

# Appraisal Review Board



## Hearing Rules & Procedures

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# Our Mission

To ensure uniformity and fairness to all, the Leon Appraisal Review Board has adopted the following rules and procedures to govern the scheduling and conduct of taxpayer protest hearings and taxing unit challenges in accordance with Section 41.66 of the Property Tax Code.

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.

## 1.00 ARB Administration

ARB members are appointed to serve by the district's board of directors. The ARB's Chairman, Vice Chairman and Secretary are appointed by the board of directors.

The ARB has no role in its selection. Individuals requesting appointment should submit appointment applications with the district. Application forms are available in the district's office or its website [www.Leoncad.org](http://www.Leoncad.org).

## 2.00 Taxpayer Protests

### 2.01 Notice of Protest

(a) In order to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of protest with the ARB prior to the protest filing deadlines as described in Section 2.02 of these policies.

(b) A written statement received by the ARB may be considered a valid protest document if it contains:

A statement of protest,

- Identifies the protested property, and
- Is signed by the property owner.

(c) An unsigned protest form will not be considered a protest and will not be scheduled for a hearing.

### 2.02 Protest Filing Deadlines

Unless otherwise stated in this section, property owners and taxing jurisdictions have thirty days from the date of notice to file protests or challenges. A notice required to be delivered by first-class mail is presumed delivered when it is deposited in the mail. This presumption is rebuttable when evidence of the failure to receive notice is provided.

#### (a) Protests - Generally

A property owner is entitled to file a protest for matters described in Property Tax Code Section 41.41 if the protest is filed by May 31 or 30 days after the date the Notice of Appraised Value is mailed, whichever is later.

#### (b) Change of Use

When a Notice of Change of Use is mailed, the deadline for filing a protest is 30 days after the date the Notice of Change is mailed. PTC Section 41.44(a)(2)

#### (c) Exemption and Special Use Appraisal Denial or Modification

When a property owner receives notice from the Chief Appraiser that an exemption or special valuation application has been denied or has been approved only on a portion of the property listed on the application, the property owner has 30 days after the date of the notification to file a protest.

#### (d) Protest of Failure to Give Notice (41.411 Protest)

A property owner is entitled to file a protest on the basis that the District failed to deliver any notice to which the property owner is required to receive.

(1) A protest of failure to give notice must be filed by a property owner prior to the date the taxes on the property to which the notice applies become delinquent (typically February 1 of the year following the appraisal/tax year).

(2) Both the hearing for failure to deliver notice (41.411 protests) and the value protest are handled under the same case number.

(3) If the Board determines that the appraisal district failed to deliver the required notice, the property owner may then address the valuation issue.

(4) A property owner who files a protest under the provisions of this section must comply with the payment requirements of Section 42.08 of the Property Tax Code or the right to a final determination of the protest is forfeited.

**(e) Motion to Correct Appraisal Roll (PTC 25.25c)**

For any of the preceding five appraisal years, a property owner or the Chief Appraiser can file a motion with the ARB to order changes to the appraisal roll to correct:

Clerical errors that affect a property owner's tax liability in that tax year,

Multiple appraisals of property in that tax year, or

The inclusion of property that does not exist in the form or at the location described in the appraisal roll.

Property owners are required by PTC Section 42.08 to pay the lesser amount of taxes not in dispute or the amount of taxes due on the protested property based upon the approved value that is being appealed before the delinquency date (typically February 1). Failure to make such tax payments results in the forfeiture of the protest.

**(f) Motion to Correct Incorrect Appraised Value (PTC 25.25d)**

At any time prior to the date the taxes become delinquent, a property owner or the chief appraiser may file a motion with the ARB to change the appraisal roll to correct an error that resulted in an incorrect appraised value for the owner's property.

(1) The error may not be corrected unless the correction results in a value that is one-third less than the original appraised value.

(2) If the appraisal roll is changed under this subsection, the property owner must pay a penalty equal to 10 percent to each affected taxing jurisdiction.

