

## Atascosa Central Appraisal Review Board Hearing Procedures

### A. Comptroller's Model Hearing Procedures

#### 1. ARB Membership

##### a. Administration of ARB Appointments:

ARB members are not provided any statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an ARB member is contacted by an individual regarding requesting an appointment to the ARB, the member shall direct the individual to the person designated to receive applications or requests for appointment for the ARB.

##### b. Conflicts of Interest

Each ARB member is responsible for ensuring that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chair in addition to any other individual or entity as may be provided by law. The chair shall ensure prompt notification of reported conflicts of interest to the appropriate individuals.

If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member may not participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, an affidavit must be filed with the secretary of the ARB. The affidavit must be filed as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, no affidavit must be filed; however, the ARB member must recuse himself or herself immediately from the hearing and report the conflict to the chair or secretary of the ARB.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of "substantial interest," Tax Code Section 41.69 applies to any protest in which an ARB member is interested (i.e. there is no requirement under Tax Code Section 41.69 that the interest be substantial). Therefore, while a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether or not he or she has a conflict of interest that might prohibit his or her involvement, the member shall immediately contact the ARB chair to address the matter.

In the recusal process, the ARB member not only may not vote on the matter that is the subject of the protest, but also may not hear or deliberate on the protest.

##### c. Ex Parte and Other Prohibited Communications

ARB members shall not engage in prohibited ex parte or other communications. If an ARB member is approached by one or more individuals that appear to be engaging or attempting to

engage in a prohibited communication, the ARB member shall immediately remove himself or herself from the conversation.

## 2. ARB Duties

### a. Statutory Duties of an ARB

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

### b. Notices Required under the Property Tax Code

Each ARB member is responsible for obtaining and maintaining familiarity with notices required under the Property Tax Code. If an ARB member has reason to believe that any notice that is required by law to be provided by the ARB is not being provided or does not meet the requirements of applicable law, the ARB member shall promptly notify the ARB chair. The ARB chair shall investigate each such report and take appropriate action to correct all verified problems.

### c. Determination of Good Cause under Tax Code Section 41.44(b)

“Good cause” for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests should be carefully considered and standards in making determinations of good cause under Tax Code Section 41.44(b) should be uniformly applied. The ARB should give due consideration to good cause claims in such a manner that properly respects the rights of property owners while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

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

### a. Scheduling Hearings Generally

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

### b. Scheduling Hearings for Property Owners not Represented by Agents

Pursuant to Tax Code Section 41.66(i), hearings filed by property owners not represented by agents designated under Tax Code Section 1.111 shall be scheduled for a specific time and date. More than one protest may be scheduled for hearings at the same time and date; however, if a hearing for a property owner is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time, the ARB is required to postpone the hearing, if a postponement is requested by the property owner. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

### c. Scheduling Hearings for Multiple Accounts

If requested by a property owner or a designated agent, hearings on protests concerning up to 20 designated properties shall be scheduled on the same day by the ARB. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: "request for same-day protest hearings." No more than one such request may be filed in the same tax year by a property owner or a designated agent. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule hearings on protests concerning more than 20 properties filed by the same property owner or designated agent and may use different panels to conduct the hearings based on the ARB's customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Section 41.66(j).

### d. ARB Panel Assignments

If an ARB sits in panels as authorized by Tax Code Section 41.45(d), protests shall be assigned randomly, except that the ARB, with or without clerical assistance from the staff of the appraisal district, may consider the type of property or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Once a protest is scheduled to be heard by a specific panel, it shall not be reassigned to another panel without the consent of the property owner or a designated agent. If the ARB has cause to reassign a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB is required to 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."

