

Appraisal Review Board Hearing Procedures



In Accordance with Comptroller Rule 9.805
Chapter 41, §41.01(c), (d), (e); 5.103 (d)
Approved in Open Meeting January 19, 2022, Wednesday



RESOLUTION

FOR THE ADOPTION OF THE 2022 APPRAISAL REVIEW BOARD HEARING PROCEDURES

In accordance with Section 5.103 (d), of the Texas Property Tax Code will incorporate the model hearing procedures as prepared by the Comptroller when adopting the board's procedures for hearings. This public hearing is to consider the hearing procedures proposed for adoption by the board. The board will make any amendments to the proposed hearing procedures that the board determines as necessary, and by resolution adopt the hearing procedures. Sec. 41.01 (c). Comptroller Rule 9.805, TX Prop. Tax Code Sec. 5.103(d); Sec. 41.01(c), (d), (e), (1), Subchapter C ; and (2)

THAT WHEREAS, the Appraisal Review Board for the Runnels Central Appraisal District (hereinafter the board) in accordance with Section 41.01(c), shall, before adopting the hearing procedures, hold a public hearing to consider the procedures proposed for adoption by the board.

WHEREAS, the board shall comply to the Comptroller Rule 9.805 regarding Appraisal Review Board Evidence Exchange and Retention and Audiovisual Equipment.

WHEREAS, the board shall comply to TX Prop. Tax Code Sec. 5.103(d); shall incorporate model hearing procedures prepared by the comptroller when adopting the board's procedures for hearings as required by Section 41.01(c). The board shall adopt procedures that supplement the model hearing procedures, provided the supplemental procedures do not contradict or circumvent the model hearing procedures.

WHEREAS, the board in accordance with TX Prop. Tax Code Sec. 41.01(d), shall distribute copies of the hearing procedures adopted by the board to the board of directors of, and the taxpayer liaison officer for, the appraisal district for which the appraisal review board is established and to the comptroller not later than the 15th day after the date the board adopts the hearing procedures.

WHEREAS, the board in accordance with TX Prop. Tax Code Sec. 41.01(e), shall post a copy of the hearing procedures adopted by the board: (1) in a prominent place in each room in which the board conducts hearings under this subchapter and Subchapter C; and (2) if the appraisal district for which the board is established maintains an Internet website, on the appraisal district's website.

NOW THEREFORE BE IT RESOLVED, the Appraisal Review Board for the Runnels Central Appraisal District will perform the above actions beginning on this the 19th day of January, 2022.

The undersigned, being the Chief Appraiser and members of the Appraisal Review Board for the Runnels Central Appraisal District, does hereby certify that at a meeting/hearing of the Appraisal Review Board, duly called and held in open-meeting/hearing January 19, 2022, at which a quorum was present and voting, this resolution was adopted.

Charles McGuire

Charles McGuire, ARB Chairman

Mr. Ryan Paske, ARB Member Alternate

Mrs. Dinell Jacob, ARB Secretary

Paul Scott Randolph

Mr. Paul Scott Randolph, Chief Appraiser

B.K. Battle

Mrs. Betty Battle, ARB Member

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PROPERTY OWNER'S GUIDE TO THE ARB PROCESS

INTRODUCTION

The materials in this packet are provided to assist property owners in (1) understanding how the Appraisal Review Board (ARB) functions in the property tax system, (2) presenting an effective protest, and (3) familiarizing themselves with procedures under which the ARB operates.

The ARB is a panel of three citizens, independent from the appraisal district, that makes decisions concerning valuation issues the appraisal district and property owner are not able to resolve. The ARB basically hears evidence from the property owner and the appraisal district and then makes a decision based on that evidence.

The ARB has authority only over the valuation issues concerning a property in a protest and will assign a value to the property based on the evidence presented.

The ARB has no role in the day-to-day operations of the appraisal district or in appraising property. They cannot order or instruct the appraisal district how to perform its job.

The ARB has no control over issues such as the tax rates, expenditures and activities of the county, cities and school districts, or the services provided by those taxing units. Addressing these topics in your presentation wastes time and will not help your case.

FAIR AND EFFICIENT APPRAISAL REVIEW BOARD HEARINGS

Tax Code Section 5.103(b)(17)

1. **Compliance with the Law, Integrity, and Impartiality:** ARB members must comply with the law and should 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 for any purpose unrelated to ARB duties confidential information acquired in the performance of 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, as well as audiovisual equipment requirements. The rule requires that ARB procedures include specific items that may vary by ARB. The rule addresses:
 - the manner and form, including security requirements, in which a person must provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device;
 - how the evidence must be retained as part of the ARB's hearing record; and
 - the audiovisual equipment provided by an appraisal district, if any, for use by a property owner or the property owner's agent.

I. ARB MEMBERSHIP

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

Administration of 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 requesting an appointment to the ARB, the member must direct the individual to the person designated to receive applications or requests for ARB appointment.

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 may be provided 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 affidavit must be filed as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from *Tax Code Section 41.69*, 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., there is no requirement under *Tax Code Section 41.69* that the interest 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.

Ex Parte and Other Prohibited Communications

ARB members shall not engage in prohibited ex parte or other communications. If an ARB member is approached by one or more individuals that appear to be engaging or attempting to engage in a prohibited communication, the ARB member shall immediately remove him/herself from the conversation.

II. ARB DUTIES

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

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.

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.

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

“Good cause” for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-

filed protests should be carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) should be uniformly applied. The ARB should give due consideration to good cause claims in 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)

Scheduling Hearings Generally

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

Scheduling Hearings for Property Owners or Their Agents

Pursuant to *Tax Code Section 41.66(i)*, hearing requests filed by property owners or their designated agents under *Tax Code Section 1.111* must be scheduled for a specific time and date. More than one protest hearing can be scheduled 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 seventh day after the date of receipt of the request.

