

SAN SABA COUNTY APPRAISAL REVIEW BOARD

HEARING PROCEDURES

The Appraisal Review Board (ARB) performs a judicial function in the property tax system. It is a separate body from the appraisal district office and serves a different function. The ARB members are appointed by the appraisal district Board of Directors. These directors have no authority over how the ARB conducts its business.

The ARB is the first level of review in the property tax system. It is a quasi-judicial entity with responsibility to review appraisals that have been protested by property owners. The ARB only has authority over protests submitted to it and has no role in the day-to-day operations of the appraisal office or in appraising property. It cannot instruct the appraisal staff about how to perform appraisals. Only in resolving taxpayer protests can the ARB make changes or set a value on its own, and such a change only affects the property in question.

The *Texas Property Tax Code* requires that in deciding these issues, all taxable property must be appraised at market value and all such property must be treated fairly and equitable in comparison with others of like kind. The *Texas Property Tax Code* Section 41.66 requires the Appraisal Review Board to adopt procedures for the hearings in conducts. The San Saba County Appraisal Review Board has adopted the following procedures in order to assist it in carrying out its duties and responsibilities.

HEARING PROCEDURES

Hearing procedures to the greatest extent practicable shall be informal. *Roberts Rules of Order* will be followed during the hearing and upheld by the chairman of the board. Pursuant to the terms in Section 41.66 (d), of the *Texas Property Tax Code*, all hearings conducted by the ARB are open to the public, except when an executive session is permitted by law. A copy of these Hearing Procedures is given to each property owner or agent making the protest and shall be posted in a prominent place in the room in which the hearing is held.

An employee of the appraisal district office will be designated as "Secretary to the appraisal Review Board" as provided by Section 6.43 of the *Texas Property Tax Code*. This appraisal district employee is responsible for scheduling and posting hearings, mailing notices and administering the ARB's operations.

PROPERTY OWNER PROTEST

Upon receipt of the Notice of Appraised Value, the property owner has 30 days to file a protest. The property owner may do this by telephoning the chief appraiser, talking to the Chief Appraiser in person or mailing their Notice of Protest form by post office or electronically to the appraisal district.

The chief of appraiser will try to resolve the dispute before the ARB hearing in informal hearings. Residence homestead owners may reach a settlement with the appraisal district by electronic exchange of data. This process is not available to an owner represented by a tax agent.

If the property owner and the chief appraiser reach a settlement agreement to the owners' protest, both parties must sign a "Settlement and Waiver of Protest" form. By signing this form, the property owner agrees on a settlement and drops the protest on the matter. If the owner's agent signs the form, the agreement between the agent and the chief appraiser is final. The ARB may not review or reject agreements between an owner and the chief appraiser.

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 property owner filed a timely Notice of Protest.

A written notice will be delivered to the property owner initiating the protest with the date, time, and place fixed for the hearing the protest unless the property owner waives in writing notice of the hearing. The written notice shall be delivered no later than the 15th day before the date of the ARB hearing. Included with this notice will be a copy of the pamphlet *Property Taxpayer Remedies*, a copy of the ARB Hearing Procedures and information on how to obtain a copy of the data, schedules, formulas and all other information the chief appraiser plans to introduce at the ARB hearing to establish any matter at issue. In addition, the protesting party may ask for comparable sales data from a reasonable number of sales that is relevant. Once the protestor or agent has this information it remains confidential and cannot be disclosed or used except at the protest hearing. The charge for these copies provided to an owner or agent may not exceed the charge for copies of public information and may not exceed a total of \$15.00 for each residence and \$25.00 for other than residential properties. Failure to comply with furnishing the requested information can result in a one-time postponement of the hearing if the protesting party requests additional time to prepare and establishes that the chief appraiser did not deliver the information. Requested information that was not made available in a timely manner cannot be used as evidence at the ARB hearing.

Either the protesting party or the chief appraiser may request that a scheduled hearing be postponed. The property owner who has not designated an agent is entitled to one postponement without showing cause. In addition, a property owner or agent is entitled to an unlimited number of postponements if they show good cause for the postponement or if the

chief appraiser consents to the postponement. Good cause means a reason that includes an error or mistake that was not intentional or the result of conscious indifference and that will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling. If these conditions are met, the ARB chairman must postpone the hearing for 5 to 30 days. The property owner may request a postponement in writing, including by fax or e-mail, by telephone or in person to the full ARB, the chair of the ARB or the chief appraiser.