## **2.03 Late Filing Provisions**

Protests filed after the filing deadline but prior to ARB's approval of the appraisal records will be presented to the board to determine if sufficient good cause for late filing is found. If sufficient good cause is found, a late protest hearing will be scheduled. Property Tax Code Section 41.44(b)

With no definition of "good cause" given in the Property Tax Code, the Leon ARB has defined "good cause" as a mistake or event that:

- Was not intentional or the result of conscious indifference and,
- Will not cause delay or other injury to the ARB.

Protesting parties may be required to present testimony to the ARB to clarify "good cause" reasons before allowing a hearing before the board.

## **3.00 Taxing Unit Challenges**

A taxing unit may file a Challenge Petition in accordance with Section 41.03 of the Property Tax Code regarding:

- (a) The level of appraisal of any category of property in the district or in any territory in the district (but not the appraised value of a single taxpayer's property);
- (b) The exclusion of property from the appraisal records;
- (c) A grant in whole or part of a partial exemption
- (d) The determination that land qualifies for appraisal as agricultural, open space, timberland, or restricted use timberland;
- (e) Failure to identify the taxing unit as one in which a particular property is taxable.

### **3.01 Challenge Filing Deadlines**

The challenge must be filed before June 1 or within 15 days after the date the appraisal records are submitted to the ARB, whichever is later. (PTC Section 41.04)

### **4.00 Case Number Assignment**

A unique identifying case number will be assigned to each property (or category of property in a taxing unit challenge) for which the ARB receives a valid protest. A property is defined as one or several contiguous parcels with the same or similar use where the protester is the owner or has an ownership interest.

### **5.00 Scheduling of Hearings & Challenges**

The Appraisal Review Board shall schedule a hearing when a timely notice of protest is filed. The board typically schedules meetings on Tuesdays and Thursdays between the hours of 1:00 p.m. and 8:00 p.m. Other meeting times may be scheduled as necessary.

All meetings are posted in accordance with Chapter 551, Government Code, Open Meetings Act.

Protests on property not represented by agents designated under Tax Code Section 1.111 shall be assigned a specific date and time for hearing by the board. Hearings not started within two hours of the scheduled hearing time in these cases will be postponed if requested by the property owner.

Requests for postponement must be in writing and must include the mailing address and email address of the person requesting the postponement to which the ARB shall respond in writing or by email not later than the seventh day after the date of receipt of the request.

#### **5.01 Taxpayer Protests on Multiple Properties**

(a) A protest filed on up to 20 designated properties under the same ownership shall be scheduled for hearings on the same day if requested by the property owner in writing. No more than one such request may be filed in the same tax year.

Contiguous properties shall be scheduled for a single hearing provided that all parcels involved have similar use.

(b) Protests for joint owners of property (owners of "undivided interest") will have hearings scheduled at the same time.

#### **5.02 Mineral, Industrial, & Utility Properties**

Protests filed on all properties appraised by a contracted appraisal firm will be scheduled on a date that is determined by agreement between the Chief Appraiser and the firm. When this date is not acceptable, hearings may be rescheduled for the next available hearing date of the ARB.

#### **5.03 Protest by 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.

Protests filed by tax agents representing multiple property owners will typically have hearings scheduled consecutively on the same day.

#### **5.04 Motion to Correct Appraisal Roll Filed by Property Owner (Section 25.25c)**

(a) If a property owner files a 25.25c Motion to Correct Appraisal Roll that the District objects to, a hearing will be scheduled for the next ARB meeting. The hearing will be conducted in the same manner as a protest hearing.

(b) A hearing for a PTC 25.25c Motion to Correct the Appraisal Roll will be scheduled within 15 days of the date the motion is filed. If an ARB meeting date is unknown at that time, a letter will be sent to the property owner within the 15-day deadline informing the protester that a hearing will be scheduled at the next meeting of the ARB.

