

# ECTOR COUNTY APPRAISAL REVIEW BOARD

MODEL HEARING PROCEDURES and RULES  
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## 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. Tax Code Section 41.01 addresses the duties of the ARB and the actions they are authorized to make.

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

Each ARB member must obtain and maintain familiarity with 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 be carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) must be uniformly applied. The ARB should give due consideration to good cause claims in a manner that properly respects the rights of property owners and their agents while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

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

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

#### 1. Scheduling Hearings Generally

The ARB must schedule a hearing when a timely notice of protest is filed and, in doing so, the appraisal district can provide the ARB with clerical assistance.

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 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 105h 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 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 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 fax, email, telephone, or in person to the ARB, an ARB panel or the ARB chair. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the property owner or 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 fax, email, telephone, or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner and the chief appraiser, the ARB cannot postpone 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 fax, email, telephone, or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner and the chief appraiser, the ARB cannot postpone 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.

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 7<sup>th</sup> day after the date of the 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 7<sup>th</sup> day after the date of the 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 7<sup>th</sup> 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 7<sup>th</sup> 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 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 be read at the beginning of each hearing:

*We are the appraisal review board that will be hearing 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. It can be completed on the computer in the public area downstairs using the survey link. 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 the 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, 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 ARAB 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 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 appearing. 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 owner 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, if applicable, 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 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 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 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. There must be no 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.

## **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

The ARB's adopted hearing procedures must comply with Comptroller Rule 9.805 concerning ARB evidence exchange and retention and audiovisual equipment requirements. The rule requires that ARB procedures include specific items that may vary by ARB. The rule addresses:

- The manner and form, including security requirements, in which a person must provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device;
- How to retain the evidence as part of the ARB's hearing record; and
- The audiovisual equipment provided by an appraisal district, if any, for use by a property owner or the property owner's agent.

This section of the ARB's hearing procedures must address each item required in Comptroller Rule 9.805.

### Evidence exchanges and retention and audiovisual equipment requirements

Evidence may be submitted in paper or electronic form. Electronic evidence may be submitted on the acceptable storage devices and file types listed below. The storage devices will be retained for the ARB hearing record.

The parties may exchange evidence in paper or electronic form. Electronic evidence presented by the parties will be captured and available as a video recording. The electronic video copy of the records will be retained in the ARB file and may be requested at the conclusion of the hearing.

- a. The ARB will accept evidence in paper form or USB flash drive.
- b. The ARB *will not accept* evidence on cell phones, tablet computers, laptop computers, cameras, SD memory cards, or any other type of device not listed in **Item a.** above.
- c. Electronic evidence must be submitted in the following file types: PDF; Microsoft Office (Word/Excel/PowerPoint); or image types: JPEG; PNG; TIFF.
- d. The Ector County Appraisal District may use audiovisual equipment at a hearing, including a computer compatible with the file types listed in **Item c.** above. Audiovisual equipment of the same general type, kind, and character is available for use by a property owner who requests the use of the equipment when checking in for a hearing.

A property owner may bring his/her own audiovisual equipment for use at a hearing. The owner is responsible for setting the equipment up and operating it. Neither the Ector CAD nor the ARB can provide technical assistance.

- e. Property owners may not access the Ector CAD's computer network, internet connection, nor any of the Ector CAD's technology or equipment other than that made available and described in these procedures.

# ECTOR COUNTY APPRAISAL REVIEW BOARD

## SUPPLEMENTAL PROCEDURES and RULES Adopted April 28, 2022

### OFFICERS

1.0 The officers of the Appraisal Review Board are the Chairperson, the Vice-Chairperson, and the Secretary.

1.1 The Chairperson, Vice-Chairperson and Secretary shall be appointed by the Local Administrative Judge as prescribed by law [TPTC Section 6.42(a)].

1.2 The Chairperson will preside over the meetings of the board and perform such other responsibilities as these rules require.

