

# 2023 Denton County Appraisal Review Board Hearing Procedures

**PLEASE READ THESE HEARING PROCEDURES IN THEIR ENTIRETY AS THESE PROCEDURES GOVERN YOUR PROTEST AND THE CONDUCT OF YOUR HEARING.**

**A MISSED HEARING WILL BE DISMISSED FOR FAILURE TO APPEAR**

**It is the responsibility of the owner/agent to inform the Denton Central Appraisal District (DCAD), at check-in, of all hearings to be heard on a given day.**

## **I. ARB Membership**

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

**2. Conflicts of Interest-**Each ARB member must ensure that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or that restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB Chair in addition to any other individual or entity as required by law. The ARB Chair must ensure prompt notification of reported conflicts of interest to the appropriate individuals. If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member cannot participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, the member must file an affidavit with the ARB secretary. The ARB member must file the affidavit as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, the ARB member does not have to file an affidavit but must recuse himself or herself immediately from the hearing and report the conflict to the ARB Chair or secretary. ARB members must remember that while Local Government Code Chapter 171 addresses matters of "substantial interest," Property Tax Code ("Tax Code") Section 41.69 applies to any protest in which an ARB member has interest (i.e., Tax Code Section 41.69 does not require the interest to be substantial). While a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether he or she has a conflict of interest that might prohibit his or her involvement, the member must immediately contact the ARB chair to address the matter. In the recusal process, the ARB member cannot hear the protest, deliberate on the protest or vote on the matter that is the subject of the protest.

**3. Ex Parte and Other Prohibited Communications-**ARB members must not engage in prohibited ex parte or other communications. If one or more individuals approach the ARB member and appear to engage or attempt to engage in a prohibited communication, the ARB member must immediately remove himself or herself from the conversation. **ARB members must not initiate any such conversation with a property owner, agent or DCAD representative.**

## II. ARB Duties

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

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

**3. Determination of Good Cause under Tax Code Section 41.44(b)**- “Good cause” for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests must be carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) must be uniformly applied. The ARB should give due consideration to good cause claims in a manner that properly respects the rights of property owners and their agents while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties. The ARB Chair will make this determination of good cause based solely upon the property owner’s written explanation of good cause prior to scheduling any hearing. Circumstances that the ARB has recognized as for purposes of good cause include the following: 1) active military duty outside the United States; 2) illness or injury requiring the care of a medical professional; 3) recent death in the immediate family; 4) being involved in a legislative or judicial function (i.e., jury duty) or impending court hearing; or 5) other instances of good cause as determined by the ARB. Supporting documentation should be included with the late protest and claim of good cause. Good cause, for the purpose of making this specific determination, is not a reason that includes, being away or failing to recognize the deadline. The decision to allow a hearing on a late-filed protest received before ARB’s deadline to approve the appraisal records based upon the demonstration of the requisite good cause is to be determined by the ARB, in its sole discretion. If the ARB determines good cause exists, a protest filed after the legal deadline but before the ARB has approved the appraisal records shall be scheduled for a hearing.

## III. ARB Hearings

**1. Scheduling Hearings Generally**-The ARB must schedule a hearing when a timely notice of protest is filed and, in doing so, the appraisal district can provide the ARB with clerical assistance. A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the appraised value of the property if the property owner does not file a protest relating to the property. Under Tax Code Section 41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code Section 1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

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

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

**4. ARB Panel Assignments** - Pursuant to Tax Code Section 41.66(k) and (k-1), if an ARB sits in panels as authorized by Tax Code Section 41.45(d) and (d-1), it must randomly assign protests. Except for panels established under Tax Code Section 6.425, the ARB, with or without clerical assistance from the appraisal district staff, may consider the property type or the protest grounds in order to assign the protest to a panel with members who have particular expertise. Tax Code Section 41.45(b-4) allows a property owner to request that a single-member panel conduct the protest hearing. The property owner must submit the request not later than the 10th day before the hearing date in writing on the notice of protest or by a written submission. If the ARB does not accept the recommendations made by the single-panel member, the ARB can determine the protest or refer it for rehearing to a single-member panel composed of someone who did not hear the original protest. Tax Code Section 41.66(k-1) allows a property owner or agent to request a special ARB panel to hear a complex property protest if in a county with a population of one million or more. The owner or agent must consent to a special panel reassignment and may request a postponement if they disagree with the reassignment. Once a protest is scheduled for a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or a designated agent. If the ARB reassigns a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB must postpone the hearing if requested in this situation. Pursuant to Tax Code Section 41.66(k), "[a] change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel."