## 5.05 Rescheduling & Postponement Policies

**(a) For No Reason** - A protesting property owner who is not represented by an agent under Tax Code Section 1.111 will be entitled to one postponement of his hearing without having to give any reason for the postponement as long as the postponement is requested prior to the hearing time; such requests must be made in writing, delivered by mail, fax, email, or in person to the ARB clerk.

**(b) For Good Cause** – 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). Such requests must be made in writing, delivered by mail, fax, email, or in person to the ARB Clerk.

The ARB will consider the request for rescheduling or postponement of a hearing in a public meeting prior to hearing or rescheduling a protest. The ARB will deliver notice to the person requesting the postponement at least fifteen days prior to the hearing date.

The Leon ARB defines “good cause” as an event, or action that:

- Was not intentional or the result of conscious indifference and,
- Will not cause delay or other injury to the ARB.

**(c) By Agreement** - In addition and without limit, the ARB shall postpone a hearing if the chief appraiser consents to the postponement. Such requests must be made in writing, delivered by mail, fax, or email, or in person to the ARB Clerk.

**(d) Conflict Another ARB** – 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.

**(e) For Failure of Chief Appraiser to Deliver Evidence** - The ARB shall postpone a hearing (one time only) if the property owner requests additional time to prepare for the hearing and establishes that within 14 days before a hearing the chief appraiser failed to:

- Deliver a copy of PTAD pamphlet describing available remedies to the protester,
- Inform the protestor of the right to inspect the evidence that the Chief Appraiser plans to introduce at the hearing, or
- Deliver a copy of the ARB's Hearing Procedures

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.

**(f) For Hearings Started Late** - Hearings that do not begin within two hours of the scheduled hearing time shall be postponed if a postponement is requested by the property owner; Such requests must be made in writing and 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.

**(g) Reschedule For Failure To Appear For Hearing** - A protest that has been dismissed for failure to appear 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.

**(h) Postponement Limitations** – If a hearing for which a postponement is requested is scheduled to occur before the next regular meeting of the ARB, the ARB Clerk may grant the postponement without the full action of the board.

A hearing may not be postponed to a date less than 5 or more than 30 days after the scheduled hearing date for which the postponement is sought unless the date and time of the hearing as postponed are agreed upon by the ARB chairman or the chairman's representative, the property owner, and the Chief Appraiser.

The ARB Chairman or the chairman's representative is authorized to grant hearing postponements. A denial of hearing must be determined by a quorum of the ARB in a regular meeting.

## **5.06 Cancellation of Scheduled Protest**

A property owner may cancel a scheduled protest hearing by filing a written statement of withdrawal or a settlement/waiver of protest form with the ARB.

If during a protest hearing the protester and the appraisal district reach an agreement, the board's jurisdiction over the protest is ended and the protest hearing is ended without an order from the board. A Settlement & Waiver of Protest will be completed by the protester and the appraisal district representative to acknowledge the agreement.

## **6.00 Notice of Hearing**

### **6.01 Taxpayer Protest Hearings - Generally**

(a) All hearings are scheduled allowing the protester at least 15 days advance written notice of hearing unless the property owner (or challenging taxing unit) files a waiver of the notice. PTC Section 41.46(a)

(b) At least 14 days before the protest hearing, the property owner must be provided with the pamphlets and information listed below. The following information is mailed along with or incorporated in the Notice of Protest Hearing:

- A copy of the ARB hearings procedures, and
  - A copy of Taxpayer's Rights, Remedies, and Responsibilities
- Notice to the property owner of the right to inspect and/or obtain a copy of the information the CAD plans to introduce at the protest hearing. (The charge for copies can not exceed \$15 for each residential property and \$25 for any other type of property. PTC Section 41.461)

### **6.02 Taxpayer Protest Hearings - Failure to Give Notice**

A property owner is notified of the hearing on the 41.411 protest in the same manner as all other protests. In the place of a Notice of Protest Hearing, the property owner is mailed a Notice of 41.411 Protest Hearing.