### e. Postponements Under Tax Code Section 41.45(e)

A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause, if the request is made before the date of the hearing. The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB, an ARB panel, or the ARB chair. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed ARB agreed to by the ARB chair or the chair's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition and without limit as to the number of postponements, the ARB shall postpone a hearing if the property owner or his/her designated agent at any time shows good cause, as defined in Tax Code Section 41.45(e-2). The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB, an ARB panel, or the ARB chair. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may take action on the request for

postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chair or the chair's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition and without limit, the ARB shall postpone a hearing if the chief appraiser consents to the postponement. The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB, an ARB panel, or the ARB chair. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed ARB agreed to by the ARB chair or the chair's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

f. Postponements Under Tax Code Section 41.45(e-1)

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

g. Postponements Under Tax Code Section 41.45(g)

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

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

h. Postponements Under Tax Code Section 41.66(h)

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

i. Postponements Under Tax Code Section 41.66(i)

Hearings on protests filed by property owners not represented by agents designated under Tax Code Section 1.111 shall be scheduled for a specific time and date. More than one protest may be scheduled for hearings at the same time and date; however, if a hearing for a property owner is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time, the ARB is required to postpone the hearing, if a postponement is requested by the property owner. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

j. Postponements Under Tax Code Section 41.66(k)

If a protest is scheduled to be heard by a particular panel, the protest may not be reassigned to another panel without the consent of the property owner or designated agent. If the ARB has cause to reassign a protest to another panel, a property owner or designated agent may agree to reassignment of the protest or may request that the hearing on the protest be postponed. The ARB shall postpone the hearing on that request. 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. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

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

This introductory statement should be read at the beginning of each hearing:

We are the appraisal review [board or panel] that will be hearing your protest today. we do not work for the appraisal district. We are appointed to perform an independent review of your protest. At the end of the hearing, you may complete a survey regarding your experience here today [provide instructions on where to fill out the survey]. The survey is voluntary. You also have the right to appeal our decision. Appeal information will be provided to you with our determination.

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.

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

- i. Commence the hearing and announce the assigned protest number, property location and owner, and other identifying information.
- ii. Announce that, in accordance with Tax Code Section 41.45(h), all written and electronic

- material that has not been provided must be provided.
- iii. State that the ARB members who ARB considering the protest have not communicated with anyone about the protest and have signed affidavits to that effect.
  - iv. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
  - v. 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.
  - vi. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify.
  - vii. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
  - viii. If the property owner or agent presents his/her case first, he/she shall present evidence (documents and/or testimony). If witnesses are present, the property owner or agent may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
  - ix. Next, the appraisal district representative may cross-examine the property owner, the agent, or the representative and/or witnesses.
  - x. If the property owner or agent presented his/her case first, the appraisal district representative shall present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
  - xi. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
  - xii. Members of the ARB shall not be examined or cross-examined by parties. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
  - xiii. The other party may then offer rebuttal evidence.
  - xiv. The party presenting its case first shall make its closing argument and state the ARB determination being sought.
  - xv. The party presenting its case second shall make its closing argument and state the ARB determination being sought.
  - xvi. The ARB or panel chair shall state that the hearing is closed.
  - xvii. The ARB or panel shall deliberate orally. No notes, text messages, or other forms of written communication are permitted.
  - xviii. The ARB or panel chair shall ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue to be determined. A vote shall be taken and recorded by a designated appraisal district staff person or member of the ARB assigned for this purpose. Separate motions and determinations must be made for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations).
  - xix. Thank the parties for their participation and announce the determination(s)

of the ARB and that an order determining protest will be sent by certified mail.

If computer screens are used by ARB members during ARB hearings for reviewing evidence and other information, computer screens also must be available to property owners and agents at the hearings to view the same information that is presented to the ARB members by the appraisal district staff. This requirement is met if the property owner or agent can see all information displayed on at least one computer screen in the hearing location (there is no requirement that the property owner or agent be provided a separate screen).

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 titled "Other Issues" below for more information regarding audiovisual equipment requirements.

The property owner or agent and the appraisal district representative are prohibited from debating each other. All communications must be directed to the ARB members, except for examination or cross-examination during testimony of witnesses or parties testifying at the hearing.

