

**Appraisal Review Board
Crockett County, Texas**

PO Box 1569 – 909 Ave D, Ozona, Texas 76943
325-392-8258

RESOLUTION 2023-1

WHEREAS, Section 5.103(d) of the Texas Property Tax Code provides that an appraisal review board shall incorporate the model hearing procedures prepared by the comptroller when adopting the board’s procedures for hearings as required by Section 41.01(c); and

WHEREAS, Section 41.01(c) of the Texas Property Tax Code provides that no later than May 15 of each year, the board shall hold the hearing, make any amendments to the proposed hearing procedures the board determines are necessary, and by resolution finally adopt the hearing procedures;

NOW THEREFORE:

BE IT RESOLVED BY THE APPRAISAL REVIEW BOARD OF CROCKETT COUNTY:

THAT, upon approval of the 2023 ARB Policies and Procedures of the Appraisal Review Board of Crockett County by a quorum of this body, the Appraisal Review Board of Crockett County hereby adopts the hearing procedures attached hereto as Exhibit “A”.

Passed by the Appraisal Review Board of Crockett County this 2ND day of May, 2023



Chairman, Appraisal Review Board

ATTEST:


Recording Secretary, Appraisal Review Board

Crockett County Appraisal Review Board Hearing Procedures

If you* filed a protest or motion as required by Texas law, you are entitled to an opportunity to appear before the Crockett County Appraisal Review Board ("Board") to present evidence of argument. Members of the Board who will hear your protest motion are not employees or officers of the county, school district or other political unit that assesses or collects property taxes. They are not part of the Crockett County Appraisal District ("District"). They are Crockett County citizens appointed to impartially resolve certain complaints about taxability and valuation of property within the District.

Procedures Before Your Hearing

Organize your testimony and documents ahead of time. You must present the original and four (4) copies of each document you want the Board to consider. **Types of evidence relevant to determination of the value of property include:**

Residential Real Estate

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

Commercial Real Estate

- 1) Sale of Subject Property – signed and dated closing statement of sales contract with description of property being transferred; photographs of the property; copy of **filed** warranty deed if transferred in the past two (2) years; basis of sale (was sale based on actual income and expense data or pro forma income and expense data); complete copy of appraisal.
- 2) Income Approach – previous year rent roll, rent summary and income statement (typically three (3) years of data); documentation of lease offering rates, lease concessions, effective lease rates and current and historical occupancy as of January 1 of the current year.
- 3) Cost Approach – signed and dated construction contract(s) with detailed description of work to be performed; certified A.I.A. document G702 or equivalent with details. Documentation must reflect all hard and soft costs. IRS records may be required.
- 4) Market Approach – complete copy of independent fee appraisal; confirmed sales of comparable properties including photographs, property description, locations, land area/building area, year built, date of contract, sales price, financing terms, basis of sale, source/confirmed by.

Business & Mineral Personal Property

Balance sheets; inventory controls, accounting records and journals, ledgers showing acquisitions by year of purchase (depreciation schedules); CPA statements of cost; leases pertaining to the property in question, a statement of general accounting policy and procedures, especially concerning the capitalization and expense policy, and the basis of depreciation. Additionally, IRS schedule C or other forms may also be attached. The statements should also address inventory methods and state whether physical inventory equals book inventory. Any adjustments to fixed assets or inventory should be documented. If you are claiming that the goods are taxable elsewhere, you should be able to provide proof the property was rendered in another jurisdiction and that it is on another tax roll.

Mineral Interests

Crockett County Appraisal District contracts with Pritchard and Abbott, Inc. for mineral valuation. Pritchard and Abbott, Inc. will contact you concerning information they will need you to present at your hearing.

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

Before the date of your hearing, you may inspect all of the data, schedules, formulas and other information that the District plans to introduce at the hearing to establish any matter at issue. You may get copies of this information from the Crockett County Appraisal District or Pritchard and Abbott, Inc. The charges for such copies will not exceed \$15.00 for each residence of \$25.00 for each property of another type.