Scheduling Hearings for Multiple Accounts

If requested by a property owner or the designated agent, hearings on protests concerning up to 20 designated properties must be scheduled to be held consecutively on the same day by the ARB. The request must meet all requirements of *Tax Code Section 41.66(j)*, including the required statement in boldfaced type: “request for same-day protest hearings.” More than one such request may be filed in the same tax year by a property owner or the designated agent. 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 their 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)*.

ARB Panel Assignments

If an ARB sits in panels as authorized by *Tax Code Section 41.45(d) and (d-1)*, protests must be assigned randomly, except that 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.

Once a protest is scheduled to be heard by a specific panel, it cannot be reassigned 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 is required to postpone the hearing if requested in this situation. Pursuant to *Tax Code Section 41.66(k)*, “[a] change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel.”

A property owner or agent can 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.

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 request must be made before the hearing date in writing, including by facsimile transmission or electronic mail, by telephone or in person to the ARB, an ARB panel, or

the ARB chair. If the 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 hearing cannot be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought

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 request must be made in writing, including by facsimile transmission or electronic mail, by telephone or in person to the ARB, an ARB panel, or the ARB chair. If the 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 hearing cannot be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The request must be made in writing, including by facsimile transmission or electronic mail, by telephone or in person to the ARB, an ARB panel, or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular 4 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 hearing cannot be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

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.

Postponements Under Tax Code Section 41.45(g)

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

- 1) the owner of the property or the owner's agent is also scheduled to appear at 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.

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 41.46*. 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 seventh day after the date of receipt of the request.

Postponements Under Tax Code Section 41.66(i)

Protest hearings filed by property owners or their designated agents under *Tax Code Section 1.111* must be scheduled for a specific time and date. More than one protest hearing can be scheduled at the same time and

date; however, a property owner or their 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 seventh day after the date of receipt of the request.

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

Once a protest is scheduled to be heard by a specific panel it cannot be reassigned 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. 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 seventh day after the date of receipt of the request. 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.

IV. CONDUCT OF FORMAL ARB HEARINGS

(Note: The process for informal meetings between property owners and appraisal district staff is more relaxed and does not necessarily follow this same sequence or procedure.)

Party's Right to Appear by an Agent

The ARB must 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 cannot require a person to designate an agent to represent the person in a property tax matter other than as provided by *Tax Code Section 1.111*. A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to file a protest if the property owner does not and to designate, under *Tax Code Section 41.413*, another person to act as his/her agent with the same authority and limitations as an agent designated under *Tax Code Section 1.111*.

Party's Right to Appear by Affidavit

A property owner may appear by affidavit instead of appearing personally or by a duly appointed agent as required by law. An affidavit must be considered by the board only if:

1. it contains statements that the evidence presented is true and correct;
2. it is attested before an officer authorized to administer oaths (such as a notary);
3. it is submitted to the board before the protest hearing begins. The board shall accept communications regarding evidence by facsimile transmission or electronic mail. If a property owner chooses to offer argument by telephone conference call to offer argument with evidence offered and delivered by affidavit before the hearing begins, or by written affidavit to offer evidence and argument delivered to the ARB before the hearing begins. *Tax Code Section 5.103(b)(3), (4), (7), and (14); 41.45(b), (i), (n)*

Order of Hearing Overview

Following the introductory statement by the Appraisal Review Board, the hearing will take place as follows:

- a. Commence the hearing and announce the assigned protest number, property location and owner and other identifying information.
- b. Announce that, in accordance with *Tax Code 41.45(h)*, all written and electronic material that has not been provided must be presented.
- 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 all testimony must be given 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 shall present evidence (documents and/or testimony). If witnesses are present, the property owner or agent may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
- 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 shall present evidence (documents and/or testimony) next. If witnesses are present, an opinion of value (if applicable) for the property must be stated.
- k. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
- l. Members of the ARB shall not be examined or cross-examined by parties.
- m. The party presenting its case first may offer rebuttal evidence (additional evidence refute evidence presented by the other party).
- n. The other party may then offer rebuttal evidence.
- o. The party presenting its case first shall make its closing argument and state the ARB determination being sought.
- p. The party presenting its case second shall make its closing argument and state the ARB determination being sought.
- q. The ARB or panel chair shall state that the hearing is closed.
- r. The ARB or panel shall deliberate orally. No notes, text messages, or other forms of written communication are permitted.
- s. The ARB or panel chairman shall ask for a separate motion for each matter that was a 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.
- t. 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. Provide the property owner or their agent documents indicating that the members of the board hearing their protest signed the required affidavit.

Introductory Statement by the Appraisal Review Board (read at the beginning of each hearing).

"We are the appraisal review board that will be hearing your protest today. We do not work for the appraisal district. We are appointed to perform an independent review of your protest. You may complete a survey regarding your experience today. The survey is voluntary. You also have the right to appeal our decision. Appeal information will be provided to you with our determination." (Information will be provided on how to fill out the survey.)

a. Commence the hearing and announce the assigned protest number, property location and owner and other identifying information.

The appraisal staff introduces the case by citing the following: the case number, the name of the owner/appellant, property identification number (R#), legal description of the property, the nature of the protest, a valuation summary and the owner's opinion of value.

EXAMPLE PROTEST

PROPERTY APPRAISAL NOTICE OF PROTEST

TAX YEAR 2021
R0000

IMPORTANT: THE DEADLINE TO FILE YOUR PROTEST IS 6/1/2021 TO EXPEDITE YOUR PROTEST: USE THIS FORM OR FILE ONLINE

FILE EARLY! Early filers may benefit from shorter waiting times, flexibility in scheduling and length of hearing time.

GENERAL INSTRUCTIONS: This form is for use by a property owner or an owner's designated agent to file a protest with the Appraisal Review Board (ARB) pursuant to Tax Code Section 41.41. Lessees contractually obligated to reimburse a property owner for property taxes may be entitled to protest as a lessee if all Tax Code requirements are met, including those in Tax Code Section 41.413.