For taxing unit challenges, motions to correct appraisal records, protests regarding exemptions, or other matters that may be the subject of ARB hearings, the ARB should follow the order of conducting hearings above, but may make exceptions for the type of hearing.

Records for each ARB proceeding must be kept according to Tax Code Section 41.68 and Comptroller Rule 9.803. This includes the ARB retaining evidence offered or submitted by the parties as required by Tax Code Section 41.45 and Comptroller Rules 9.803 and 9.805. The secretary of the ARB is responsible for ensuring proper record keeping, maintenance, and retention.

#### b. Conducting Hearings by Telephone Conference Call

A property owner initiating a protest is entitled to offer evidence or argument by affidavit without personally appearing. To appear at a hearing by telephone conference call, a property owner must notify the ARB by written request not later than the 10th day before the date of the hearing. To offer evidence or argument at a hearing conducted by telephone conference call, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted by telephone conference call to another person the owner invites to participate in the hearing.

#### c. Conducting Hearings Closed to the Public

A joint motion by the chief appraiser and the property owner is required to request that the hearing be closed due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair shall convene the hearing as an open meeting and then announce that the meeting will be closed to the public as permitted by Tax Code Sections 41.66(d) and (d-1). Only

the parties to the protest, their witnesses, and the ARB members are permitted to stay in the hearing room. The same order of proceedings as for hearings open to the public should be followed.

The secretary of the ARB is responsible for ensuring that a separate tape recording or written summary of testimony is kept for the closed meeting in accordance with the provisions of Comptroller Rule 9.803 generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27 and shall be marked as “confidential” and maintained as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel shall confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The confidentiality of the information must be maintained by the ARB members and disclosed only as provided by law.

After deliberation, the ARB shall reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. There must be no mention of the proprietary or confidential information during the open meeting.

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

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

e. Party’s Right to Appear by an Agent

The ARB shall accept and consider a motion or protest filed by an agent if an agency authorization is filed at or before the hearing on the motion or protest. The ARB may not require that an agency authorization be filed at an earlier time. The ARB may not require a person to designate an agent to represent the person in a property tax matter other than as provided by Tax Code Section 1.111.

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

5. Evidence Considerations

a. Party’s Right to Offer Evidence and Argument

The ARB may not prohibit a party’s right to offer evidence and argument. However, the ARB may enforce time limits and dictate the order of ARB hearings. To the extent possible, the parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument.



b. Prohibition of Consideration of Information Not Provided at the ARB Hearing

In a protest hearing, the ARB will not consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for any appraisal district record (i.e., appraisal roll history, appraisal cards) to be considered by the ARB, it must be presented as evidence by or on behalf of a party (e.g. chief appraiser, appraisal district representative, property owner, agent, or witness) at the protest hearing.

c. Exclusion of Evidence Required by Tax Code Section 41.67(d)

If it is established during a protest hearing that information was previously requested under Tax Code Section 41.461 by the protesting party and that the information was not made available to the protesting party at least 14 days before the scheduled or postponed hearing, the requested information not made available may not be used as evidence in the hearing. The ARB shall make a determination to exclude evidence under Tax Code Section 41.67(d) only if evidence presented at the hearing establishes that: (1) the information sought to be excluded as evidence was not made available at least 14 days before the hearing; and (2) the information sought to be excluded as evidence was previously requested by the protesting party.

6. Other Issues

a. Compliance with the Law, Integrity, and Impartiality

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

b. Patience and Courtesy

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

c. Bias or Prejudice

Members of the ARB shall perform their ARB duties without bias or prejudice.

d. Confidential Information

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

e. Required Contents That Vary By ARB

ARB model hearing procedures must comply with Comptroller Rule 9.805 concerning appraisal review board 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 the evidence must be retained 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

## **B. Atascosa County ARB's Local Hearing Procedures**

### 1. Accommodations

If timely requested in writing a reasonable time in advance of the hearing, reasonable accommodations will be made for persons who do not speak English or who are disabled.