(a) At least 14 days before the scheduled hearing date, the property owner must be provided with pamphlets and information cited in Section 6.01 of these policies along with:

- A letter explaining that the ARB will first consider the validity of the claim for failure to deliver notice before granting a protest hearing for other matters, and
- The tax payment requirements Property Tax Code Section 42.08.

(b) All hearings on 41.411 protests are held after the delinquency date.

### **6.03 Taxpayer Initiated Motions to Correct Appraisal Roll (25.25)**

Not later than the 15th day before the date of the hearing on the 25.25 motion, written notice must be provided to:

- The property owner filing the motion,
- The Chief Appraiser, and
- The presiding officer of the governing body of each affected taxing entity

notifying them of the date, time, and place of the hearing. This notification is sent under the signature of the ARB Secretary.

## 6.04 Taxing Unit Challenges

A Notice of Challenge Hearing is sent at least 10 days prior to the date of the hearing to the presiding officer of the governing body of the taxing entity initiating the challenge. Notification must also be sent with at least 10 days notice to the presiding officer of the governmental body of the other taxing entities that tax the property involved in the challenge. PTC Section 41.06.

(a) A hearing on the challenge is handled in the same manner as a hearing on a property owner protest with the exception that any taxing entity that has property that may be affected by the challenge may also appear to offer evidence or argument. PTC Section 41.05

(b) The ARB shall make a determination on the challenge hearing and issue a written determination order.

## 6.05 Waiver of Hearing Notice

A protest may be scheduled for a hearing before the board with less than 15 days notice of hearing if the property owner or agent agrees and files a Waiver of Hearing Notice with the ARB.

## 7.00 Evidence

**(a) Evidence Received by the ARB** - All printed or written evidence of the protester and the appraisal district will be scanned into the protest record prior to a hearing and will not be available for the ARB's review until after a protest hearing begins.

**(b) Exchange of Evidence** - prior to the beginning of a protest hearing, the protester and appraisal district must exchange evidence that is to be presented in the hearing.

**(c) Official Records** - All evidence submitted to the ARB during a protest hearing becomes a part of the protest records and any original documents submitted to the ARB will remain in the possession of the ARB until they have been scanned into the official records of the protest.

Evidence that has been entered into the ARB record may be presented to the ARB in an electronic format or paper copy. When evidence is presented in an electronic format, the electronic imagery will be made available for all persons attending the hearing.

Evidence that is presented in a hearing that is closed to the public will remain confidential and will not be deemed a record available to the public for examination.

**(d) Right to Present Evidence** - 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. Prior to the presentation of evidence in the hearing all parties should be advised of time limitations regarding the presentation of evidence and argument.

The ARB should, schedule permitting, provide as much time as possible to each party of a hearing to fully present evidence and offer argument.

**(e) 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.

**(f) 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.

## **7.01 Appraisal Reports**

An appraisal from a state certified appraiser that has been performed at least 180 days before the protest hearing may be introduced as evidence at the protest hearing provided that it has been delivered to the appraisal district for examination at least fourteen days before the hearing.

(a) In order to be valid, an appraisal has to be attested to in a sworn statement from the certifying appraiser that:

- the appraisal reflects the January 1 value of the property;
- the appraisal involves methods approved by the Tax Code; and,
- the appraisal complies with USPAP.

*WARNING: A property owner or agent who produces a false or fraudulent appraisal will be guilty of a misdemeanor, and the offense is more serious if the appraiser has a contingency interest in the outcome of the protest hearing.*

## **7.02 Requests for Appraisal District Evidence (Prior to Hearing)**

(a) A property owner may request to inspect and/or obtain a copy of the information the District intends to introduce at the protest by filing a written request with the appraisal district.

(b) The appraisal district must deliver hearing evidence as requested no less than fourteen days prior to the scheduled hearing date. However, a protest hearing will not be rescheduled by the ARB when the property owner requests such evidence within fourteen days of the scheduled hearing.