FILING INSTRUCTIONS: This document and all documentation must be filed with the ARB. Do not file with the Texas Comptroller of Public Accounts.

DEADLINES: With exceptions, the typical deadline for filing a notice of protest is midnight, 6/1/2021 (Tax Code Section 41.44) If mailed, it should be postmarked by deadline date. If hand delivered to ARB office, it must be delivered before closing.

NOTICE: The Comptroller's office may not advise a property owner, a property owner's agent, the chief appraiser or any appraisal district employee on a matter that the Comptroller's office knows is the subject of a protest to the ARB. Consult Tax Code Chapter 41 or the ARB hearing procedures for more information.

SECTION 1: Property Owner or Lessee

Owner Name: PERKINS ALAN BROOKE/ANGELA KAY
Owner Address: 3220 AZURE DR
Owner City, St, Zip: LITTLE ELM, TX 75068

Person Age 65 or Older
 Military Service Member
 Disabled Person
 Military Veteran
 Spouse of Military Member or Veteran

Email Address: _____
Phone Number: _____

SECTION 2: Property Description

Account #: R000002394
Legal Description: H & T C RR, AB: 309, SU: 337
Situation Address: 818 354 CR

***Agency Information - Leave Blank if no Agent Exists**

Agency Code/Name: _____
Agency Address: _____
Agency City, St, Zip: _____

SECTION 3: Reason For Protest

To preserve your right to present each reason for your protest to ARB according to law, be sure to select all boxes that apply. Failure to select the box that corresponds to each reason for your protest may result in your inability to protest an issue that you want to pursue. Reasons for protest may not be changed or added at a hearing. You have the right to consult with a lawyer or property tax consultant for assistance.

<input checked="" type="checkbox"/> Incorrect appraised (market) value	<input type="checkbox"/> Owner's name is incorrect
<input checked="" type="checkbox"/> Value is unequal compared with other properties	<input type="checkbox"/> Property description is incorrect
<input type="checkbox"/> Exemption was denied, modified or cancelled	<input type="checkbox"/> Change in use of land appraised as ag-use, open-space or timberland
<input type="checkbox"/> Ag-use, open-space or other special appraisal was denied, modified or cancelled	<input type="checkbox"/> Incorrect appraised or market value of land under special appraisal for ag-use, open-space or other special appraisal
<input type="checkbox"/> Property is not located in this appraisal district or otherwise should not be included on the appraisal district's record	<input type="checkbox"/> Property should not be taxed in (name of tax unit)
<input type="checkbox"/> Temporary disaster damage exemption was denied or modified	<input type="checkbox"/> Incorrect damage assessment rating for a property qualified for a temporary disaster exemption
<input type="checkbox"/> Failure to send required notice (type)	<input type="checkbox"/> Other(specify): _____

SECTION 4: Additional Facts

Provide facts that may help resolve this protest. Attach additional pages if necessary. Ex: complete copies of Settlement Statement and Uniform Residential Appraisal Report, if recently purchased property. What is your opinion of your property's value? (Optional) \$ _____

SECTION 5: Hearing Type

A property owner does not waive the right to appear in person at a hearing by submitting an affidavit to the ARB or by appearing by telephone conference call. I intend to appear at the ARB hearing scheduled for my protest in the following manner (Check only one box):

By telephone conference call and will submit evidence with a written affidavit to ARB before the hearing begins. Review ARB's hearing procedures for specific telephone conference call procedures. (May use Comptroller Form 50-283, Property Owner Affidavit of Evidence)

On written affidavit submitted with evidence and delivered to ARB before the hearing begins.

In Person

SECTION 6: ARB Hearing Procedures

I request my notice of hearing to be delivered by (check one box only):

Certified mail and agree to pay the cost (if applicable) First-Class mail (no charge) ARB to send me a copy of hearing procedures YES NO

Email to the electronic address I provided in Section 1

SECTION 7: Certification and Signature

Property Owner Property Owner's Agent Other: _____

Print Name of Property Owner or Authorized Representative: _____ Signature of Property Owner or Authorized Representative: _____ Date: _____

If you try to file online but do not receive a confirmation, you must file your protest by the deadline date, in person, by mail, or by common or contract carrier:

Mail to: RUNNELS COUNTY APPRAISAL DISTRICT
PO BOX 524
BALLINGER, TEXAS 76821

Phone: (325)365-3583

Deliver to: PHYSICAL ADDRESS:
505 HUTCHINGS AVE
BALLINGER, TEXAS 76821

Each Reason For Protest Must Be Addressed Separately



b. Announce that, in accordance with Tax Code 41.45(h), all written and electronic material that has not been provided must be provided.

The property owner or authorized representative and the chief appraiser or his designee exchange copies of all evidence they intend to present at the hearing. If the appraisal district intends to use audiovisual equipment at the ARB hearings, appraisal district staff will make available the audiovisual equipment of the same general type, kind, and character for use at the hearing by the property owner or the owner's agent. [Tax Code Section 41.5(h) Comptroller Rule 9.803 and 9.805; Tax Code Section 41.67(b)]

Tax Code 41.67(d) states: Information that was not previously requested under Section 41.461 by the protesting party that was not made available to the protesting party at least 14 days before the scheduled or postponed hearing may not be used as evidence in the hearing.

Tax Code Section 41.461(a)(2), in particular, requires that at least 14 days before a hearing on a protest, the chief appraiser shall "inform the property owner that the owner or the agent of the owner may inspect and may obtain a copy of the data, schedules, formulas, and all other information the chief appraiser plans to introduce at the hearing to establish any matter at issue."

For evidence to be excluded under Tax Code Section 41.67(d), the property owner must establish that:

1. he or she timely requested the information and
2. the appraisal district did not make available as required the information sought to be excluded.

If the property owner can show he or she timely requested the information for purposes of exclusion of the evidence under Tax Code Section 41.67(d), a one-time postponement of the hearing may be granted under Tax Code Section 41.66(j) if the appraisal district failed to comply with Tax Code Section 41.161 by not delivering the required Property Taxpayer Remedies pamphlet or local hearing procedures or not providing notice that evidentiary materials were available.