Neither the property owner nor the District may give any board member information about a protest or motion prior to the hearing. You may present evidence of argument without attending the hearing in person by sending an affidavit **executed before a notary public** (or other authorized official) stating that you swear or affirm that the information it contains is true and correct. The affidavit should identify you as the property owner, the account number and description of the property that is the subject of the protest or motion, and the date and time of the hearing. **For an affidavit to be considered, it must be received by the Board before the time of the hearing.**

It is important that you be on time for your hearing. **Your motion will be dismissed if you fail to (1) appear at your hearing in person, (2) send a sworn affidavit containing evidence to support your protest or motion, or (3) send an authorized representative.**

*A property owner may designate another person to represent him for property tax purposes by filing certain forms required by Texas law. These forms are available from the District at P.O. Box 1569 Ozona, Texas 76943. In this notice "you" includes property owners and their properly designated agents.

Procedures During and After Your Hearing

A protest or motion hearing is somewhat like --- but far less formal than ---- a simple trial in a court of law. The Board follows certain rules and procedures so that everyone who appears before it has a fair and reasonable opportunity to be heard and so that an impartial determination is made. For example, all hearings must be open to the public and all testimony must be given under oath.

A panel of three board members hears protests or motions. A majority of the Board will finally determine each protest or motion.

The Board's experience indicates that 15 minutes is usually sufficient time for a hearing. However, the Board may set other time limits depending on the nature of the dispute.

A hearing usually proceeds as follows:

1. The property is identified as listed in the appraisal records.
2. Any Board member who has a conflict of interest is excused and replaced by another member.
3. The Property Owner and any witnesses and attorney who accompany the owner are asked to identify themselves.
4. The Board member chairing the hearing swears all witnesses.
5. The Chairman clarifies what property and what issues will be considered and explains how the hearing will be conducted.
6. Evidence Exchange and Retention and Audiovisual Equipment Requirements

Before or immediately after an ARB hearing begins, each party shall provide the other with a copy of the evidence the party intends to offer at the hearing.

(a) Presentations to the ARB can be done using USB flash drives, 120mm compact discs (CD) or DVD. Any device is subject to being scanned before it can be used. Any device containing a virus or malware cannot be used. One complete hard (paper) copy of the presentation must be provided to the ARB at the scheduled hearing. The ARB will not accept a USB flash drive, CD, DVD or any other electronic storage device as the permanent record of ARB evidence presented at the hearing. No late evidence will be allowed. All evidence must be available and presented at scheduled hearing.

(b) The ARB will not accept evidence on USB flash drives, 120 mm compact discs (CD), DVD, cell phones, smart phones, tablet computers, laptop computers, cameras, camcorders, websites, FTP sites, VHS/DVI tapes, SD memory cards. As stated in (a) above, evidence can be presented using USB flash drives, 120mm compact discs (CD) or DVD. However, the evidence for the ARB hearing record must be provided to the ARB in the form of a paper copy.

(c) The CAD may use audiovisual equipment at a hearing, including a Microsoft Windows-based computer compatible with the following file types: PDF, Microsoft Word, Excel or PowerPoint; or image types: JPEG, PNG, TIFF, along with multiple monitors, keyboard and mouse. 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. It will not be connected to the internet. A property owner may bring their own audiovisual equipment for use at a hearing. The owner is responsible for the set up and operation of equipment. Neither the CAD or the ARB can provide technical assistance for personal devices.

(d) Property owners may not access the CAD's computer network, Internet connection or any of the CAD's technology or equipment other than that made available and described in these procedures.

7. Property owner offers evidence and argument.
8. The District's representative(s) and witness offer the District's evidence and arguments.
9. Board members question the parties and witnesses.
10. The District's representative(s) questions (by directing the questions through the panel chairman) the owner and his witnesses and closes its argument and explanation.
11. The owner questions (by directing the questions through the panel chairman) the District's representative(s) and witnesses and closes his argument and explanation.
12. Board closes the presentation of evidence and argument, and deliberates.
13. If the Board members hearing the protest have enough information, they will determine the protest (if they are a majority of the full Board) or recommend a decision to the full Board (if they are a panel). If the Board members hearing the protest do not have enough information, they may request or require additional information and may recess the hearing and schedule the date and time that the hearing is to resume.
14. On finally determining the protest, the Board will deliver to the owner, by certified mail, a notice and copy of its order.

