

# Liberty County Central Appraisal District

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## APPRAISAL REVIEW BOARD

Horace Whittington -- Chm.  
Winn Skidmore  
Curtis Laird  
Kenneth Riggs  
Bob Walker  
Joe Bazar



## CHIEF ADMINISTRATOR

Alan D. Conner

## MEMBERS OF THE BOARD

Ronnie Danner -- Chm.  
Bob Pickle  
Mike Van Etta  
Frank Barnett  
Bob Edwards  
Mark McClelland -- Ex-Officio

## LIBERTY COUNTY ARB ARB STANDING RULES OF ORDER

1. The officers of the ARB shall be the Chairperson, the Vice-Chairperson and the Secretary.
2. The officers will be selected annually by the Appraisal District Board of Directors. The Board of Directors is encouraged to select a chairman with a background in law or property appraisal. In addition, the Appraisal Review Board will assist the directors in the officer selection process by submitting a recommended slate of officers to the Board of Directors.
3. In the absence of the Chairperson, the Vice-Chairperson will perform the duties of the Chairperson and shall assist the Chairperson in the performance of his/her duties when necessary. In the absence of the Chairperson and the Vice-Chairperson the Secretary will perform the duties of the Chairperson.
4. The secretary will attest all documents of the Board, but not necessarily be responsible for taking the minutes, but may delegate such duty to members of the staff which will be provided by the Chief Appraiser for the purpose.

## MEETINGS

1. Roberts Rules of Order will govern the conduct of all meetings of the Board, except for the hearings. If Roberts Rules of Order are in conflict with the rules of the Board, the rules of the Board will prevail.
2. The Board will meet to examine the records within ten (10) days after the date the Chief Appraiser submits the appraisal records to the Board. The Board will meet at any time at the call of the Chief Appraiser or Chairperson of the Board (**Texas Property Tax Code Sec 6.42 (b)**). A majority of the Board is required for any called meeting.
3. During the ARB Review cycle in May and June, the Board will designate certain days for scheduling evening or Saturday hearings for the convenience of property owners who cannot attend a hearing during normal ARB meeting hours (**Texas Property Tax Code Sec 41.71**).
4. The appraisal staff will schedule hearings at times and dates designated by the Appraisal Review Board. The district's staff will make every effort to assist the property owners through the process in a friendly and informative manner.
5. The meetings of the Board will be conducted in compliance with the Open Meetings Act, (**Texas civil Statues, Chapter 551**).

## **HEARINGS**

1. The Chairperson will preside over the meetings of said Board and perform such other duties as may be deemed necessary. In order to expedite the hearing process the Board may hear protest using a two (2) panel format with three (3) members on each panel. If the district holds protest hearings in the panel format, the Chairperson and Vice-Chairperson will each chair a panel.
2. The Chairperson, after consulting with full Board shall make assignments of Board members to each panel. All panel decisions are subject to final approval by the full Board. Panel recommendations rejected by the full Board will be assigned for rehearing.
3. The Chief Appraiser shall deliver a copy of the Taxpayers Rights and Remedies pamphlet and the ARB's hearing procedures to the taxpayer or the taxpayer's agent at least (14) fourteen days prior to the protest hearing. In addition, the Chief Appraiser must inform the taxpayer or the taxpayer's agent of their right to inspect or obtain copies of all evidence the Chief Appraiser plans to introduce at the protest hearing. **(Texas Property Tax Code Sec 41.461).**
4. Failure to provide information requested by the protesting party at least fourteen (14) days before the hearing precludes that information from being introduced as evidence at the protest hearing **(Texas Property Tax Code Sec 41.67)**. At the request of the property owner or Chief Appraiser, the Board may postpone the hearing for 5-15 days to allow the protesting party time to examine the information not provided by the Chief Appraiser at least fourteen (14) days prior to the hearing.
5. Official notice may be taken of any fact that is common knowledge to an average well-informed citizen.
6. The Appraisal District has the burden of establishing the market and equity value of the property by a preponderance of the evidence presented. In addition, if in a protest relating to a property with an appraised value of \$1 million or less, the property owner timely files with the appraisal district a certified appraisal that supports the property owner's value then the Appraisal District has the burden of establishing the value by clear and convincing evidence. **(Texas Property Tax Code Sec 41.43)**
7. The Appraisal Review Board is prohibited from considering evidence supplied by the property owner or Appraisal District unless it is presented at the hearing. In addition, an ARB member who has communicated with or received information before the hearing from the property owner or the Appraisal District must recuse themselves from the hearing.