### 2. Recordings

All meetings and hearings will be recorded. Property owners are allowed to record the meetings with their own personal recording equipment, so long as they do so in a manner that that does not, in the discretion of the Board, disrupt the meeting, inconvenience or endanger other attendees. Accordingly, property owners are not allowed to use stationary recording devices, or walk around the room carrying a recording device.

### 3. Jurisdiction and Scope

The Board will take no action on a matter if they lack jurisdiction to do so, if a protest or motion has been cancelled or withdrawn, if the protesting or moving party and the Chief Appraiser agree to a resolution, even when reached during a hearing, or if the protesting or moving party fails to appear at their scheduled hearing. The Board reserves the right to deny a hearing on any matter that it does not have jurisdiction or authority to determine. The scope of the Board's determinations during hearings shall be limited to matters cited in the notice of protest or other written request for relief to the Board.

### 4. Conduct

The Board will not tolerate abusive language or disruptive behavior during its meetings and hearings, and will limit the testimony or refuse to hear further testimony of any person guilty of these offenses. Determinations on the protests of such persons will be treated with the same careful consideration as all others

### 5. Good Cause for Late-filed Protests

When a property owner files a protest after the legal deadline but before the Board has approved the appraisal records, the Board will make a determination as to whether the property owner had good cause for the failure to file the protest on time. The Board will make this determination of good cause based solely upon the property owner's written explanation of good cause prior to

scheduling any hearing. Good cause, for the purpose of making this specific good cause determination, is strictly limited to a reason that includes: 1) the property owner is on active military duty; 2) the property owner is in the hospital or under a doctor's care at the time the deadline expired; or 3) there has been a recent death in the property owner's immediate family. Good cause, for the purpose of making this specific determination, is not a reason that includes: being out of the area, being out of the state, being out of the country, or failing to recognize the deadline. The decision to allow a hearing on a late-filed protest received before the Board's deadline to approve the appraisal records based upon the demonstration of the requisite good cause is to be determined by the Board, in its sole discretion. If the Board determines good cause exists, a protest filed after the legal deadline but before the Board has approved the appraisal records shall be scheduled for a hearing.

## 6. Postponements

A granting of any postponement does not require the delivery of any additional written notice(s) to the property owner.

Good cause for the purpose of determining whether a property owner or agent is entitled to a new hearing on their protest or motion following a failure to appear at a scheduled hearing or for the purpose for determining whether a property owner or agent is entitled to a "good cause" postponement means a reason that includes an error or mistake that:

- a. Was not intentional or the result of conscious indifference; and
- b. Will not cause undue delay or other injury to the Board.

## 7. Testimony

All persons who appear before the Board in person shall be sworn and shall testify under oath. If any individual refuses to take an oath or be sworn, the Board's secretary shall note this refusal for the record before the Board hears testimony from the refusing individual.

## 8. Authorization

Proper authorization for someone to claiming to represent a property owner must be established before a hearing can continue. If the proper form required for an agent designated under Tax Code Section 1.111 or other proper written authorization has not been filed with the Board before a hearing begins, an unauthorized protest will be dismissed.

The Board will not act to cut off the property owner's right to a hearing on their protest when a property owner's agent is not registered with the Texas Department of Licensing and Regulations (the "TDLR"). The Board's presiding officer will report the property owner's agent's noncompliance to the TDLR office.

## 9. Exchange of Evidence/Compliance with Tax Code Section 41.461

Before or immediately after a 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 Board 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 Board as evidence for its records as required under Comptroller Rule §9.803 (relating to Requirements for Appraisal Review Board Records).

The duplicated material sets shall be produced in either paper or electronic form. Evidentiary materials produced in electronic form shall be saved in an acceptable file format type and downloaded to an acceptable small, portable, electronic device to be retained by the Board.