1.3 The Secretary shall be responsible for overseeing the keeping of minutes for all board meetings, for overseeing the keeping of all records of the board, for determining that all notices by the board are sent, and for receiving and recording all notices of appeal filed by property owner(s) who appeal decisions of the board. The Secretary of the board shall be responsible for compliance with the notice provisions of the Open Meetings Act. The Secretary may delegate any of the above responsibilities to members of the appraisal staff provided by the Chief Appraiser for that purpose. The Secretary will preside at meetings when the Chairperson and Vice-Chairperson are absent. The Secretary will perform such other responsibilities as these rules and the law require.

1.4 The Vice-Chairperson will perform the duties of the Chairperson in the absence of the Chairperson and assist the Chairperson in the performance of his duties at the Chairperson's request.

### MEETINGS

2.0 Robert's Rules of Order will govern the conduct of all meetings of the board other than hearings. Where Robert's Rules are in conflict with the rules of this board, the rules of the board will govern. The person chairing the board may vote or make motions on any matter.

2.1 The board will meet within ten (10) days after the date the Chief Appraiser submits the appraisal records to the board to examine the records. The Board will meet at any time at the call of the Chairperson [TPTC Section 6.42 (b)]. A majority of the board may call a meeting of the board at any time.

2.2 The meetings of the board will be conducted in compliance with the Open Meetings Act, Chapter 551 of the Texas Government Code.

2.3 The board will keep minutes of its meetings other than hearings. The minutes will constitute the record of meetings of the board. Minutes of the protest hearings shall be kept with each protest case file.

2.4 The Chairperson shall schedule hearings by the board. The Chairperson may delegate this responsibility to schedule hearings by the board to members of the appraisal staff provided by the Chief Appraiser for that purpose.

2.5 The Chairperson shall schedule a hearing during other than normal business hours or on a weekend upon written request by any party if the board determines there is good cause and the special schedule is necessary to provide reasonable access to the board.

2.6 Before the 10<sup>th</sup> day after the end of each calendar quarter, the Appraisal Review Board shall meet to receive and review written reports of changes made under this subsection that decrease the tax liability of the property owner [TPTC Section 25.25(b)]. The board will also review properties still under protest, late filed protests, and motions to correct the appraisal roll. Hearings will be scheduled the first Wednesday in July, October, January, and April with the full board in attendance.

### QUORUM

3.0 A majority of the Appraisal Review Board constitutes a quorum [TPTC Section 6.42 (a)].

### HEARINGS

4.0 The Chairperson shall preside over all hearings of the board. The Chairperson may vote or make motions in any matter before the board. Properties scheduled for hearing will use the case number and/or the geo account number to identify the case during the proceedings of the board. The geo account number shall be the key identifying number for a property. Each property protested will be scheduled for an individual hearing, however several properties may be consolidated if the parties and the ARB agree.

4.01 On the filing of a notice as required by Section 41.44, the appraisal review board shall schedule a hearing on the protest. If more than one protest is filed relating to the same property, the appraisal review board shall schedule a single hearing on all timely filed protests relating to the property. A hearing for a property that is owned in undivided or fractional interests, including separate interests in a mineral in place, shall be scheduled to provide for participation by all owners who have timely filed a protest [TPTC Section 41.45(a)].

4.02 If the property owner files a written request that the hearing be conducted by a single-member panel not later than the 10<sup>th</sup> day before the date of the hearing, the single-member panelist will be selected by the Chairperson [TPTC 41.45(b-4)].

### Order of the Hearings

4.1 For most protest hearings, the order of the hearings shall be as prescribed in the Ector County Appraisal District's Model Hearing Procedures and Rules Section IV, Pages 5 through 9.

The board may alter or revise its hearing procedures in accordance with an agreement of the parties or as may be necessary and appropriate to ensure that a hearing is expeditious and fair to the parties.

4.11 If the board should determine that further evidence is required in order to make a decision at any hearing, the board may recess the hearing and reconvene at a subsequent date and time.

The board shall, prior to adjournment, announce to the parties that the hearing will be reconvened at a specified date and time. No additional notice to any party shall be required to reconvene a recessed hearing at the date and time announced.