## ORDER OF PROCEEDINGS

The order of the proceedings shall be as follows:

1. All witnesses will be sworn in (**Texas Property Tax Code Sec 41.67 (a)**).
2. At the beginning of a hearing each member of the ARB must sign an affidavit of non-communication with the taxpayer or District concerning the property under protest (**Texas Property Tax Code Sec 41.66 (f)**). Any member in violation of this section must be excused from the hearing.
3. The ARB or panel chairman will welcome the property owner and explain the order of proceedings.
4. The appraisal records for the properties to be heard will be admitted into the records, along with a copy of the protest form.
5. The property owner/agent and the Appraisal District will exchange documentary evidence.
6. The Appraisal District will identify and locate the property.
7. The taxpayer or the taxing unit (or the representative of either) will state the nature of the complaint and present whatever evidence or argument seen fit.
8. The appraisal office will present evidence and argument. The Appraisal District has the burden of establishing the value of the property and the equality of appraisal. (**Texas Property Tax Code Sec 41.43**)
9. Each party will be allowed to examine or cross-examine witnesses about matters pertinent to the hearing. Each party will direct their questions to the Board Chairperson. The Chairperson of the ARB may limit questioning that he/she considers irrelevant or too lengthy (**Texas Property Tax Code Sec 41.45(b)**).
10. Both parties' will be allowed to make a closing statement.
11. Procedures of hearings may be altered when deemed advisable by the Board.

## TESTIMONY

1. The Board may exclude irrelevant testimony and may instruct a witness to confine his/her testimony to matters pertaining to the issues before the Board.
2. Any Board Member hearing the case may examine any witness testifying before the Board and may question any of the parties appearing before the Board, after having been sworn in.
3. The Board shall limit cross-examination to matters relevant to the protest and will not allow unnecessary abusive or personal questions.

### **ADMISSION OF DOCUMENTARY EVIDENCE**

1. Any party may submit evidence in documentary form by submitting the original copy of the document.
2. All documentary evidence will be scanned into the district's computer before the hearing begins to facilitate presentation to the board using computer monitors. Exceptions will be made for oversize documents such as maps.
3. Any party wishing to submit a copy of a document must request that the Board rule that the copy is admissible. The Board may admit the copy into evidence available. **(Texas Property Tax Code Sec 41.67 (b))**. All evidence presented may be retained by the board, including original pictures, correspondence, affidavits and other documents.
4. Offers made by the Appraisal District during the Informal Hearing process are inadmissible as evidence at the Formal Hearing before the ARB.

### **AFFIDAVITS IN LIEU OF PERSONAL APPEARANCE**

A property owner may appear by affidavit instead of appearing personally or by agent. An affidavit must be considered by the Board if: 1) it contains statements that the evidence or argument presented in the affidavit is true and correct; 2) it is attested before an officer to administer oaths (such as Notary or Judge); 3) it is submitted to the Board hearing the protest before it begins the hearing on the protest **(Texas Property Tax Code Sec 41.45 (b))**.

### **ISSUANCE OF SUBPOENA**

1. The Board in its own motion or at the request of a party may subpoena witness's books, records, or documents on property or accounts which protests are filed **(Texas Property Tax Code Sec 41.61)**.
2. A party to a hearing or proceedings of the Board must make a request for subpoena in writing **(Texas Property Tax Code Sec 41.45 (b))**.
3. The Board may not issue a subpoena until a good cause hearing is held **(Texas Property Tax Code Sec 41.45 (b))**.