It is important to note that Tax Code Section 41.461 does not require the delivery of information that the chief appraiser plans to introduce at the hearing, only that the appraisal district notify the property owner or agent that the information is available for inspection and copying. The only provisions in Tax Code Section 41.461 requiring delivery by the chief appraiser to the property owner 14 days before the hearing are those pertaining to the Comptroller's publication Property Taxpayer Remedies and local ARB hearing procedures. [Tax Code Section 41.461(a)(1) and (3)]

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.

Tax Code Section 41.66 (g) and (f)

Each ARB member signs an affidavit stating that he has not communicated with another person about any matter related to a property owner's protest or about a property that is the subject of the protest except during the hearing or during another protest or proceeding at which the property is compared to another property or used in a sample of properties. An ARB member who has violated the ex parte communications rule must be excused from the hearing and may not hear, deliberate, or vote on the protest.

d. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.

Hearings are generally limited to 15 minutes and are conducted in an informal manner:

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.

Tax Code Section 41.66(1)

Property owners or their authorized representatives are not subject to *Chapter 1103, Occupations Code (the Texas Appraiser Licensing and Certification Act)* unless the person states they are offering the evidence or argument as a person holding a license or certificate under that statute. The model procedures provide for the inquiry by the ARB as to the applicability of the Texas Appraiser Licensing and Certification Act. For example, if a professionally licensed fee appraiser also holds a property tax consultant certificate or a real estate broker or sales agent license, this professional is required by law to state the capacity (the license or certification) under which he or she is appearing before the ARB in that case.

f. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify.

Tax Code Section 41.67(a)

All witnesses shall take an oath concerning the accuracy of their testimony. The Tax Code requires that all testimony be given under oath and before an individual testifies, an ARB member is to swear in the witness.

g. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.

Tax Code Section 41.66(b)

The property owner delivers testimony and presents evidence and then the appraisal district representative delivers testimony and presents evidence. The property owner has the right to elect to present his or her case either before or after the appraisal district presents its case.

h. If the property owner or agent presents his/her case first, he/she shall present evidence (documents and/or testimony).

Tax Code Section 41A.04(1), (2)

If witnesses are present, the property owner or agent may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.

HOW TO MAKE YOUR CASE

The following can help in achieving a successful protest:

- Present your case in a short, simple, and logical order. You may present your evidence verbally or in written form.
- Be prepared to offer a specific opinion of the value for your property and then support it with your evidence. Statements simply saying that the value is too high, the value shouldn't be increased, or the value increased too much in one year are not considered convincing evidence. If you are presenting written evidence, have copies available for the ARB members. Some examples of evidence are:
 - ✓ a recent closing statement indicating the sales price of the property,
 - ✓ a recent appraisal or written opinion of value of the property,
 - ✓ photographs of the property,
 - ✓ recent sales of similar properties,
 - ✓ written estimates from contractors as to the cost of repairing any major defects, or
 - ✓ other factual documentation that supports your claim.
- Familiarize yourself with the ARB hearing procedures. Remember that, at the end of the hearing, the ARB will make a final decision concerning the value of your property; so be sure that you have included everything you want the ARB to consider.

j. If the property owner or agent presented his/her case first, the appraisal district representative shall present evidence (documents and/or testimony) next. If witnesses are present, an opinion of value (if applicable) for the property must be stated.

The appraisal district may introduce schedules, comparable sales, comparable properties, and other data in the process of defending our opinion of value. Property owners and their authorized representatives who had previously requested copies of this information under *Tax Code Section 41.461* will have another opportunity to review the district's evidence and make note of any clarification they intend to request during cross-examination or rebuttals of anything they wish to contest.

k. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.

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 parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence.

l. Members of the ARB shall not be examined or cross-examined by parties.

The ARB is not responsible for performing appraisals (doing the job of an appraiser) in the process of determining a property's appraisal value. They have no say in *how* a final opinion of value is reached only in *whose* value (between the protesting party and the appraisal district) is best supported by the evidence. Examination and cross-examination relate to questioning the accuracy of evidence presented, requesting clarification, or asking for additional detail from either party. It is not appropriate for this line of questioning to be directed to the ARB.

m. The party presenting its case first may offer rebuttal evidence (additional evidence refute evidence presented by the other party).

n. The other party may then offer rebuttal evidence.

o. The party presenting its case first shall make its closing argument and state the ARB determination being sought.

p. The party presenting its case second shall make its closing argument and state the ARB determination being sought.

q. The ARB or panel chair shall state that the hearing is closed.

r. The ARB or panel shall deliberate orally. No notes, text messages, or other forms of written communication are permitted.

s. The ARB or panel chairman shall ask for a separate motion for each matter that was 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).

t. Thank the parties for their participation and announce the determination(s) of the ARB and that and order determining protest will be sent by certified mail. Provide the property owner or their agent documents indicating that the members of the board hearing their protest signed the required affidavit.

Tax Code Section 41.47(a); 25.22 or 25.23

The appraisal review board hearing a protest shall determine the protest and make its decision by written order. Each issue that is the subject of the protest must be determined separately by the ARB and each determination should be reflected on the written order determining protest. In addition, the ARB must state in the written order the appraised value of the property as shown on the appraisal records submitted to the ARB by the chief appraiser under *Tax Code Section 25.22 or 25.23* as well as the value the ARB determined from the protest hearing.

CONDUCTING HEARINGS REMOTELY

A property owner initiating a protest is entitled to offer evidence or argument by affidavit without physically appearing. To appear at a hearing remotely, a property owner must notify the ARB in written request not later than the 10th day before the date of the hearing. To offer evidence or argument at a remote hearing, a property owner must submit a written affidavit of any evidence before the hearing begins – four copies of the original document(s) (if paper) or via electronic form. Keep in mind that documents, photographs, and all forms of evidence will become a permanent part of the hearing record. *Comptroller Rule 9.803 and 9.805, Tax Code Section 41.67(b)*

Remote hearings are only available for Chapter 41 protests under the Texas Property Tax Code.