The Board will accept the following electronic file types on CD and USB flash drives only: Pictures: .jpg, .jpeg, .bmp, .tif; PDF: .pdf; Excel: .xls, .xlsx; Documents (Word, Text): .doc, .docx, .rtf, .txt. For security purposes, the electronic files on devices provided to the Board must 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 Board will not accept or consider evidence on PCs, tablet computers, smart phones, PDAs, video recorders, projectors, digital cameras, cell phones or any other medium that cannot be retained by the Board.

The Chief Appraiser is required to comply with Tax Code Sec. 41.461, by notifying the property owner, at least 14 days prior to the hearing that they may inspect or request/obtain copies of any written information the Chief Appraiser plans to introduce at the hearing. The Board shall consider written notification of the property owner's rights to this material sufficient, if provided at least 14 days prior to a scheduled hearing. Information not made available for inspection or copying in compliance with this requirement will not be admitted as evidence at the hearing. However, the information that might be used as evidence is not required to be delivered 14 days before the hearing. The property owner must only be informed that the information may be inspected and be informed that a copy may be obtained in order to establish compliance this provision.

#### 10. Audiovisual Equipment Requirements

The Board understands that Appraisal District will be using audiovisual equipment during Board hearings. The Board also understands that Appraisal District shall make the same or similar audiovisual equipment available for use at the hearing by the property owner or the owner's agent. The audiovisual equipment made available shall be capable of reading and accepting the same types of file formats and devices accepted by the Board. In the alternative, property owners and their agents may bring their own audiovisual equipment for their presentation of evidentiary materials at Board hearings. If the operation of audiovisual equipment at the hearing requires access to and connection with the Internet for the presentation, the parties must provide their own Internet connection and access through their own service provider.

The property owner and the owner's agent may not access the Appraisal District's network or Internet connection nor any of the Appraisal District's technology or equipment other than that made available herein. The Appraisal District and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in these local hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.

## 11. Hearings Schedule

The Board may adjust its agenda order during a hearing and may defer or continue a hearing to a later date at its option, or upon request of a party, but in any event, the decision to defer or continue a hearing shall be within the sole discretion of the Board.

## 12. Time Limits

In general, the hearing shall be limited to 15 minutes. The Board shall, in its discretion, allow additional time in particularly complicated matters, or shorten time when the presentation is repetitive, unprofessional, or otherwise deemed unnecessary.

## 13. Burden of Proof

The Board shall keep in mind while evidence is being presented that the Appraisal District has the burden of proof in hearings on protests over the appraised or market value of a property, as well as in hearing on protests on unequal appraisal. In those instances, the Appraisal District must prove the value is correct by a preponderance of the evidence. The property owner or agent will have the burden of proof on all other matters. The Board shall also keep in mind that the burden of proof may change or shift, in accordance with Tax Code Sections 41.43(a-1), 41.43(a-2), 41.43(a-3), 41.43(d) and the Board shall follow and observe any required shifts or changes in the burden of proof. If a statutorily required burden of proof is met by the party bearing such burden, the ARB must make determinations based on the weight of the evidence presented by both parties. Meeting the burden of proof standard does not automatically cause the party with the burden to prevail.

## 14. Protests filed pursuant to Tax Code Section 41.411

When the Board receives a protest alleging the failure of the Appraisal District or the Board to provide or deliver any notice to which a property owner is entitled to filed pursuant to Tax Code Section 41.411 prior to the date the subject property's taxes become delinquent, the property owner will be entitled to a hearing and determination on the protest.

If a property owner files such a protest on or after the delinquency date, but not later than the 125th day after the property owner in the protest filed claims to have first received written notice of the taxes in question, the property owner will be entitled to a hearing solely on the issue of whether one or more taxing units delivered a tax bill. If at that hearing the Board determines the all of the taxing units failed to timely deliver a tax bill, the Board shall determine the date on which at least one taxing unit first delivered written notice of the taxes in question, and the delinquency date for purposes of Tax Code Section 41.44 shall be postponed until the 125th date after that date.