However, the panel chairman may choose to alter the order of the proceedings.

The Board follows the requirements of the *Texas Property Tax Code* and the current edition of *Appraisal Review Board Manuel* published by the State. A copy of *Texas Property Taxpayer's Remedies* was mailed to you with the Notice of Appraised Value. Please refer to these publications for more information.



Model Hearing Procedures for Appraisal Review Boards

I. ARB Membership

[Tax Code Section 5.103(b)(12), (15), and (16)]

1. Administration of ARB Appointments

ARB members have no statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an individual is contacted by an ARB member regarding requesting an appointment to the ARB, the member must direct the individual to the person designated to receive applications or requests for ARB appointment.

2. Conflicts of Interest

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

If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member cannot participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, the member must file an affidavit with the ARB secretary. The ARB member must file the affidavit as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, the ARB member does not have to file an affidavit but must recuse himself or herself immediately from the hearing and report the conflict to the ARB chair or secretary.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of “substantial interest,” Tax Code Section 41.69 applies to any protest in which an ARB member has interest (i.e. Tax Code Section 41.69 does not require the interest to be substantial). While a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether he or she has a conflict of interest that might prohibit his or her involvement, the member must immediately contact the ARB chair to address the matter.

In the recusal process, the ARB member cannot hear the protest, deliberate on the protest or vote on the matter that is the subject of the protest.

3. Ex Parte and Other Prohibited Communications

ARB members must not engage in prohibited ex parte or other communications. If one or more individuals approach the ARB member and appear to engage or attempt to engage in a prohibited communication, the ARB member must immediately remove himself or herself from the conversation.

II. ARB Duties

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

1. Statutory Duties of an ARB

Each ARB member must ensure that he or she understands the statutory duties of the ARB and complies with all statutory requirements in performing statutory duties as an ARB member.

2. Notices Required under the Property Tax Code

Each ARB member must obtain and maintain familiarity with notices required under the Property Tax Code. If an ARB member believes that any required notice is not being provided or does not meet the requirements of applicable law, the ARB member must promptly notify the ARB chair. The ARB chair must investigate each report and take appropriate action to correct all verified problems.

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

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

contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

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

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

1. Scheduling Hearings Generally

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

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the appraised value of the property if the property owner does not file a protest relating to the property. Under Tax Code Section 41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code Section 1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

2. Scheduling Hearings for Property Owners, Agents and Qualifying Lessees

Pursuant to Tax Code Section 41.66(i), the ARB must schedule hearing requests filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, the property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

3. Scheduling Hearings for Multiple Accounts

If requested by a property owner or the designated agent, the ARB must schedule consecutive hearings on the same day on protests concerning up to 20 designated properties. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: "request for same-day protest hearings." A property owner or designated agent can file more than one such request in the same tax year. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule protest hearings concerning more than 20 properties filed by the same property owner or designated agent and may use different panels to conduct the hearings based on the

ARB's customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Section 41.66(j).

4. ARB Panel Assignments [Tax Code Section 41.66 (k)(k-1) and 41.45(d)(d-1)]

Pursuant to Tax Code Section 41.66(k) and (k-1), if an ARB sits in panels as authorized by Tax Code Section 41.45(d) and (d-1), it must randomly assign protests. Except for panels established under Tax Code Section 6.425, the ARB, with or without clerical assistance from the appraisal district staff, may consider the property type or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Tax Code Section 41.45(b-4) allows a property owner to request that a single-member panel conduct the protest hearing. The property owner must submit the request not later than the 10th day before the hearing date in writing on the notice of protest or by a written submission. If the ARB does not accept the recommendations made by the single-panel member, the ARB can determine the protest or refer it for rehearing to a single-member panel composed of someone who did not hear the original protest.