By Telephone/Teleconference

A. A property owner requesting a telephone conference call must:

- 1) Notify the ARB in writing not later than the tenth day before the date of the scheduled hearing, and
- 2) provide any evidence they intend to introduce in the form of an affidavit to be filed at least 24 hours prior to the scheduled hearing date.
 - This allows the CAD staff time to make copies of the evidence and provide each member of the ARB panel copies of and evidence presented. Evidence requested from the CAD by the property owner or agent must be requested in advance with enough time to allow for a reasonable delivery time frame by the United States Postal Service (USPS). Evidence requested will only be sent by certified mail for proof of delivery.
 - If the property owner provides concrete evidence, such as documents, photographs, tables, or other items intended to prove or disprove the existence of an alleged fact, with their affidavit, evidence should be labeled prominently as: (Property Owner) PO Ex 1, PO Ex B, etc. Specific portions the owner wishes to emphasize should be highlighted or otherwise marked with colored marking. Likewise, the appraisal district's evidence will be labeled prominently as: (Central Appraisal District) CAD Ex A, CAD Ex B, etc., if they are to be provided to the owner prior to or at the beginning of the hearing. During the hearing, all parties must refer to evidence by their respective exhibit number.
 - No evidence, including facts and opinions, other than that contained in the affidavit may be offered by the property owner via telephone. ARB panel members will not ask a property owner to present evidence by telephone. Owners may make additional comment on evidence in the affidavit or offered by the appraisal district, as well as arguments supporting or opposing the legal relief requested.

B. The appraisal district will call the property owner or their authorized representative from the conference line when the ARB is ready to begin their hearing. Property owners and their representatives must be available to receive the call approximately five (5) minutes prior to the scheduled hearing time.

C. Property owners must advise whether they are represented by an agent.

D. If a panel is not available to hold the hearing at the scheduled time, the ARB or staff member making the call will advise the property owner that the ARB will call the owner back when a panel is available. The owner is responsible for keeping the line clear and answering promptly when the ARB calls. If the ARB cannot reach the owner, the owner forfeits the opportunity to participate in the hearing by telephone, although submitted evidence will still be considered.

E. If a property owner not represented by an agent has to wait more than two (2) hours from the scheduled time for their hearing before the hearing begins, the owner may promptly notify the ARB of their request to postpone the hearing.

F. The property owner is responsible for ensuring a clear and reliable telephone connection with the ARB.

- 1) The owner should use a landline telephone, or if using a cellphone, make the call from a place with a

strong, reliable connection to a cellular network. Owners using a VOIP telephone should make sure the internet connection is fast enough to provide clear transmission of sound without buffering.

- 2) The owners should be sequestered from any background noises that might interfere with the panel's ability to hear and understand the owner.
- 3) If a call is dropped or the owner's speech is garbled or indecipherable, the ARB panel may make one attempt to reestablish a connection with the owner. If the panel's attempt to call is unsuccessful, they will proceed with the hearing and the owner will have no further opportunity to participate in the hearing by telephone, although evidence submitted by affidavit will still be considered.
- 4) At the beginning of the hearing, the ARB Chairman will advise the owner the hearing testimony is being recorded and attached to the property ID of the protested property which will be subject to the Texas Open Meetings Act.

G. The property owner is responsible for providing access to another person they wish to participate in the hearing subject to the same rules and laws regarding evidence and argument.

By Video Conference

A. A property owner requesting a video conference must:

- 1) Notify the ARB in writing not later than the tenth day before the date of the scheduled hearing, and
- 2) provide any evidence they intend to introduce in the form of an affidavit to be filed at least 24 hours prior to the scheduled hearing date.
 - This allows the CAD staff time to make copies of the evidence and provide each member of the ARB panel copies of and evidence presented. Evidence requested from the CAD by the property owner or agent must be requested in advance with enough time to allow for a reasonable delivery time frame by the United States Postal Service (USPS). Evidence requested will only be sent by certified mail for proof of delivery.
 - If the property owner provides concrete evidence, such as documents, photographs, tables, or other items intended to prove or disprove the existence of an alleged fact, with their affidavit, evidence should be labeled prominently as: (Property Owner) PO Ex 1, PO Ex B, etc. Specific portions the owner wishes to emphasize should be highlighted or otherwise marked with colored marking. Likewise, the appraisal district's evidence will be labeled prominently as: (Central Appraisal District) CAD Ex A, CAD Ex B, etc., if they are to be provided to the owner prior to or at the beginning of the hearing. During the hearing, all parties must refer to evidence by their respective exhibit number.
 - No evidence, including facts and opinions – other than that contained in the affidavit, may be offered by the property owner via video conference. ARB panel members will not ask a property owner to present evidence by telephone. Owners may make additional comment on evidence in the affidavit or offered by the appraisal district, as well as arguments supporting or opposing the legal relief requested.

B. Approximately one hour prior to the scheduled hearing time, the appraisal district will send the property owner or their agent an email containing the information needed to join the meeting. Protesting parties are responsible to contact the district if they do not receive a meeting invite around the time indicated. Please make sure to allow adequate time so staff can either resend the email invite or provide the necessary details over the phone.

Note: The video conferencing software used by the district requires either Google Meet or the RingCentral application. Property owners should be aware they will need to have one or the other of these applications in order to connect with their video conference hearing. Please allow sufficient time for download and install, if necessary.

C. Property owners must join the video conference meeting at least five (5) minutes prior to the scheduled hearing time. If the ARB is not yet ready to begin the hearing, appraisal district staff will let the property owner know and ask them to wait.

D. If a panel is not available to hold the hearing at the scheduled time, the ARB will place the property owner or agent into a holding room to wait the panel's availability.