Regardless of when a Tax Code Section 41.411 is filed with the Board, a property owner is required to pay the amount of taxes due on the taxable portion of the subject property that is not in dispute before the delinquency date, or the property owner shall forfeit their right to a final determination on their Tax Code Section 41.411 protest. However, a property owner may be excused from this requirement if, after filing an oath of inability to pay, the Board determines that compliance with this requirement would constitute an unreasonable restraint on the property owner's right to access

the Board.

Upon the request of any party to a Tax Code Section 41.411 protest, before hearing the merits of the protest, the Board shall determine the property owner's compliance with the requirement to pay the amount of taxes due on the taxable portion of the subject property that is not in dispute before the delinquency date. If the property owner has not substantially complied with this requirement, the property owner's Tax Code Section 41.411 protest shall be dismissed. The Board may set terms and conditions on the property owner's compliance with this requirement including, without limitation, requiring the property owner to provide sufficient detail in his/her oath of inability to pay for the Board to determine why the property owner cannot afford to pay the taxes and requiring the property owner to provide proof of a written agreement with the taxing authorities to pay off the amount of taxes due on the taxable portion of the property that is not in dispute. If the Board determines that the property owner has substantially, but not fully complied with this payment requirement or that the property owner has not fully complied with the Board's terms and conditions, the Board shall dismiss the Tax Code Section 41.411 protest unless the property owner submits written documentation proving full compliance within 30 days of said determination.

If a property owner has paid the taxes due on the taxable portion of the subject property that is not in dispute before the delinquency date or following a determination by the Board that the property owner has fully complied with all payment requirements or terms and conditions, during the hearing on the merits of a Tax Code Section 41.411 protest, the Board will consider evidence from the property owner on whether the Appraisal District or the Board failed to provide or deliver any notice to which a property owner is entitled to, and make a determination on that issue. If the Board determines that the notice in question was delivered or provided to the property owner, the Tax Code Section 41.411 protest will be denied. If the Board determines that the notice in question was not delivered or provided to the property owner, the Tax Code Section 41.411 protest will be granted, and the Board will then, in the same hearing, determine the property owner's protest on any other authorized grounds related to the notice in question.

#### 15. Motions filed pursuant to Tax Code Section 25.25

When the Board receives a motion to correct the appraisal records filed pursuant to Tax Code Section 25.25, a property owner must pay the amount of taxes due on the taxable portion of the subject property that is not in dispute before the delinquency date, or the property owner shall forfeit their right to proceed to a final determination on their motion.

However, a property owner may be excused from this requirement if, after filing an oath of inability to pay, the Board determines that compliance with this requirement would constitute an unreasonable restraint on the property owner's right to access the Board.

On the request of any party to a Tax Code Section 25.25 motion, before hearing the merits of the motion, the Board shall first determine the property owner's compliance with the requirement to pay the amount of taxes due on the taxable portion of the subject property that is not in dispute before the delinquency date. If the property owner has not substantially complied, the Tax Code Section 25.25 motion shall be dismissed. The Board may set terms and conditions on the property owner's compliance with this requirement including, without limitation, requiring the property

owner to provide sufficient detail in his/her oath of inability to pay for the Board to determine why the property owner cannot afford to pay the taxes and requiring the property owner to provide proof of a written agreement with the taxing authorities to pay off the amount of taxes due on the taxable portion of the property that is not in dispute. If the Board determines that the property owner has substantially, but not fully complied with this payment requirement or the Board's terms and conditions, the Board shall dismiss the Tax Code Section 25.25 motion unless the property owner submits written documentation proving their full compliance within 30 days.

#### 16. Calculation procedure for Tax. Code Section 25.25(d) motions to correct

When the Board receives a motion to correct the appraisal records filed pursuant to Tax. Code Section 25.25(d), the Board will first determine whether the requesting party qualifies for relief under Tax. Code Section 25.25(d) by first determining the property's correct value.

After determining the correct value of the property, the Board will determine whether a 1/3 error exists by multiplying the property's correct value by 1.33.