**5. Postponements Under Tax Code Section 41.45(e)**- As an alternative to postponing and to better accommodate your schedule, you may choose to come to the ARB' on a day prior to your scheduled hearing and when ARB panels are conducting other hearings. The ARB will try to work you in if a panel is available. If we are too busy and cannot hold your hearing at a convenient time on that earlier day, you will have to attend the scheduled hearing or request a formal postponement. 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. A request for reschedule should be emailed to: appeals@dentoncad.com. In the subject line, put the property account number. The property owner must request the postponement in writing prior to the hearing date. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought. Without limit, the ARB must postpone a hearing if the property owner or the designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). A postponement request requiring a showing of good cause should be supported by documentation and will not be granted automatically. A person making such a request should not assume the request has been granted until the person receives confirmation from the ARB. If a postponement is not granted and the person fails to appear for the scheduled hearing, the protest will be dismissed. The property owner or designated agent must request the postponement in writing, including by facsimile, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought. Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by facsimile, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone a hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

**6. Postponements Under Tax Code Section 41.45(e-1)**-A property owner or owner's agent who fails to appear at the hearing is entitled to a new hearing if the property owner or owner's agent file, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request. For purposes of Subsections (e) and (e-1), "good cause" means a reason that includes an error or mistake that: (1) was not intentional or the result of conscious indifference; and (2) will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling." Supporting documentation should be included with the claim of good cause. The written statement should be delivered to the ARB either in person, by mail or by common or contract carrier.

**7. Postponements Under Tax Code Section 41.45(g)**-The ARB must postpone a hearing to a later date if: (1) the property owner or the owner's agent is also scheduled to appear at an ARB protest hearing in another appraisal district; (2) the other scheduled ARB protest hearing is scheduled to occur on the same date as the hearing set by this ARB; (3) the hearing notice delivered to the property owner or the owner's agent by the other ARB bears an earlier postmark than the hearing notice delivered by this ARB or, if the postmark date is identical, the property owner or agent has not requested a postponement of the other hearing; and (4) the property owner or the owner's agent includes with the postponement request a copy of the hearing notice delivered to the property owner or the owner's agent by the other ARB. Requests sent without documentation will not be reviewed.

**8. Postponements Under Tax Code Section 41.66(h)**-The ARB must postpone a hearing (one time only) if the property owner or the designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond to the postponement request not later than the 7th day after the date of receipt of the request. The Comptroller's pamphlet and the ARB's hearing procedures are enclosed with the Notice of Protest Hearing. The ARB does not provide DCAD evidence or 41.461(a)(2) materials. To get that information for your property from DCAD, go to <https://www.dentoncad.org> to create an account or sign into your existing account. You may also ask DCAD to provide the evidence, by regular first-class mail or in person at the DCAD Customer Service counter.

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

**10. Postponements Under Tax Code Section 41.66(k)(k-1)**-Once the ARB schedules a hearing by a specific panel, the ARB can reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, a property owner or designated agent may agree to reassignment or request a hearing postponement. The ARB must postpone the hearing on that request. A change of panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute panel reassignment. A property owner or agent must consent to a special panel ARB hearing reassignment or request a postponement if they disagree with the reassignment. A change of special panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute a special panel hearing reassignment. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

#### IV. Conduct of ARB Hearings

1. Except as noted below, the following statement must be read at the beginning of each hearing:

**We are the appraisal review board panel that will hear your protest today. We are not employees of the appraisal district. We have been appointed to perform an independent review of your protest. You can complete a survey regarding your experience today. A copy of the survey will be mailed to you. The survey is voluntary. You also have the right to appeal our decision. We will provide the appeal information to you with our determination.**

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

2. The ARB should conduct most protest hearings in the following order:

a. Commence the hearing and announce the assigned property identification number and property location.

b. Announce that, in accordance with Tax Code Section 41.45(h), the parties must provide all written and electronic material that has not been provided. Unless previously uploaded to your online dashboard account, bring four (4) copies of evidence and two (2) copies of photos to the hearing to assist in giving the ARB three-member panel and the DCAD appraiser adequate time to review each document, even if you have previously submitted the evidence.

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. f. Inform witnesses that they must give all testimony under oath and swear in all witnesses who plan to testify.

f. 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.

g. The property owner or agent must state an opinion of the property's value (if applicable).

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

i. If the property owner or agent presents his/her case first, he/she will present evidence (documents and/or testimony). If witnesses are present, the property owner or agent can examine the witnesses as part of the presentation of evidence.).

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

k. If the property owner or agent presented his/her case first, the appraisal district representative will present evidence (documents and/or testimony) next. If witnesses are present, the

appraisal district representative can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the appraisal district representative must state an opinion of the property's value (if applicable).

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

**m. The parties cannot examine or cross-examine the ARB members.**

n. The party presenting its case first can offer rebuttal evidence (additional evidence to refute evidence presented by the other party).

o. The other party can then offer rebuttal evidence.

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

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

r. The ARB panel chair must state that the hearing is closed. **Once the hearing is closed there shall be no further discussion or comment by either party.**

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

t. The ARB panel chair must ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations). Single-member panels must make a recommendation on each motion submitted under protest; however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest. Special panels appointed in certain counties must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination or refer the matter for rehearing to another special panel composed of members who did not hear the original protest. If ARB does not have at least three other special panel members available, the ARB may make the determination.