- E. If a property owner not represented by an agent has to wait more than two (2) hours from the scheduled time for their hearing before the hearing begins, the owner may promptly notify the ARB of their request to postpone the hearing through the holding room chat or by contacting the appraisal district via email or phone.
- F. The property owner is responsible for ensuring a clear and reliable internet connection with the ARB and for enabling their video upon joining the meeting.
 - 1) Owners should make sure the internet connection is fast enough to provide clear transmission of sound and video without buffering.
 - 2) The owners should be sequestered from any background noises that might interfere with the panel's ability to hear and understand the owner.
 - 3) If the video call is dropped or the owner's speech is garbled or indecipherable, the ARB panel will wait the duration of the owner's hearing time for the owner or agent to rejoin the video conference meeting. In the meantime, they will proceed with the hearing and the owner will have the opportunity to participate in the hearing by video once they have rejoined. Evidence submitted by affidavit will still be considered in the event the owner fails to rejoin the meeting successfully within their hearing time allotment.
 - 4) At the beginning of the hearing, the ARB Chairman will advise the owner the hearing's audio testimony is being recorded and attached to the property ID of the protested property which will be subject to the Texas Open Meetings Act.
- G. The property owner is responsible for providing access to another person they wish to participate in the hearing subject to the same rules and laws regarding evidence and argument.

CONDUCTING HEARINGS CLOSED TO THE PUBLIC

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

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

The 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* and must be marked as “confidential” and maintained 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 confidentiality of the information must be maintained by the ARB members and disclosed 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.

The appraisal review board hearing a protest shall determine the protest and make its decision by written order.

Each issue that is the subject of the protest must be determined separately by the ARB and each determination should be reflected on the written order determining protest. In addition, the ARB must state in the written order the appraised value of the property as shown on the appraisal records submitted to the ARB by the chief appraiser under *Tax Code Section 25.22 or 25.23* as well as the value the ARB determined from the protest hearing

SECTION 3: Reason For Protest

To preserve your right to present each reason for your protest to ARB according to law, be sure to select all boxes that apply. Failure to select the box that corresponds to each reason for your protest may result in your inability to protest an issue that you want to pursue. Reasons for protest may not be changed or added at a hearing. You have the right to consult with a lawyer or property tax consultant for assistance.

- | | |
|--|--|
| <input type="checkbox"/> Incorrect appraised (market) value | <input type="checkbox"/> Owner's name is incorrect |
| <input type="checkbox"/> Value is unequal compared with other properties | <input type="checkbox"/> Property description is incorrect |
| <input type="checkbox"/> Exemption was denied, modified or cancelled | <input type="checkbox"/> Change in use of land appraised as ag-use, open-space or timberland |
| <input type="checkbox"/> Ag-use, open-space or other special appraisal was denied, modified or cancelled | <input type="checkbox"/> Incorrect appraised or market value of land under special appraisal for ag-use, open-space or other special appraisal |
| <input type="checkbox"/> Property is not located in this appraisal district or otherwise should not be included on the appraisal district's record | <input type="checkbox"/> Property should not be taxed in (name of taxing unit) |
| <input type="checkbox"/> Temporary disaster damage exemption was denied or modified | <input type="checkbox"/> Incorrect damage assessment rating for a property qualified for a temporary disaster exemption |
| <input type="checkbox"/> Failure to send required notice (type) | <input type="checkbox"/> Other(specify): |

V. EVIDENCE CONSIDERATIONS

Tax Code Section 5.103(b), (8), (11), and (13)

- All evidence submitted is admitted into the record. Documents, photographs, and all forms of evidence become a permanent part of the hearing record. Materials may be in either paper or electronic form. Parties appearing before the ARB should make four (4) copies of any written evidence they wish to present to the ARB. (One copy for each of the three members and one copy for the appraisal district.)
- A property owner attorney or agent offering evidence or argument in support of a protest concerning appraised or market value or unequal appraisal is not subject to *Occupations Code Chapter 1103 (the Texas Appraiser Licensing and Certification Act)* unless the person states they are offering the evidence or argument as a person holding a license or certificate under that statute. [Tax Code Section 41.66(1)] The model procedures provide for inquiry by the ARB as to the applicability of the Texas Appraiser Licensing and Certification Act. If a professionally licensed fee appraiser also holds a property tax consultant certificate or a real estate broker or sale agent license this professional is required by law to state the capacity (the license or certification) under which he or she is appearing before the ARB in that case.
- *Tax Code Section 41.67(b)* provides that copies of documentary evidence may be admitted if original documents are not readily available, or the ARB otherwise rules the copy is admissible. A party is entitled to an opportunity to compare a copy with the original document on request.
- *Tax Code Section 41.67(c)* provides that official notice may be taken of any fact judicially cognizable. A party is entitled to an opportunity to contest facts officially noticed.

Prohibition of Consideration of Information Not Provided at the ARB Hearing

The role of the ARB in a hearing is to receive, consider, and make determinations based on evidence provided at the hearing and follow the law in doing so. Under certain circumstances, the ARB may not consider information presented by the property owner or their authorized representative or the appraisal district even if this piece of evidence may be crucial to the case being made by either party.

Tax Code Section 41.66(e) prohibits an ARB from considering “any appraisal district information on a protest that was not presented to the appraisal review board during the protest hearing.” For example, if any appraisal district record (i.e., appraisal roll history, appraisal cards) is to be considered by the ARB, it must be presented as evidence by party, party representative, or witness (e.g., chief appraiser, appraisal district representative, property owner, or agent) at the protest hearing.

