARB or any ARB panel for the ARB for that county that same day.

ARBs should conduct most protest hearings in the following order:

- a. Commence the hearing and announce the assigned protest number, property location, property owner and other identifying information.
- b. Announce that, in accordance with Tax Code Section 41.45(h), the parties must provide all written and electronic material that has not been provided.
- c. State that the ARB members who are considering the protest have not communicated with anyone about the protest and have signed affidavits to that effect.
- d. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
- e. Ask if any testifying witness holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- f. Inform witnesses that they must give all testimony under oath and swear-in

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

- all witnesses who plan to testify.
- g. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
 - h. If the property owner or agent presents his/her case first, he/she will present evidence (documents and/or testimony). If witnesses are present, the property owner or agent can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the property owner or agent must state an opinion of the property's value (if applicable).
 - i. Next, the appraisal district representative may cross-examine the property owner, the agent or representative and/or witnesses.
 - j. If the property owner or agent presented his/her case first, the appraisal district representative will present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the appraisal district representative must state an opinion of the property's value (if applicable).
 - k. Then, the property owner or agent can cross-examine the appraisal district representative and/or witnesses.
 - l. The parties cannot examine or cross-examine the ARB members.
 - m. The party presenting its case first can offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
 - n. The other party can then offer rebuttal evidence.
 - o. The party presenting its case first must make its closing argument and state the ARB determination being sought.
 - p. The party presenting its case second must make its closing argument and state the ARB determination being sought.
 - q. The ARB or panel chair must state that the hearing is closed.
 - r. The ARB or panel must deliberate orally. No notes, text messages, or other forms of written communication are permitted.
 - s. The ARB or panel chairman must ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations). Single-member panels must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest. Special panels appointed in certain counties must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination or refer the matter

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

for rehearing to another special panel composed of members who did not hear the original protest. If the ARB does not have at least three other special panel members available, the ARB may make the determination.

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

If the ARB members use computer screens during ARB hearings for reviewing evidence and other information, the ARB must make computer screens available to property owners and agents at the hearings to view the same information that is presented to the ARB members by the appraisal district staff. This requirement is met if the property owner or agent can see all information displayed on at least one computer screen in the hearing location (there is no requirement that the ARB provide the property owner or agent with a separate screen).

If a chief appraiser uses audiovisual equipment at a protest hearing, the appraisal office must provide equipment of the same general type, kind and character for the use of the property owner or agent during the hearing. See section VI, Other Issues, for more information regarding audiovisual equipment requirements.

The property owner or agent and the appraisal district representative are prohibited from debating each other. The parties must direct all communications to the ARB members, except for examination or cross-examination during testimony of witnesses or parties testifying at the hearing.

For taxing unit challenges, motions to correct appraisal records, protests regarding exemptions, or other matters that may be the subject of ARB hearings, the ARB should follow the order of conducting hearings above but may make exceptions for the type of hearing.

Tax Code Section 41.68 and Comptroller Rule 9.803 require that the ARB keep records for each ARB proceeding. This includes the ARB retaining evidence offered or submitted by the parties as required by Tax Code Section 41.45 and Comptroller rules 9.803 and 9.805. The ARB secretary is responsible for ensuring proper record keeping, maintenance and retention.

2. Conducting Hearings by Telephone or Videoconference Call

Tax Code Section 41.45(n) allows a property owner initiating a protest to offer evidence or argument by affidavit without physically appearing. Tax Code Section 41.45(b-1) requires a property owner to request a telephone conference or videoconference call hearing in writing at least five days before the hearing date if the property owner does

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

not have an authorized representative, or 10 days before the hearing date if the property owner has an authorized representative. To offer evidence or argument at a hearing conducted remotely, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted remotely to another person the owner invites to participate in the hearing.

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

3. Conducting Hearings Closed to the Public

Tax Code Section 41.66(d) states that hearings conducted under this chapter are open to the public. Tax Code Section 41.66(d-1) allows the hearing to be closed to the public by mutual agreement between the property owner and the chief appraiser. The chief appraiser and the property owner must file a joint motion to request a closed hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code Section 41.66(d) and (d-1). Only the parties to the protest, their witnesses and the ARB members are permitted to stay in the hearing room. The ARB must follow the same order of proceedings as for hearings open to the public.