If the total value produced by this calculation is equal to or exceeds the appraised value of the subject property on the appraisal roll, the Board will determine that no error exists in the appraisal roll and deny the motion to correct. If the total value produced by the aforementioned calculation is less than the appraised value of the subject property on the appraisal roll, the Board will determine that an error exists, grant the motion to correct, and adjust the appraised value of the property on the appraisal roll to the correct value.

#### 17. Standards of Documentation

The Board has adopted the attached Standards of Documentation which set forth examples of the types of data property owners, agents, tax consultants and all other parties appearing before the Board should consider presenting at a hearing. These Standards of Documentation are intended to identify examples of the data that is typically the best available information concerning the market value of various types of property that can be protested. The types of data identified on the forms are not intended to be exhaustive or exclusive.

#### 18. Affidavit of Appearance at Hearings

Property owners who file affidavits of appearance are required to state in the affidavits whether or not they intend to appear at the hearing and that the affidavit may be used only if they do not appear at the hearing. If the affidavit indicates that the property owner will not appear at the hearing or does not state that he or she will appear, "the appraisal review board 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."

#### 19. Telephone Hearing Procedure

A property owner wishing to appear for a hearing by telephone must:

- a) notify Board in writing not later than the **tenth (10th) day before the date of their hearing**; and
- b) provide any evidence in the form of an affidavit filed before the hearing begins.

A property owner may not offer evidence by telephone. Evidence includes facts and opinions. The owner may comment on evidence that is presented through an affidavit or evidence presented by the Appraisal District. Board members will not ask a property owner to present evidence by telephone.

A property owner is encouraged to submit their affidavit at least five (5) days before a scheduled hearing to ensure adequate time for processing. The Texas Comptroller of Public Accounts, Property Tax Assistance Division, has a Form 50-283, Property Owner's Affidavit of Evidence, which can be used to submit evidence to the Board. The form is available on the Comptroller's website, [www.comptroller.texas.gov/taxes/property-taxes/forms/](http://www.comptroller.texas.gov/taxes/property-taxes/forms/).

The property owner's affidavit or an accompanying document must state the property owner's name, address, property account number and it must provide a telephone number for the Board (or a panel of the Board) to connect with the property owner. The property owner is responsible for ensuring a clear connection from his/her end of the telephone and is encouraged to use a land-line telephone or to call from a location with a strong, reliable connection to a cellular network or to use a strong internet connection if using a VOIP telephone.

A representative of the Board (or a panel of the Board) will contact a property owner using the telephone number provided by the property owner at the assigned time for a hearing. The property owner is responsible for being available by telephone at the assigned time for a hearing. If the Board (or a panel of the Board) is not available to hold the hearing right away, the representative initiating the call to the property owner will advise the property owner that the owner may be placed on hold or may be called back. A property owner placed on hold is responsible for staying on the line and listening for the Board (or a panel of the Board) to connect. The property owner is also responsible for staying available by telephone if they are informed that the Board (or a panel of the Board) is not available to hold the hearing right away.

If necessary, the property owner should call 830-569-8339 to connect or reconnect with a representative of the Board (or a panel of the Board).

If the Board (or a panel of the Board) is unable to connect or reconnect with the property owner, the property owner will forfeit the opportunity to participate in the hearing by telephone. If a connection with the property owner cannot be established or is lost during a hearing and cannot be reestablished within a few minutes, the Board (or a panel of the Board) will proceed with the hearing and the property owner will have no further opportunity to participate in the hearing by telephone. In that event, the Board (or a panel of the Board) will conduct the hearing(s) via appearance by affidavit or if no affidavit has been submitted, the Board (or a panel of the Board) will make a determination using the information, evidence and testimony available within the hearing.