## **7.03 Tax Payment Requirements**

(a) A property owner who files a 25.25c motion must comply with the tax payment requirements of Section 42.08 of the Property Tax Code or the right to a final determination on the motion is forfeited.

(b) The property owner must present tax receipts for all tax years included in hearing resulting from a 25.25c Motion To Correct the Appraisal Roll.

## **8.00 Appearance At Protest Hearings**

Property owners may be represented at protest hearings in one of the following manners:

1. Personal Appearance;
2. By attorney, mortgage lender, or corporate employee authorized by a corporation to represent it;
3. Lessee who is contractually obligated to reimburse the lessor (property owner) for property taxes if the lessor does not protest. The lessee's right to protest exists for leased personal or real property. (PTC Sec 41.413);
4. By written statement received by the ARB prior to the scheduled hearing time that contains a statement that:
  - the evidence or argument presented in the affidavit is true and correct and
  - it is attested to before an officer authorized to administer oaths such as a notary or judge. (Affidavits will be read into record by someone appointed by the ARB Chairman.);
5. By an agent licensed to represent property owners by the Texas Department of Licensing who file the appropriate forms with the ARB prior to a scheduled hearing:
  - Appointment of Agent for Property Taxes for licensed agents (PTAD form 50-162);
  - Appointment of Agent for Single-Family Residential Property Tax Matters (PTAD form 50-241);
6. By any non-professional person who can prove by written authorization that they have the authority to represent the property owner without compensation. (Persons representing an estate must present documented proof that they are authorized to represent the estate.)

*Warning: If an agent appointed by a property owner has not registered with the Texas Department of Licensing and Regulation (TDLR) as required by Article 8886, the registration act for property tax consultants, the ARB will not cut off the property owner's right to a hearing on his or her protest. However, non-compliance with this act will be reported to the TDLR.*

## **8.01 Taxing Unit Appearance**

Taxing entities are not allowed to offer testimony in taxpayer protests; however, affected taxing entities are entitled to appear to offer evidence or argument at hearings initiated by 25.25c Motions To Correct Appraisal Roll. (PTC Section 25.25(e))

## **8.02 Verification of Identity**

(a) Prior to taking an oath of testimony, all individuals who are scheduled to appear before the board will be required to verify their identity by producing state issued photo identification.

(b) All persons who are licensed by the Texas Department of Licensing as property tax professionals or property tax agents will be required to produce evidence of licensure.

(c) The ARB will record verification of individuals on a form that will be completed prior to the beginning of a protest hearing

## **9.00 Protest Hearing Requirements**

### **9.01 Open Meetings**

(a) All taxpayer protest hearings and taxing unit challenges must be conducted in open session where the public may hear all argument and testimony and the final deliberations of the board unless there is a joint motion filed with the ARB from the Chief Appraiser and the property owner requesting a closed session due to the intent to disclose proprietary or confidential information that will assist the ARB in determining a protest.

(b) The board may meet in closed (or executive session) to discuss pending litigation with its attorney or to discuss personnel matters (if the ARB has staff).

### **9.02 Public Notice of Meeting Requirements**

All meetings of the ARB must be conducted according to the Open Meetings Act. Meetings must be announced to the public by posting Notice of Meeting at least 72 hours prior to the meeting time:

- At the County Courthouse,
- At the meeting place, and
- On the appraisal district's website.

### **9.03 Record of Proceedings**

(a) The ARB shall record minutes of its general meetings. Such minutes will be presented to the board each general meeting for approval and correction.

(b) Digital audio files of each protest hearing or challenge held in open meeting, along with general notes taken by the ARB clerk, will be attached to the ARB's permanent record of the protest hearing or taxing unit challenge.

(c) A separate tape recording and written summary of testimony will be kept for each 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.

### **9.04 ARB Participation in Meetings**

The board may not make a determination of a taxpayer protest or taxing unit challenge with less than a quorum present.