## **HEARINGS ON TAXPAYER PROTESTS**

1. The Board will conduct hearings or protests by taxpayers. This will be done using the rules regarding the procedures of hearings. Each hearing is limited to fifteen (15) minutes per parcel for residential or personal property. Commercial hearings shall not exceed (30) minutes. Should there be multiple properties; each account will be limited to ten (10) minutes per parcel. The board may waive the time limit at their discretion, if the waiver will benefit the hearing process. If the taxpayer initiates a protest, the Board must hear the same (**Texas Property Tax Code Sec 41.44 (a)**).
2. A property owner who files a Notice of Protest after the deadline established by **Texas Property Tax Code Sec 41.44 (a)**, but before the Board approves the appraisal records, is entitled to a hearing if determined that the property owner can show good cause for failure to file the Notice in a timely manner.
3. The Board hearing the protest must accept as evidence a property owner's sworn affidavit of evidence and testimony if such affidavit is submitted to the Board by delivery to the Appraisal District prior to the hearing (**Texas Property Tax Code Sec 41.45 (b)**).
4. The ARB may not consider an appraisal done in private capacity by the Chief Appraiser or a relative in the 2<sup>nd</sup> degree of affinity or consanguinity.
5. The Board must give the taxpayer a written notice of the decision of the Board.
6. No-shows may be rescheduled in case of illness, offshore employment, hospitalization, jury duty, mechanical problems or military duty that might interfere with appointment time. A property owner who has not designated an agent and who fails to appear at the hearing may be rescheduled if the property owner files a request within 4 days of hearing and shows good cause for failing to appear (**Texas Property Tax Code 41.45**).
7. The Board will postpone a hearing for 5-15 days if either the property owner (or his agent) shows good cause or the Chief Appraiser consents. No additional notice is required. The Board is required to postpone a hearing if the property or owner's agent is scheduled for a hearing in another county and the hearing notice's postmark is earlier than the hearing notice of Liberty's ARB. A property owner who has not designated an agent is entitled to one postponement without showing good cause. (**Texas Property Tax Code Sec 41.45**)
8. A property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing is entitled to one postponement without cause. In addition, a property owner who has not designated an agent who fails to appear at the hearing is entitled to a new hearing if he files a request for a new hearing within 4 days and shows good cause. For this request only, good cause is defined as an error or mistake that was not intentional or the result of conscious indifference and will not cause undue delay or other injury. (**Texas Property Tax Code Sec 41.45**)

9. The Board chair will be allowed to make and second motions during protest hearings.

### **EX PARTE CONTACT**

The Board shall not consider any information on a protest that is not presented to the Board or its panel during the protest hearing (**Texas Property Tax Code Sec 41.66**). A member of the Review Board may not communicate with another person regarding any matter relating to a protest except for matters necessary for the scheduling of a hearing or in other proceedings before the Board at which the property is compared to other property or used in a sample of properties.

### **CONFLICTS OF INTEREST**

ARB members will recuse themselves from any hearing or protest in which they or a relative have an interest even if the interest is too small to be considered a substantial interest. Any hearing which a member must abstain because of a substantial interest an affidavit must be filed (**Texas Property Tax Code Sec 41.69 and local government code Chapter 17**)

### **LATE PROTEST**

The Board will hear all timely filed protest pursuant to **Texas Property Tax Code Sec 41.44** When a protest is filed after the deadline but before the date the Board approves the records, the Board will make a determination as to whether the property owner/agent had good cause for his/her failure to file notice on time. Good cause for missing the protest deadline is limited to extended illness, jury duty, hospitalization, offshore employment or military duty.

### **CLERICAL ERROR & MULTIPLE APPRAISALS**

1. At anytime before the end of five (5) years after January 1, of the tax year the error occurred, the Board, on motion of the Chief Appraiser or his representative, or a property owner, may direct written order changes in the appraisal roll to correct clerical errors that affect property owner's liability or a single or multiple appraisal of a property in a single tax year (**Texas Property Tax Code Sec 25.25 (c)**).
2. "Clerical Error" means an error:
  - That is or results from a mistake or failure in writing, copying, transcribing, entering, or retrieving computer data, computing, or calculating; or
  - That prevents an appraisal roll or tax roll from accurately reflecting or finding or determination made by the Chief Appraiser, the Appraisal Review Board or the Assessor; however, "clerical error" does not include an error that is or results from a mistake in judgment or reasoning in the making of the finding or determination. (**Texas Property Tax Code Sec 1.04 (18)**).
3. Correction of a "clerical error" may be done at anytime prior to the date the taxes become Delinquent and must conform to (**Texas Property Tax Code Sec 42.08**)

An error involving nonexistent property included in the Appraisal roll may be corrected at any time by the ARB on the motion of Chief Appraiser or the Property Owner.