If the Board (or a panel of the Board) determines that the property owner has wholly or partially



forfeited the right to participate in a hearing by telephone, the Board (or a panel of the Board) will proceed to hear or dismiss the protest without the participation or further participation of the property owner. In that event, the Board (or a panel of the Board) may conduct the hearing(s) via appearance by affidavit or if no affidavit has been submitted, the Board (or a panel of the Board) may make a determination using the information, evidence and testimony available within the hearing or, if appropriate, dismiss the protest for failure to appear, in their sole discretion. The Board's decision (or a recommendation of a panel of the Board) will not be changed even if the property owner successfully contacts the Board or a representative of the Board by telephone at a later time.

RATIFIED ON THE   3   DAY OF APRIL, 2018.

  
CHAIRPERSON

  
SECRETARY

**ATASCOSA CENTRAL APPRAISAL REVIEW BOARD**  
**STANDARDS OF DOCUMENTATION**

**RESIDENTIAL REAL ESTATE**  
**TYPE OF DATA**

**Sale of Subject Property**

A signed and dated closing statement is required. The closing statement will include a description of the property being transferred. A copy of the sales contract and the volume and page number of the deed filing will be required in some cases.

**Sales of Comparable Properties**

Sales of comparable properties will include the following information, if available:

1. Property Address
2. Sales Date
3. Sales Price
4. Grantor
5. Grantee
6. Volume & Page Number
7. Financing
8. Source
9. Confirmed by
10. Appraisal of subject property, date and reason for sale

**Proof of Physical,**  
**Functional or Economic Obsolescence**

This type of information can be documented in a variety of ways. The best types of documents are usually estimates for repairs from contractors and photographs of physical problems. All documentation will be signed and attested.

**BUSINESS PERSONAL PROPERTY**  
**TYPE OF DATA**

The documents below may be furnished to the Board in all business personal property cases appearing before them.

1. CPA Statements
2. Balance Sheets
3. IRS Returns
4. Bookkeeping accounts, records, journals, ledgers and inventories showing acquisition by year of purchase.
5. Receipts, invoices or leases pertaining to the property in question.
6. A statement of general accounting policy and procedures, especially concerning the capitalization policy and the basis of depreciation. The statement will also address inventory methods and if physical inventory equals book inventory.

**COMMERCIAL REAL ESTATE  
TYPES OF DATA/MINIMUM DATA (REQUIRED)**

**Sale of Subject**

Closing statement - Signed and dated, includes a description of the property being transferred and volume and page, if sold during last 3 years. Sales contract - (Same as above).

Basis of sale - Sale was based on actual income and expense data, or pro forma income and expense data, etc. Appraisal - If an appraisal was made for any purpose, submit a complete copy of appraisal report. SURVEY OF THE PROPERTY MAY BE REQUIRED.

**Income Approach**

Previous year rent roll, rent summary and income statement (typically 3 years of data should be provided). ADDITIONAL YEARS DATA (MAY BE REQUIRED).

Documentation of lease offering rates, lease concessions, effective lease rates and current and historical occupancy, as of January 1st of the current year. DOCUMENTED EXPLANATION OF ANY LINE ITEMS (MAY BE REQUIRED).

**Cost Approach**

Construction Contracts (s) - Signed and dated, includes a detailed description of the work to be performed. FINANCIAL RECORDS (MAY BE REQUIRED). Certified A.I.A. Document G702 or equivalent, with detail. SUBCONTRACTS (MAY BE REQUIRED).

Documentation must reflect all hard and soft costs. **I.R.S. RECORDS (MAY BE REQUIRED)**

**Market Approach**

Independent Fee Appraisals - Complete copy of the appraisal report.

Confirmed sales and photographs of comparable properties the detail would include:

- |                         |  |
|-------------------------|--|
| 1. Property Description | 8. Date of Contract                            |
| 2. Location             | 9. Volume and Page                             |
| 3. Land Area            | 10. Sales Price                                |
| 4. Building Area        | 11. Financing Terms                            |
| 5. Year Built           | 12. Basis of Sale (Actual or Pro Forma Income) |
| 6. Grantor              | 13. Source                                     |
| 7. Grantee              | 14. Who Confirmed the Sale                     |