#### **(a) Eligibility To Participate in Hearing or Challenge**

ARB members are eligible to participate in a protest hearing or taxing unit challenge unless the member must be recused from the hearing or challenge for one of the exceptions listed below.

- An ARB member that has communicated with anyone concerning a protest on the schedule must recuse himself/herself from the hearing and may not participate in the hearing or determination of the protest after stating the conflict in the ARB records and completing a Conflict of Interest Affidavit.
- An ARB member may not participate in the determination of a protest in which he/she has an interest or in which he/she is related to a party by affinity within the second degree or by consanguinity within the third degree, as determined under Chapter 573, Government Code. PTC Section 41.69
- An ARB member may ask to recuse himself/herself from a protest even if there has been no communication regarding the protest, but the member is familiar with the protesting party. Familiarity with the protesting party does not qualify as a conflict of interest. Recusing based on an ARB member's familiarity with the protesting party is done as a courtesy only for the ARB member and a member may be required to participate in a hearing if his/her participation is necessary to constitute a quorum.

**(b) ARB Member Eligibility of Participation Documentation**

Prior to beginning a protest hearing or a taxing unit challenge, all members of the board present must subscribe to an Affidavit for Protest Hearing that certifies that the participating ARB members have not communicated with anyone concerning the protest prior to the protest hearing.

**c) Rescheduling For ARB Member Conflicts**

If there is not a quorum to hear the protest after a member has recused himself/herself, the protest must be rescheduled. PTC Section 41.66(g)

**9.05 Hearing Time Limits**

Hearings are limited to thirty (30) minutes per property and taxing unit challenges are limited to sixty (60) minutes per property classification; however, the board may extend the time limit at its discretion.

A property is generally described as one or multiple contiguous tracts of land with similar use.

**9.06 Testimony**

All testimony presented to the ARB shall be made under oath. Both the protesting property owner (or the designated representative) and the appraisal district representatives must sign the Affidavit of Sworn Testimony prior to the board's hearing testimony. This affidavit must be subscribed before a member of the ARB.

An attorney representing a client is not required to sign this affidavit.

The Board must be informed of any instance where a property owner does not subscribe to the affidavit and record of the testimony not under oath noted in the record of the hearing.

**9.07 Conduct of Hearing Attendees**

(a) All testimony given before the ARB must be presented in a non-confrontational manner. Property owners or agents and the appraisal district representatives 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.

(b) 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.

(c) Persons who attend ARB proceedings who are disruptive or disrespectful of others in attendance will be removed from the meeting.

(d) Cell phones and pagers must be silenced during board proceedings.

**10.00 Order of Protest/Challenge Hearings Open to the Public**

Hearings of the ARB are conducted according to Robert's Rules of Order. The ARB Chairman may alter the sequence of events but hearings should be conducted in the following sequence:

1. Commence the hearing and announce the assigned protest number, property location, owner name and any other identifying information.
2. Announce that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be provided.
3. Ask the ARB if there has been any communication with the property owner or agent regarding this protest that would prohibit their participation in the hearing.
4. Ask the ARB if there are any known conflicts of interest that would prohibit their participation in the hearing.
5. Announce that ARB members who will be hearing the case will now take an oath regarding ~~of~~ ex parte contact and execute Affidavit for Protest Hearing.
6. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
7. 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.
8. Ask if there are any other motions that should be brought to the attention of the board before the hearing begins.
9. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify. Typically, the Secretary of the ARB will swear-in witnesses but any board member may swear in witnesses. (Individuals whose identity has not been verified as required by ARB Hearing Rule 7.02 will be verified prior to the administration of the oath of sworn testimony.)
10. Unless both parties otherwise agree, the protester (or agent, as applicable) will state the nature of the complaint and present evidence and argument. Testimony by any witness may be in narrative form or by questioning of witnesses.
11. The chief appraiser or his designee will present evidence and argument on behalf of the appraisal district.
12. Cross-examination may be allowed if requested by either party.
13. ARB members hearing the case may question any witnesses testifying before the board and may question any of the parties appearing before the board. The board shall limit 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 limit for the hearing. Members of the ARB shall not be examined or cross-examined by parties.
14. The ARB may exclude irrelevant testimony and may instruct a witness to confine his or her testimony to matters relevant to the issues before the board.
15. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
16. The other party may then offer rebuttal evidence.
17. The party presenting its case first shall make its closing argument and state the ARB determination being sought, including but not limited to an opinion of value.
18. The party presenting its case second shall make its closing argument and state the ARB determination being sought, including but not limited to an opinion of value.
19. The ARB chairman shall state that the hearing is closed.
20. The ARB shall deliberate orally. No notes, text messages, or other form of private communication shall be exchanged between members.
21. The ARB chairman 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).