Any information requested by a protesting party pursuant to *Tax Code Section 41.461* which the appraisal district did not deliver to them at least 14 days before their scheduled or postponed hearing may also not be used or offered in any form as evidence in the hearing. [Tax Code Section 41.67(d)]

The ARB shall not consider any evidence that is not presented during the hearing. However, the ARB may also consider official notice of any fact that is reasonably certain, either because it is generally known in the community or capable of being easily confirmed by sources whose accuracy cannot reasonably be questioned. If the ARB takes official notice of a fact, it must inform both parties and give them an opportunity to argue against this action. In protests on appraised value, market value or unequal appraisal the appraisal district has the burden of proof of establishing the property’s value by a preponderance of the evidence unless a different standard is established by law. The property owner has the burden of proof on protests concerning other matters. [Tax Code Section 5.103(b), (8), (11), and (13)]

Remember each party to the hearing is entitled to offer evidence, examine, or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing. [Tax Code Section 41.66(b)]

VI. WEIGHING EVIDENCE

A. Burden of Proof Requirements in the Tax Code

In addressing which party is assigned the burden of proof, the Tax Code makes clear that if the party with the burden fails to meet its burden, the protest shall be determined in favor of the other party [e.g., *Tax Code Section 41.43(a), (a-1), (a-4), and (d)*].

In most tax cases, the burden of proof is by a “preponderance of the evidence.” In protests involving the appraised value or unequal appraisal of the property, the appraisal district has the burden of establishing the value of property by a preponderance of the evidence presented at the hearing under *Tax Code Section 41.43(a)*. There is an exception to this rule, however, that typically applies to protests regarding the appraised value or unequal appraisal of tangible personal property used for the production of income. If, before the date of the hearing, the property owner fails to deliver the required rendition statement, property report or information the chief appraiser requested under *Tax Code Chapter 22*, the property owner has the burden of proof by preponderance of evidence. [*Tax Code Section 41.43(d)*]

Protests involving other matters that can be the subject of a protest - such as ownership, exemptions, and entitlement to special appraisal - require that the protesting party (rather than the appraisal district) establish its position by a preponderance of the evidence. *E.g., North Alamo Water Supply Corp. v. Willacy County Appraisal Dist., 804 S.W.2d 894, 899 (Tex. 1991)*.

Three exceptions to the “preponderance of the evidence” standard exist under *Tax Code Sections 41.43(a-1), (a-3)* (“clear and convincing evidence”) and *23.01(e)* (“substantial evidence”). In these limited circumstances, if the required conditions are met:

- For property with a market or appraised value of \$1 million or less the appraisal district’s burden of proof shifts to the “clear and convincing evidence” standard under *Tax Code Section 41.43(a-1)* but only if:
 - At least 14 days before the hearing the property owner delivers to the chief appraiser, and files with the ARB, a USPAP compliant appraisal report prepared within six months of the hearing which meets all other requirements of *Tax Code Section 41.43(a-1) and (a-2)*.
- For property whose appraised value was lowered for the previous tax year as result of a protest or other legal proceeding (i.e., arbitration or lawsuit) and not by agreement of the parties, the appraisal district’s burden of proof shifts for a protest that was subject of the protest in the subsequent tax year to the “clear and convincing evidence” standard under *Tax Section 41.43(a-3)*, but only if:
 - At least 14 days before the hearing, the property owner delivers to the chief appraiser and files with the ARB the following information:
 - information, such as income and expense statements or information regarding comparable sales, that is sufficient to allow for a determination of the appraised or market value of the property if the protest is authorized by *Tax Code Section 41.41(a)(1)*; or
 - information that is sufficient to allow for a determination of whether the property was appraised unequally if the protest is authorized by *Tax Code Section 41.41(a)(2)*.
- For property whose appraised value was lowered under Subtitle F for the previous tax year as a result of a protest or other legal proceeding (i.e., arbitration or lawsuit) and not by agreement of the parties, the appraisal district has the burden to reasonably support and increase in value for a protest in the subsequent tax year, “by substantial evidence when all of the reliable and probative evidence in the record is considered as a whole” under *Tax Code Section 23.01(e)*.

If the previous year’s value was lowered based on a claim of unequal appraisal, the chief appraiser may satisfy the “substantial evidence” burden by “showing that the inequality in the appraisal of property has been corrected with regard to the properties that were considered in determining the value of the subject property” in the previous year.

B. Standards for Burden of Proof

Pattern jury charges in Texas provide one source of guidance concerning the meaning of two different burden of proof standards:

a) Preponderance of the Evidence

- The term “preponderance of the evidence” means the greater weight of credible evidence presented in this case. A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that a fact is more likely true than not true.

b) Clear and Convincing Evidence

- “Clear and convincing evidence” means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

c) The Tax Code does not address what the “**SUBSTANTIAL EVIDENCE**” standard means except to provide one example under *Tax Code Section 23.01(e)*. In an unequal appraisal case, when the property’s appraised value was lowered the previous year under Subtitle F, the chief appraiser may satisfy this standard “by presenting evidence showing that the inequality in the appraisal property has been corrected with regard to the properties that were considered in determining value of the subject property.”

- The legal term “substantial evidence” typically refers to the standard of review a court is to apply in reviewing and administrative agency’s decision under the Texas Administrative Procedures Act (APA), Government Code Chapter 2001. Generally speaking, under the APA, if a court determines the agency’s decision is “reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole,” it will be upheld. [*Government Code Section 2001.174(2)(E)*]
- Texas court decisions, including those from the state supreme court, have explained what “substantial evidence” means. The state’s highest appellate court described it as “more than a mere scintilla,” but less than a preponderance of the evidence.
- Put another way, under this standard, if the evidence, taken as a whole, is such that reasonable minds could have reached the same conclusion as the appraisal district, then the appraisal district’s value or determination should be accepted. *Webworld Marketing Group, L.L.C. v. Thomas, 249 S.W.3d 19,25 (Tex. App.-Houston [First], 2007)*

C. ARB Consideration

In determining whether the burden of proof has been met, the ARB must weigh all the evidence presented by both parties. This responsibility requires that the ARB consider the credibility and reliability of each witness as well as the quality of the evidence each presents. To make its determination, the ARB must rely solely on the evidence presented at the hearing and then weigh each party’s evidence to make its decision.