The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with Comptroller Rule 9.803, generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27. The ARB must mark as "confidential" and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law.

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

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

4. Right to Examine and Cross-examine Witnesses or Other Parties

Tax Code Section 41.66(b) states that “each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing.”

The ARB cannot prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross-examination. To the extent possible, the ARB should advise the parties in advance of any time limitations that the ARB intends to impose regarding the presentation of evidence.

5. Party's Right to Appear by Agent

The designation of an agent made by Tax Code Section 1.111(b) requires written authorization on a form prescribed by the Comptroller and signed by the owner, a property manager 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.

6. Protest by Person Leasing Property

Tax Code Section 41.413 allows a person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property to protest before the ARB the appraised value of the property if the property owner does not file a protest relating to the property. Under Tax Code Section 41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code Section 1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

V. Evidence Considerations

[Tax Code Section 5.103(b)(8), (11), and (13)]

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

The ARB cannot prohibit a party's right to offer evidence and argument but may enforce time limits and dictate the order of ARB hearings. To the extent possible, the ARB should advise the parties in advance of any time limitations the ARB intends 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.

EXHIBIT 30 (CONTINUED)
Model Hearing Procedures

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

In a protest hearing, the ARB cannot consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for the ARB to consider any appraisal district record (i.e., appraisal roll history, appraisal cards), one of the parties must present it as evidence (e.g. chief appraiser, appraisal district representative, property owner, agent or witness) at the protest hearing.

3. Exclusion of Evidence [Tax Code Section 41.67(d), (e)]

If it is established during a protest hearing that the protesting party previously requested information under Tax Code Section 41.461 and that the opposing party did not deliver the information to the protesting party at least 14 days before the scheduled or postponed hearing, the opposing party cannot use or offer the requested information not made available in any form as evidence in the hearing. The ARB must 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 delivered at least 14 days before the hearing; and
- 2) the information sought to be excluded as evidence was previously requested by the protesting party.

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

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

VI. Other Issues

[Tax Code Section 5.103(b)(17)]

1. Compliance with the Law, Integrity, and Impartiality

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

EXHIBIT 30 (CONCLUDED)
Model Hearing Procedures

2. Patience and Courtesy

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

3. Bias or Prejudice

ARB members must perform their ARB duties without bias or prejudice.

4. Confidential Information

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

5. Required Contents that Vary by ARB

The ARB's adopted hearing procedures must comply with Comptroller Rule 9.805 concerning ARB evidence exchange and retention and audiovisual equipment requirements. The rule requires that ARB procedures include specific items that may vary by ARB. The rule addresses:

- the manner and form, including security requirements, in which a person must provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device;
- how to retain the evidence as part of the ARB's hearing record; and
- the audiovisual equipment provided by an appraisal district, if any, for use by a property owner or the property owner's agent.

This section of the ARB's hearing procedures must address each item required in Comptroller Rule 9.805.

January 1, 2026
Property Tax Assistance Division
Texas Comptroller of Public Accounts

Statement of Compliance

In compliance with Tax Code Section 5.041, ARB members must acknowledge and sign this form upon completing the mandatory Appraisal Review Board (ARB) new member training or upon completing the mandatory continuing education training for returning ARB members. An ARB member may not participate in ARB hearings, vote on a determination of a protest, or be reappointed to an additional term on the ARB unless the person has completed the appropriate ARB training course, has received a certificate of course completion and has completed this statement indicating agreement to comply with the Tax Code in conducting ARB hearings.

I, _____,
Print Name

ARB member for the county of _____,
County

successfully completed the Comptroller's ARB new member/continuing education training program on

_____,
Date

Pursuant to Tax Code Section 5.041, I hereby affirm that I will comply with Tax Code requirements governing ARB protest hearing procedures.

Print Here → _____
Print Name

Sign Here → _____
Signature Date

For more information, visit our website:

comptroller.texas.gov/taxes/property-tax

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