22. 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.

(a) A hearing scheduled to determine failure to deliver notice will be heard by the ARB if it is determined that proper notification was not made by the appraisal district. If the ARB determines that the district did provide proper notification, the ARB will dismiss the case.

## **11.00 Order of Protest Hearings Closed to the Public**

(a) 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.

(b) The ARB chairman shall convene the hearing as an open meeting.

(c) After approving the property owner and Chief Appraiser's joint motion for a closed meeting, the ARB chairman will announce that the meeting will be closed to the public as permitted by Tax Code Sections 41.66(d) and (d-1) and state the time of the meeting closure for the record.

(d) 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.

(e) 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.

(g) After ensuring that all parties are ready to go forward with the closed session, the ARB Chairman will: state the beginning time of the closed hearing, state the names of all persons in attendance, and allow evidence and testimony for the protest to be given.

(f) At the conclusion of the hearing, the ARB 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.

(f) After deliberation, the ARB shall state the ending time of the closed session and reconvene in open meeting to 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.

## **12.00 Issuance of Subpoenas**

The Board as a whole, on its own motion or at the request of a party, may subpoena witnesses, books, records, or other documents.

The Board must conduct a hearing to determine that good cause exists for the issuance of the subpoena. Said hearing may not be held without notice to the parties and the Board's decision may be based upon written request of the party requesting the subpoena.

The Board may subpoena witnesses, books, records, or other documents of the appraisal district or of the property owner who is part of the protest.

Records of the appraisal district that are made confidential by law must be subpoenaed by the Board in order to be considered in any protest hearing.

## **13.00 Board Determinations**

The ARB will render its decision on a protest or taxing unit challenge at the conclusion of the protest (or challenge) hearing whenever possible.

### ***13.01 Postponement Determination***

(a) The ARB may postpone its deliberation to make allowance for time to gather additional information and/or order a re-inspection of the protested property.

(b) If the decision on the protest is not made at the conclusion of the protest hearing, the property owner must be informed of the date and time that the decision will be made. No additional testimony or evidence, unless requested by the ARB, can be given at the meeting on the final decision.

(c) The property owner or authorized agent must be mailed a notice notifying them of the date when a final decision will be made if the property owner or agent is not present at the conclusion of the protest hearing. It is not mandatory that the property owner be in attendance at this meeting.

### ***13.02 Notification of Final Determination of Protest Hearing***

(a) The protester will be notified of the ARB's determination in its Order Determining Protest or Order of Dismissal, and a Notice of Final Order. The notice shall be delivered to the protester at the address provided on the protest form by certified mail.

The ARB will include with the Notice of Final Order:

- A copy of the Order Determining Protest or Order of Dismissal,
- A notice of the property owner's right to binding arbitration, and
- A copy of the Request for Arbitration form.

### ***13.03 Notification of Final Determination of Taxing Unit Challenge***

The challenging taxing unit will be notified of the ARB's determination in its Notice of Issuance of ARB Order to Taxing Unit, and an Order to Correct Appraisal Records.