#### Testimony and Examination of Witnesses

4.2 The board may exclude irrelevant testimony and may instruct a witness to confine his testimony to matters relevant to the issues before the board. The board shall permit the cross-examination of witnesses or parties by the representative of the opposing party when requested to do so. The board shall limit such cross-examination to matters that are relevant to the subject of the hearing and shall not permit questions that are abusive or personal. All cross-examination must be completed within the time limits for the hearing.

4.21 Any cross examination must be civil and relevant to the issues before the board.

4.22 Any party wishing to submit a copy of a document must request that the board rule that the copy is admissible. The board may admit the copy into evidence only where the board determines that the original document is not readily available [TPTC Section 41.67 (b)].

4.23 For all documents to be offered as evidence, four copies are required (one for each ARB member and one for the adverse party). Any information presented must contain evidence pertinent to the hearing. Electronic evidence presented will be captured and available as a video recording. The electronic video copy of the records may be requested at the conclusion of the hearing.

#### Ruling by the Board

4.3 Any party may request a ruling by the board. Such requests may include but are not restricted to the following: Requests to examine witnesses, requests to cross-examine witnesses, request to admit evidence in written form, requests to limit a witness' testimony to relevant matters, requests for official notice of certain facts and requests for continuance of a hearing. Any member of the board hearing the case may request rulings of the board.

4.31 A formal motion is not required to request a ruling by the board, although a request may be made as a motion. Any request for ruling must clearly state the matter upon which the board is asked to rule.

4.32 If the district and property owner agree to a value during the hearing, the board shall issue an "Order Determining Protest." The Order is appealable in the same manner as any other Order issued by the board under this section [TPTC Section 41.47(f)].

#### Official Notice

4.4 Any party to a hearing or any member of the board hearing the case may request that the board take official notice of any facts that may be considered by a court of law. The board will rule on any request for official notice.

4.41 When the board has chosen to take official notice of any fact, the board must afford any party the opportunity to contest the facts officially noticed. The party contesting official notice may

present argument and evidence to show why the board should not take notice of the matter requested.

#### Issuance of Subpoenas

4.5 The board, on its own motion or at the request of a party to a protest, may subpoena witnesses, books, records, or other documents. To issue a subpoena, the board must conduct a hearing to determine that good cause exists for the issuance of the subpoena. The board may subpoena witnesses, books, records, or other documents of the appraisal district or of the property owner who is a party to the protest [TPTC Sections 22.27 & 41.61].

4.51 A party to a hearing of the board must make a request for subpoena in writing [TPTC Section 41.61 (b)].

4.52 The board shall issue a subpoena requested by a party if the requesting party shows good cause for issuing the subpoena and deposits with the board a sum the board determines is necessary to pay the estimated cost of service and compensation of the person to whom the subpoena is directed. [TPTC Section 41.61 (b) (2)]

4.53 The board shall approve the amount of compensation for each person to whom a subpoena is directed. Each person to whom a subpoena is directed must present a written claim to the board for the amount of compensation to which he is entitled.

4.54 Persons to whom a subpoena is directed are entitled to the following compensation:

1. The reasonable costs of producing any documents subpoenaed as approved by the board.
2. Mileage of fifteen (15) cents a mile for going to and returning from the place of the hearings.
2. A fee of \$10 per day for each whole or partial day that the individual is necessarily present at the hearings.

#### Special Provisions Governing Hearings of and Determination of Taxing Unit Challenges

4.6 The board will conduct all hearings on challenges by taxing units. The board shall conduct the hearing on the challenge using the applicable rules regarding the procedures for hearings.

4.61 The board must hear a challenge if the taxing unit initiating the challenge timely files a challenge petition pursuant to TPTC Section 41.04.

4.62 The determination of a challenge by a taxing unit must be made by written order of the board. [TPTC Section 41.07] The board may make its determination at the conclusion of the hearing or at a subsequent meeting for which the decision is posted as an agenda item.

4.63 Any taxing unit in which the property is taxable is entitled to appear and offer evidence or argument at the challenge hearing.