## **SUBSTANTIAL ERROR**

1. At any time prior to the date the taxes become delinquent, a property owner or the Chief Appraiser may file a motion with the Appraisal Review Board to change the appraisal roll to correct an error that resulted in an incorrect appraised value for the owner's property. However, the error may not be corrected unless it resulted in an appraised value that exceeds by more than one third (1/3) the corrected appraised value. If the appraisal roll is changed under the subsection, the property owner must pay each affected taxing unit a ten percent (10%) late correction penalty. The roll may not be changed under Chapter 41 or if the appraised value of the property was established as a result of a written agreement between the property owner or his agent and the Appraisal District (**Texas Property Tax Code Sec 25.25 (d)**).
  
2. If the Chief Appraiser and the property owner do not agree to the correction before the 15<sup>th</sup> day after the date the motion is filed, a party bringing a motion under the subsection (c) or (d) is entitled on request to a hearing on and a determination of the motion by the Appraisal Review Board. A party bringing a motion under this section must describe the error or errors that the motion is seeking to correct. Not later than fifteen (15) days before the date of the hearing, the Board shall deliver written notice of the date, time and place of the hearing to the Chief Appraiser, the property owner, and the presiding officer of the governing body of each taxing unit entitled to present evidence and argument at the hearing and to receive written notice of the Board's determination of the motion. A property owner who files the motion must comply with the payment requirements of Section 42.08 or forfeit the right to a final determination of the motion (**Texas Property Tax Code Sec 25.25 (a)**).

## **OMITTED PROPERTY**

If the Chief Appraiser discovers that real property was not taxed in any of the five (5) preceding years or the personal property was not taxed in one of the preceding two (2) years, he shall add the appraised value to the appraisal records for each applicable year. (**Texas Property Tax Code Sec 25.21 (a)**).

## **FAILURE TO DELIVER NOTICE**

A property owner is entitled to protest before the Appraisal Review Board for failure of the Chief Appraiser or the Appraisal Review Board to provide or deliver any notice which the property owner is entitled. If failure to provide or deliver notice is established, the ARB shall hold a hearing on any other grounds or protest. Deadline for filing a failure of notice of protest is the date the taxes on the property become delinquent. This date is typically January 31. Property owner must comply with tax payment provisions of Section 42.08 (**Texas Property Tax Code Sec 41.411**).

## **NEW OWNER**

**Section 25.25** provides that a person who acquires a property after January 1 of the tax year in question has the same rights to file a motion to correct the property's record as the January 1 owner. However, a new owner must meet the former owner's deadline for filing the motion. In addition, a new owner may continue any motion filed by the January 1 owner.

### **JOINT MOTION**

Under **Texas Property Tax Code Sec 1.111 (e)**, an agreement between a property owner or the owner's agents and the Chief Appraiser is final if the agreement relates to a matter: 1) which may be protested to the ARB or on which a protest is filed but not final; or 2) which may be corrected under section 25.25. The ARB may not review or reject an agreement between a property owner or the property owner's agent and the Chief Appraiser under Sec 1.111 (c) (**Texas Property Tax Code Sec 41.01 (b)**).

### **CHIEF APPRAISER CORRECTION**

The Chief Appraiser may correct inaccuracies in the appraisal rolls under section **25.25 (B)** of the Property Tax Code to the maximum extent permitted by law if in his sole discretion; he determines that the correction is in the best interest of the citizens residing in the Liberty County Appraisal District. These corrections must be reported at least quarterly to the Board.