Tax Code Section 41.66(k-1) allows a property owner or agent to request a special ARB panel to hear a complex property protest if in a county with a population of one million or more. The owner or agent must consent to a special panel reassignment and may request a postponement if they disagree with the reassignment.

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

5. Postponements Under Tax Code Section 41.45(e)

A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause. The property owner must request the postponement before the hearing date in writing, including by facsimile, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date

less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the property owner or the designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). The property owner or designated agent must request the postponement in writing, including by facsimile, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by facsimile, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone a hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

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

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

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

7. Postponements Under Tax Code Section 41.45(g)

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

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

8. Postponements Under Tax Code Section 41.66(h)

The ARB must postpone a hearing (one time only) if the property owner or the designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

9. Postponements Under Tax Code Section 41.66(i)

The ARB must schedule protest hearings filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, a property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

10. Postponements Under Tax Code Section 41.66(k)(k-1)

Once the ARB schedules a hearing by a specific panel, the ARB can reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, a property owner or designated agent may agree to reassignment or request that a hearing postponement. The ARB must postpone the hearing on that request. A change of panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute panel reassignment..

A property owner or agent must consent to a special panel ARB hearing reassignment or

request a postponement if they disagree with the reassignment. A change of special panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute a special panel hearing reassignment.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

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

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

1. Conducting Hearings Open to the Public

This introductory statement must read at the beginning of each hearing:

We are the appraisal review [board or panel] that will hear your protest today. We are not employees of the appraisal district. We are appointed to perform an independent review of your protest. You can complete a survey regarding your experience today [provide instructions on how to fill out the survey]. The survey is voluntary. You also have the right to appeal our decision. We will provide the appeal information to you with our determination.

The ARB or ARB panel does not have to read the statement above if the owner or agent has previously appeared before the ARB or any ARB panel for the ARB for that county that same day.

ARBs should conduct most protest hearings in the following order:

- a. Commence the hearing and announce the assigned protest number, property location, property owner and other identifying information.
- b. Announce that, in accordance with Tax Code Section 41.45(h), the parties must provide all written and electronic material that has not been provided.
- c. State that the ARB members who are considering the protest have not communicated with anyone about the protest and have signed affidavits to that effect.
- d. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
- e. Ask if any testifying witness holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- f. Inform witnesses that they must give all testimony under oath and swear-in

all witnesses who plan to testify.

- g. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
- h. If the property owner or agent presents his/her case first, he/she will present evidence (documents and/or testimony). If witnesses are present, the property owner or agent can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the property owner or agent must state an opinion of the property's value (if applicable).
- i. Next, the appraisal district representative may cross-examine the property owner, the agent or representative and/or witnesses.
- j. If the property owner or agent presented his/her case first, the appraisal district representative will present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the appraisal district representative must state an opinion of the property's value (if applicable).
- k. Then, the property owner or agent can cross-examine the appraisal district representative and/or witnesses.
- l. The parties cannot examine or cross-examine the ARB members.
- m. The party presenting its case first can offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- n. The other party can then offer rebuttal evidence.
- o. The party presenting its case first must make its closing argument and state the ARB determination being sought.
- p. The party presenting its case second must make its closing argument and state the ARB determination being sought.
- q. The ARB or panel chair must state that the hearing is closed.
- r. The ARB or panel must deliberate orally. No notes, text messages, or other forms of written communication are permitted.
- s. The ARB or panel chairman must ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations).

Single-member panels must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest.

Special panels appointed in certain counties must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination or refer the matter

- for rehearing to a another special panel composed of members who did not hear the original protest. If ARB does not have at least three other special panel members available, the ARB may make the determination.
- t. Thank the parties for their participation and announce the ARB determination(s) and that an order determining protest will be sent by certified mail or email in counties with populations greater than 120,000 where property owners can submit a written request for email delivery of the notice of determination. Provide the property owner or agent documents indicating that the members of the board hearing the protest signed the required affidavit.

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

If a chief appraiser uses audiovisual equipment at a protest hearing, the appraisal office must provide equipment of the same general type, kind and character for the use of the property owner or agent during the hearing. See section VI, Other Issues, for more information regarding audiovisual equipment requirements.