Between the time a protest is filed and the time of the hearing by the ARB, pursuant to Section 41.66 of the *Texas Property Tax Code*, the ARB member shall not communicate with anyone about a protest, including evidence, argument, facts or any merits of the case. An ARB member is also prohibited from communicating with another person concerning a property that is the subject of the protest, except when the property is discussed in another protest or used before the ARB as a comparison or sample property in another protest or proceeding. At the beginning of each hearing, each member of the ARB shall sign an affidavit form stating that he or she has not communicated with any person in violation of this provision. If a member of the ARB cannot sign such affidavit, that ARB member shall not participate in the protest hearing and shall excuse him/herself from further hearing of the protest. If a quorum of members remain after the ineligible member removes him/herself, this member will not be replaced and the protest will be heard and determined. If a majority of the ARB members have communicated with anyone concerning the protest, the hearing must be postponed so that the temporary members may be contacted.

APPEARANCE AT THE PROTEST HEARING

The chairperson elected by the ARB shall preside over all hearings of the board. In absence of the chairperson, the secretary elected by the board shall preside. The presiding board member may vote or make motions in any matter before the board.

Appointments will be scheduled on Monday through Friday, 9:00 am until noon and 1:00 pm until 3:45 pm, at 30 minute intervals. Upon receiving the scheduled day and time of the hearing, a protesting property owner may request for a hearing in the evening or on a Saturday or Sunday. The protest shall be heard in the order scheduled. If the protesting party is late, the protest shall be moved to the end of the schedule or another time as determined by the presiding officer. A protesting property owner who chooses not to attend an ARB hearing may appear by affidavit. In this case the owner must file a notarized affidavit before the ARB hears the protest. The protesting property owner may submit a notarized letter that includes the owner's name, a property description and evidence or argument. If a scheduled protesting party, who is not represented by an agent, does not appear at the hearing is entitled to a new hearing if he or she writes to the ARB or chief appraiser, no later than the fourth day after the

date the hearing occurred. The letter requesting the new hearing shall include a statement showing good cause for the failure to appear.

EVIDENCE EXCHANGE AND RETENTION

Before or immediately after an appraisal review board (ARB) hearing begins, the appraisal district and the property owner or the owner's agent shall each provide the other party with a duplicated set of the evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing. One set of these materials is to be exchanged with and retained by the other party, and another set of these materials is to be provided to and retained by the ARB as evidence for its records as required under Section 9.803 of this title (relating to Requirements for ARB Records). The duplicated material sets shall be produced in either paper or electronic form.

AUDIOVISUAL EQUIPMENT REQUIREMENTS

Evidentiary materials produced on a portable electronic device shall be saved in a file format type and downloaded to a small, portable, electronic device. The file format type and small, portable, electronic device must be considered generally accepted technology and must be suitable for retention by the recipient. For security purposes, the electronic files on devices produced pursuant to this section shall be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance by or exposure to the recipient's computer system.

The appraisal review board shall determine the types of file formats and devices which meet the requirements of the previous paragraph and specify the types of file formats and devices. Example of file format types that may be considered acceptable include but are not limited to the Adobe portable document format (PDF); Microsoft PowerPoint, typically used for presentations or slideshows; and JPEG (.jpg or .jpeg) for photographs. Examples of the general types of small, portable, electronic devices suitable for retention by the recipient that may be considered acceptable include but are not limited to USB flash drives (i.e., thumb or jump drives, USB or memory sticks), and compact discs (i.e., CDs, DVDs) with various characteristics. The appraisal district and the property owner or property owner's agent may agree to exchange evidence in a manner other than provided in ARB hearing procedures so long as a copy of the evidence may be retained in the records of the ARB and satisfies the requirements of evidence exchange and retention.

If the appraisal district uses audiovisual equipment at ARB hearing, the appraisal district shall make available this same equipment or audiovisual equipment of the same general type, kind,

and character for use at the hearing by the property owner or the owners' agent. The equipment made available shall be capable of reading and accepting the same types of file formats and devices the ARB has determined are generally accepted. In the alternative, property owners and their agents may bring their own audiovisual equipment for their presentation of evidentiary materials at ARB hears. If the operation of audiovisual equipment at the hearing requires access to a connection with Internet for the presentation, the parties must provide their own Internet connection and access through their own service provider. The property owner and the owner's agent may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available as previously described in these hearing procedures. The appraisal district and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in the hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.

ORDER OF THE PROCEEDINGS

1. Introduction of ARB members by chairman of board
2. Introduction of protesting property owner and description of property subject to protest
3. Signing of affidavit regarding ex parte communications by board members
4. The chairman or acting chairman will advise the protesting party of the procedure that will be followed: (a) Testimony will be limited to 30 minutes (b) Testimony will be heard from the property owner first and then the chief appraiser (c) Rebuttal by property owner (d) Rebuttal by chief appraiser
5. The chairman will announce that the ARB's final decision will be made at a later time after all evidence is considered and the decision will be mailed by certified mail

The property owner and the chief appraiser will be allowed to present witnesses, documentary evidence, photos and related arguments. The chief appraiser or the ARB may cross-examine the parties or witnesses for a reasonable time as determined by the presiding officer. All cross examinations shall be informal with all questions concerning procedure determined by the presiding officer. Questions shall be limited to matters relevant to the protest.