## Special Provisions Governing Hearings of and Determination of Taxpayer Protests and Motions to Correct the Appraisal Roll

4.7 The board may establish time limits based on the complexity of each hearing, and that are reasonable and flexible. The board may waive the time limit at its discretion. The board will ordinarily give each side a total of 5 minutes for its evidence, arguments, and cross examination. The Chairperson may extend the hearing time limits.

4.71 When a property owner files a notice of protest after the legal deadline, but before the date the board approves the appraisal records, the board will make a determination as to whether the property owner had good cause for his failure to file the notice on time. The board may make the determination of good cause based upon the property owner's written explanation or may schedule a hearing. The board will make the formal "good cause" determination before any other testimony or evidence is presented.

The board will also decide whether a property owner protest received after approval of the appraisal records meets the requirements of Texas Property Tax Code Section 41.44. A written response of the request for hearing or a notice of protest hearing will be issued based on the board's decision.

4.72 A property owner may appear by affidavit instead of appearing personally or by agent. An affidavit must be considered by the board only if: (1) it contains statements that the evidence or argument presented in the affidavit is true and correct; (2) it is attested before an officer authorized to administer oaths (such as a notary or judge); (3) it is submitted to the board before it begins the hearing on the protest [TPTC Section 41.45 (b)].

4.73 The determination of a property owner protest or motion to correct the appraisal roll will be made by written order of the board [TPTC Section 41.47]. The board may make its determination at the conclusion of a hearing or at a subsequent meeting. The board will issue an Order in compliance with TPTC Section 41.47.

4.74 If a property owner fails to appear in person, by authorized agent or representative, or by affidavit at the scheduled hearing, the protest will not be heard, but determined as failure to appear and an Order of Dismissal will be issued.

4.75 If a property owner files a 25.25(d) motion to correct one-fourth-over-appraisal error for a residence homestead, the following calculation will be used to determine the threshold for current appraised value. (Corrected value \*  $\frac{1}{4}$  or .25) + (Corrected Value)

4.76 If a property owner files a notice containing an oath of inability to pay, the board will hold a hearing to review and determine compliance with TPTC Section 41.4115. Determinations on whether the property owner may be excused from the requirements of prepayment of tax will be followed by a hearing on the motion or an Order of Dismissal.

## RECORDS OF PROCEEDINGS

5.1 The board shall keep a minutes record of its proceedings for all meetings.

5.2 Records of hearings are public records, with the exception of certain records related to closed hearings under TPTC Section 41.66(d-1). They are available under terms and conditions set out in the Public Information Act (Chapter 552 of the Texas Government Code).

## Posting

6.0 The ARB shall announce all proceedings, to include meetings and hearings, to the public at least 72 hours before the meeting takes place.

6.1 Because these meetings of the ARB are subject to the Texas Open Meetings Act, the carrying of handguns in the meeting room during scheduled ARB meetings and hearings, open or concealed, is prohibited by Section 46.035 of the Texas Penal Code.

## Review

7.0 The ARB will review its' current Rules and Procedures at its' 1st ARB Meeting of the year each January, or as soon as the Model Hearing Procedures for Appraisal Review Boards is published by the Office of the Comptroller. Amendments will be made to the proposed hearing procedures in a public hearing, and the procedures adopted by resolution by the board. Copies of the adopted hearing procedures will be distributed to the board of directors, the taxpayer liaison, and the Comptroller within 15 days of the date the board adopts the procedures.

## TELEPHONE CONFERENCE CALL HEARINGS

8.0 Procedures for telephone or video conference call hearings are described in the document titled "*Information Regarding Your Appraisal Review Board Telephone or Video Hearing*", mailed to the protestor with the *Notice of Protest Hearing by Telephone or Video Conference Call* appointment letter.

## NOTICE OF PROTEST HEARING

9.0 Notice of hearing will be delivered by certified mail when requested by the property owner. The property owner will bear the current cost of postage, or \$8.00 per case. Notice of hearing will be provided by first-class mail in the absence of payment.

These 2023 Hearing Procedures were discussed in open session and adopted on May 8, 2023 by the 2023 Appraisal Review Board members present.

Members:

Randy Wilson  
Jesus Vazquez  
Amy Rhodes  
Schuyler Wight  
Joe Hurt  
Cammie Laster