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

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

Tax Code Section 41.68 and Comptroller Rule 9.803 require that the ARB keep records for each ARB proceeding. This includes the ARB retaining evidence offered or submitted by the parties as required by Tax Code Section 41.45 and Comptroller Rules 9.803 and 9.805. The ARB secretary is responsible for ensuring proper record keeping, maintenance and retention.

2. Conducting Hearings by Telephone or Videoconference Call

Tax Code Section 41.45(n) allows a property owner initiating a protest can offer evidence or argument by affidavit without physically. Tax Code Section 41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10th

day before the date of the hearing if the property intends to appear remotely.. To offer evidence or argument at a hearing conducted remotely, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted remotely to another person the owner invites to participate in the hearing.

Tax Code Section 41.45(b-2) requires the ARB to provide the telephone number for conducting the teleconference call or the URL address for conducting the videoconference (if offered in that county). The ARB must hold the hearing in a location with equipment that allows all ARB members and parties to the protest in attendance to hear and see the property owner's argument.

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

The chief appraiser and the property owner must file a joint motion to request that a closed hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code Section 41.66(d) and (d-1). Only the parties to the protest, their witnesses and the ARB members are permitted to stay in the hearing room. The ARB must follow the same order of proceedings as for hearings open to the public.

The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with Comptroller Rule 9.803, generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27. The ARB must mark as "confidential" and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law.

After deliberation, the ARB must reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. The ARB and parties cannot mention of the proprietary or confidential information during the open meeting.

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

Tax Code Section 41.66(b) states that "each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing." The ARB cannot prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for

witness examination and cross-examination. To the extent possible, the ARB should advise the parties in advance of any time limitations that the ARB intends to impose regarding the presentation of evidence.

5. Party's Right to Appear by an Agent

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

V. Evidence Considerations

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

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

The ARB cannot prohibit a party's right to offer evidence and argument but may enforce time limits and dictate the order of ARB hearings. To the extent possible, the ARB should advise the parties in advance of any time limitations the ARB intends to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument.

2. Prohibition of Consideration of Information Not Provided at the ARB Hearing [Tax Code Section 41.66(e)]

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

3. Exclusion of Evidence Required by Tax Code Section 41.67(d), (e)

If it is established during a protest hearing that the protesting party previously requested information under Tax Code Section 41.461 and that the opposing party did not deliver the information to the protesting party at least 14 days before the scheduled or postponed hearing, the opposing party cannot use or offer the requested information not made available in any form as evidence in the hearing. The ARB must exclude evidence under Tax Code Section 41.67(d) only if evidence presented at the hearing establishes that:

- 1) the information sought to be excluded as evidence was not delivered at least 14

- days before the hearing; and
- 2) the information sought to be excluded as evidence was previously requested by the protesting party.

Tax Code Section 41.67(e) prohibits the chief appraiser from offering evidence at a hearing in support of a modification or denial of an exemption or application unless:

- 1) the chief appraiser provided the reasoning for the modification or denial to the property owner in writing no later than the 14th day before the hearing date; and
- 2) evidence establishes that the additional reason was not known by the chief appraiser at the time the chief appraiser delivered the original notice of modification or denial.

VI. Other Issues

[Tax Code Section 5.103(17)]

1. Compliance with the Law, Integrity, and Impartiality

ARB members must comply with the law and always act in a manner that promotes public confidence in the integrity and impartiality of the ARB.

2. Patience and Courtesy

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

3. Bias or Prejudice

ARB members must perform their ARB duties without bias or prejudice.

4. Confidential Information

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

5. Required Contents That Vary By ARB

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

- the manner and form, including security requirements, in which a person must

provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device;

- how to retain the evidence as part of the ARB's hearing record; and**
- the audiovisual equipment provided by an appraisal district, if any, for use by a property owner or the property owner's agent.**

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

**January 1, 2022
Property Tax Assistance Division
Texas Comptroller of Public Accounts**