At the conclusion of the hearing, the ARB may make its final determination by vote recorded by the secretary, may take the matter under advisement for further deliberation or allow receipt of additional evidence. If the ARB determines that a postponement of the hearing is required for any reason, the board shall schedule a hearing at a later date and inform the parties of the rescheduled hearing date and time. The rescheduled hearing shall be not less than five (5) nor

more than fifteen (15) days after the original hearing date unless all parties agree otherwise. If the protest is taken under advisement, each further deliberation by the board shall occur in an open meeting of the board. Upon conclusion of a hearing, the ARB shall not accept any additional evidence or arguments from any party. Upon making its final determination, the board shall deliver an Order Determining Protest to the property owner or agent by certified mail with return receipt requested within five (5) working days.

HEARING RECORDS

The secretary of the ARB shall take detailed minutes and may make a taped recording of the hearing in compliance with the *Texas Open Meetings Act*, Article 6252. The chief appraiser or her representative shall appear at each protest hearing on behalf of the appraisal district.

Hearing records shall contain the following:

1. Name of the ARB members present and the date of the hearing and proceedings
2. Name and residence address of the property owner or agent or the challenging taxing unit
3. Description of the property subject to protest or challenge
4. Summaries of the nature of the case
5. Summary of testimony
6. Documents or physical evidence admitted as evidence
7. Name and residence address of every witness and a statement that the witness testified under oath
8. Formal motions made and the ARB's ruling on the motions
9. Ex parte affidavits signed by the ARB
10. Final decision order or a reference number of final order the ARB issued
11. The date of any final order and the date the notice is placed in the mail

TAXING UNIT CHALLENGE

A challenge by a taxing unit shall be heard in the same manner and pursuant to the same rules of procedure as a protest from a property owner, with the following exceptions:

1. The secretary of the board shall deliver to the presiding officer of the governing body of each taxing unit entitled to appear at a challenge hearing, written notice of the date, time and place fixed for the hearing, not later than the 10th day before the date of the hearing
2. If a challenge petition concerns fewer than five (5) properties, the owners of those properties shall be allowed to appear and offer evidence and argument at the hearing of the challenge petition
3. The provisions of Section 41.66 (f) and (g) of the *Texas Property Tax Code* do not apply to hearing on challenge petitions
4. Documents and records are not inadmissible before the ARB merely because the offering party failed to produce them for inspection to the opposing party prior to the hearing

COMPLAINTS AGAINST ARB MEMBER

The Appraisal Review Board is responsible for operating within its By Laws and Operating Procedures. Notwithstanding, in the event the Board receives a written complaint against an appraisal review board member, of the San Saba Appraisal Review Board, the Board of Directors of the appraisal district will review the issue(s) raised and supporting documentation, giving it proper consideration, consistent with the Board's legislative authority to act under Sections 6.41(f) of the *Texas Property Tax Code*.



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 the 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.

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.

2. Notices Required under the Property Tax Code

Each ARB member must obtain and maintain familiarity with notices required under the Property 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.

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 carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) must 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.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled 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.

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. The ARB can schedule more than one protest hearing at the same time and date; however, the 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.

3. Scheduling Hearings for Multiple Accounts

If requested by a property owner or the 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 Section 41.66(j).

4. ARB Panel Assignments [Tax Code Section 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 one 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.

Once a protest is scheduled for a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or a designated agent. If the ARB reassigns a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB must postpone the hearing if requested in this situation. Pursuant to Tax Code Section 41.66(k), "[a] change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel."

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 facsimile, 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 if the property owner or the designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). The property owner or designated agent must request the postponement in writing, including by facsimile, 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 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 if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by facsimile, 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 file, 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;
- (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 can 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 that 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

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 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

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

for rehearing to a another special panel composed of members who did not hear the original protest. If 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 written request for email delivery of the notice of determination. 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 can offer evidence or argument by affidavit without physically. Tax Code Section 41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10th

day before the date of the hearing if the property intends to appear remotely.. 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 see the property owner's argument.

3. Conducting Hearings Closed to the Public [Tax Code Section 41.66(d), (d-1)]

The chief appraiser and the property owner must file a joint motion to request that 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 of the proprietary or confidential information during the open meeting.

4. Right to Examine and Cross-Examine Witnesses or Other Parties

Tax Code Section 41.66(b) states that "each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing." The ARB 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 an Agent

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property can file a protest if the property owner does not and to designate, under Tax Code Section 41.413, another person to act as his/her agent with the same authority and limitations as an agent designated under Tax Code Section 1.111.

V. Evidence Considerations

[Tax Code Section 5.103(8), (11), and (13)]

1. A Party's Right to Offer Evidence and Argument

The ARB 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.

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 Required by 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(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.

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

ARB model 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.

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Property Tax Assistance Division
Texas Comptroller of Public Accounts