Order Determining Protest (Form 50-221)

Order Determining Protest or Notice of Dismissal

Form 50-221

Appraisal Review Board _____ County, Texas

Property Legal Description:

Case No. _____

Owner's Name: _____

- incorrect appraised or market value
- unequal appraisal
- inclusion of the property on the appraisal records
- denial in whole or in part of a partial exemption
- determination that land does not qualify for appraisal according to Tax Code Chapter 23, Subchapters C, D, E or H
- determination of the appropriate damage assessment rating under Tax Code Section 11.35
- any other matter permitted by Tax Code Section 41.41(a)

Based on the evidence, the ARB makes the following determination(s) as indicated by a mark and hereby issues the following as its ORDER DETERMINING PROTEST OR NOTICE OF DISMISSAL:

- The ARB lacks jurisdiction to determine the protest and hereby dismisses the protest.
- The property's appraised value is excessive, and the appraisal records should be changed to \$ _____ from the CAD value* of \$ _____.*
- The property's market value is excessive, and the appraisal records should be changed to \$ _____ from the CAD value* of \$ _____.*
- The appraised or market value of the subject property is not excessive and the appraisal records should not be changed or should be increased. The appraised value is \$ _____, and the market value is \$ _____.
- The subject property was unequally appraised and the appraisal records should be adjusted to reflect a value of \$ _____.*
- The subject property was not unequally appraised and the appraisal records should reflect the appraised value of \$ _____.
- The subject property qualified for the exemption for which application was made and the appraisal records should be changed accordingly.
- The subject property qualified for a temporary exemption under Tax Code Section 11.35 and should be assigned a damage assessment rating of Level _____.
- The subject property qualified for special appraisal and the appraisal records should be changed to reflect an appraised value of \$ _____.
- The property owner's protest concerning other matters permitted by Tax Code Section 41.41(a) is upheld and the appraisal records should be changed to reflect the following change(s): _____
- The property owner's protest concerning other matters permitted by Tax Code Section 41.41(a) is denied and the appraisal records should not be changed.

If changes to the appraisal records are ordered due to a determination of excessive appraised or market value and also a determination of unequal appraisal, the lower of the two determinations shall be shown in the appraisal records.

sign here →

Chair, Appraisal Review Board

Date

* as shown in the appraisal records submitted to the ARB by the chief appraiser under Tax Code Section 25.22 or 25.23.

Form developed by: Texas Comptroller of Public Accounts, Property Tax Assistance Division

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APPEALS OF AN ARB DECISION

Although the ARB will make its decision at the conclusion of the hearings, you will be provided official written notice of the board's decision by certified mail as required by state law. You may appeal the board's decision to district court. You should consult with an attorney if you intend to appeal. As an alternative to filing an appeal in district court, you may appeal through binding arbitration if the appeal concerns the determination of appraised value or market value of (1) property qualified as the owner's residence homestead under *Property Tax Code Sec. 11.13*; or (2) property where the value as determined by the ARB is \$1 million or less.

Rules and Administrative Procedures

APPRAISAL REVIEW BOARD (ARB)

A majority of ARB members shall constitute a quorum.

- 1) The ARB officers shall consist of the following: chairman, vice-chairman, and secretary. The chairman and secretary shall be selected by the board of directors of the appraisal district and the vice-chairman shall be selected by the appraisal review board. The vice-chairman shall perform the duties of the chairman in the absence of the chairman. The secretary shall perform the duties of the chairman in the absence of both the chairman and the vice-chairman.
- 2) The chairman shall preside over the meetings of the board and perform other such duties as required by law or board rule.
- 3) The chairman and secretary shall delegate clerical duties, including the scheduling of hearings, to members of the appraisal district staff as assigned by the chief appraiser.
- 4) The board shall meet at any time at the call of the chairman. A majority of the board may call a meeting of the board at any time. (The board shall meet within ten days after the chief appraiser submits the appraisal records to the ARB to examine the records.) *TPTC: § 6.42(b)*.
- 5) The ARB shall use generally accepted parliamentary procedures in the conduct of all hearings. When generally accepted parliamentary procedures conflict with the rules and procedures of this board, the rules and procedures of the board will govern the conduct of the hearing.
- 6) The ARB shall comply with provisions of the *Open Meetings Act (Chapter 551, Government Code)*. The chief appraiser or an appraisal district representative must be present at all meetings. The ARB cannot exclude the chief appraiser or appraisal district representative, even at the request of a taxpayer or taxing unit. The appraisal district staff shall post at the front door and in a prominent place in the room in which the hearing is held, and furnish to the ARB, a daily schedule of hearings including the following: case number, time and date of the hearing, owner name, description of the property and a brief description of the nature of the protest.
- 7) The ARB shall schedule a hearing for all protests filed by the deadline established by law. An owner who files a notice of protest after the deadline but before the ARB approves the appraisal records is entitled to a hearing and determination of the protest if he shows good cause as determined by the board for failure to file the notice on time. In such cases, a two-step hearing is conducted: (1) the ARB decides whether the property owner had good cause for missing the deadline and (2) If so, the ARB hears the protest. The board shall accept communications regarding notices of protest by facsimile transmission or electronic mail.
- 8) Protesting property owners shall be provided at least 15 days' notice of the time, date, and place of the hearing. The notice shall include a copy of the Property Taxpayer Remedies, the property owner's guide to the ARB process, the ARB rules and procedures, and a statement informing the property owner or agent of his right to inspect and obtain a copy of the data, schedules and formulas, and all other information the appraisal district plans to introduce at the hearing. A property owner may consent to a hearing with less than 15 days. The owner and the appraisal staff, through the ARB, may ask each other questions.
- 9) Hearings shall be generally limited to 15 minutes. Additional time may be scheduled for multiple accounts or complex properties. The board may extend the time limit at its discretion; however, if the extension of the time limit for a hearing would affect other scheduled hearings, the ARB may postpone the hearing. A joint hearing shall be scheduled on properties where more than one protest is filed relating to the same property or where protests are filed relating to property owned in fractional or undivided interests.