### ***13.04 Dismissal of Protest for Failure to Appear***

(a) Protests where the property owner or his/her agent who has not appeared within 20 minutes of the scheduled hearing time and who have had no communication with the ARB Clerk prior to the hearing time will be dismissed by the ARB for failure to appear.

(b) A property owner or a designated agent is entitled to request a new hearing for reasonable cause within four days of a failure to appear. This request must be made in writing and must include a reasonable cause explanation for missing their previously scheduled hearing.

### ***13.05 Dismissal of Protest for Failure to Meet Tax Payment Requirements***

A property owner who files a late protest or motion to correct the appraisal roll under PTC 25.25 is required to pay the amount of taxes not in dispute before the delinquency by PTC 42.08. A property owner who fails to meet this requirement forfeits the right to proceed to a final determination of the appeal.

### ***13.06 Determinations That Increase Property Tax Liability***

After the appraisal records are approved, the ARB cannot order an adjustment that will result in an increase in the tax liability of a property owner except in the case of a deleted exemption or a split out property.

The property owner must be mailed a Notice of Change in Appraisal Records providing notification of the change. The notice must include a brief explanation of the procedures for protesting the change.

Failure to deliver notice to a property owner as required nullifies the change. PTC Section 41.11

A property owner may protest any change ordered by the ARB by filing a Notice of Protest within 30 days after the date the Notice of Change is mailed. The protest filing deadline must be indicated in the notice.

A protest filed under this provision is handled in the same manner as all protests.

## **14.00 Limitation on Changes**

The ARB is limited to the current year plus a five-year period in which corrections may be made to the appraisal roll. Each tax year begins on January 1.

## **15.00 Approval of Appraisal Records**

(a) The board must approve the appraisal records by July 20 or as soon thereafter as practicable. The appraisal records may be approved once the ARB has made determinations on protest hearings that comprise 95 percent of the total appraised value of the district.

(b) The ARB approves the appraisal records by issuing an Order Approving Appraisal Records.

## **16.00 Correction of Appraisal Records**

### ***16.01 Corrections to Appraisal Records Before Certification***

At any time before the approval of the appraisal records, the chief appraiser may submit written recommendations to the ARB for corrections in the records. If the board approves a recommended correction and it will not result in an increase in the tax liability of a property owner, the board may make the correction by written order.

### ***16.02 Correction to the Appraisal Roll After Certification***

**(a) Errors and Changes That Do Not Affect Tax Liability** - Under the authority of PTC 25.25, the Chief Appraiser may change the appraisal roll at any time to correct a name or address, a termination of ownership, a description of property, multiple appraisals, or a clerical error that does not increase the amount of a tax liability.

**(b) Errors and Changes That Affect Tax Liability** - Clerical errors that affect a property owner's liability for taxes, multiple appraisals, and the inclusion of property on the roll that does not exist in the form or location described on the appraisal roll may be corrected by ARB order. Such changes are made through a Motion to Correct the Appraisal Roll filed by the property owner, the Chief Appraiser, or jointly by the property owner and the Chief Appraiser.

**(c) Incorrect Appraised Value** - At any time prior to the date the taxes become delinquent, a property owner or the Chief Appraiser may file a motion with the ARB to correct an error that resulted in an incorrect appraised value for the owner's property.

The error may only be corrected if the ARB finds that the appraised value exceeds the correct appraised value by one-third (1/3).

If the appraisal roll is changed under this subsection the property owner must pay each affected taxing unit a late-correction penalty equal to 10 percent of the amount of taxes calculated from the corrected appraised value.

### ***16.03 Joint Motions to Correct Appraisal Records***

The chief appraiser shall make corrections to the appraisal records that are not subject to protest so long as the chief appraiser and the property owner are in agreement regarding the change. The chief appraiser is authorized by the ARB to issue change orders to the taxing units for these corrections to the appraisal roll.

## **17.00 Chief Appraiser Reporting**

The chief appraiser is required to issue a report to the ARB quarterly of all changes made to the appraisal records for the board's approval. PTC 25.25(b)