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

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

property owner or agent with a separate screen). If a chief appraiser uses audiovisual equipment at a protest hearing, the appraisal office must provide equipment of the same general type, kind and character for the use of the property owner or agent during the hearing.

w. The property owner and the appraisal district representative are prohibited from debating with each other. The parties must direct all communications to the ARB members, except for examination or cross-examination during testimony of witnesses or parties testifying at the hearing. For taxing unit challenges, motions to correct appraisal records, protests regarding exemptions, or other matters that may be the subject of ARB hearings, the ARB should follow the order of conducting hearings above but may make exceptions for the type of hearing.

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

**3. Conducting Hearings by Telephone or Videoconference Call**-Tax Code Section 41.45(n) allows a property owner initiating a protest to offer evidence or argument by affidavit without physically appearing. Tax Code Section 41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10th day before the date of the hearing if the property intends to appear remotely. To offer evidence or argument at a hearing conducted remotely, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted remotely and to another person the owner invites to participate in the hearing. Tax Code Section 41.45(b-2) requires the ARB to provide the telephone number for conducting the teleconference call or the URL address for conducting the videoconference (if offered in that county). The ARB must hold the hearing in a location with equipment that allows all ARB members and parties to the protest in attendance to hear and see the property owner's argument.

#### **4. Procedures for Telephone or Videoconference Hearings**

**(a) To offer any evidence or argument at a hearing conducted by telephone or videoconference, a property owner must submit a sworn affidavit or unsworn declaration before the hearing begins.**

(b) An unnotarized (unsworn) declaration made under Chapter 132 of the Texas Civil Practice and Remedies Code is an acceptable substitute for a notarized affidavit.

(c) Telephone and Videoconference hearings are subject to the following:

- ❖ A property owner who does not speak English will need to provide his/her own translator.
- ❖ A property owner wishing to appear for a hearing by telephone or videoconference call must notify the ARB in writing on the original protest form or by written notice filed with the ARB not later than the 10th day before the date of the hearing. Faxes, electronic mail or other methods of electronic delivery are not sufficient and will not be considered.
- ❖ **A property owner must provide any evidence in the form of a notarized affidavit or unsworn declaration filed with the ARB at least five (5) business days before the date of the hearing. A**



**notarized affidavit or unsworn declaration with testimony and evidence must be in possession of the ARB at the scheduled hearing time, to be considered at the scheduled hearing.** Faxes, electronic mail or other methods of electronic delivery are not sufficient and will not be considered. Where the property owner or agent has elected to conduct the hearing by telephone or videoconference, if the property owner or agent does not appear in a timely manner, the panel will conduct the hearing(s) as an appearance by sworn affidavit or unsworn declaration only. If no sworn affidavit or unsworn declaration has been received by the ARB at the time of the hearing, the panel will dismiss the protest for failure to appear.

If the ARB cannot reach the owner at the time of the scheduled call, the owner will forfeit the opportunity to participate in the hearing by telephone. The panel will conduct the hearing(s) via appearance by sworn affidavit or unsworn declaration and if neither were timely submitted, the panel will make a recommendation with the information, evidence and testimony presented by DCAD within the hearing.

If a call is dropped or if the property owner's speech is garbled or unintelligible, the ARB panel may terminate the call and will make two attempts to connect with the property owner again. During an attempt to establish a reconnection, the hearing will continue but no evidence, argument or discussion will take place. If a connection cannot be reestablished within two minutes, the panel will proceed with the hearing and the property owner will have no further opportunity to participate in the hearing by telephone.

For elected VIDEOCONFERENCE hearings, the property owner will be responsible for following all provided instructions. If the property owner has not joined the conference when the hearing begins, they will forfeit the opportunity to participate in the hearing by videoconference. If the Internet connection is lost during a hearing and cannot be reestablished within two minutes, the panel will proceed with the hearing and property owner will have no further opportunity to participate in the hearing by videoconference.

If the video is dropped, buffering or if the property owner's speech is garbled or unintelligible, the ARB panel may terminate the call and will make two attempts to connect with the property owner again. During an attempt to establish a reconnection, the hearing will continue but no evidence, argument or discussion will take place. If a connection cannot be reestablished within two minutes, the panel will proceed with the hearing and the property owner will have no further opportunity to participate in the hearing by telephone.

The property owner/agent must provide their own technology and be able to join the meeting at the appropriate time. Neither DCAD nor the ARB will provide assistance. Inappropriate appearance or behavior during the videoconference will result in disconnection of the video.

For both Telephone and Videoconference Hearings:

➤ If a property owner has had to wait more than two hours from the scheduled hearing time and the hearing has not begun, property owner may terminate the call, if still on hold. Property owners should promptly call DCAD and state they are exercising their right to request a postponement of the hearing.

- The property owner is responsible for ensuring a clear connection from their end of the connection.
- If the property owner provides documents, photographs tables or other items with their sworn affidavit or unsworn declaration, those items should be clearly labeled and easy to follow.
- If a sworn affidavit or unsworn declaration is not submitted, the property owner will only be allowed to comment on DCAD evidence. Testimony will not be permitted.
- The property owner is responsible for providing access to another person the property owner invites to participate in the hearing.
- If the panel determines that the property owner has wholly or partially forfeited the right to participate in a hearing by telephone or videoconference, the panel will proceed to hear or dismiss the protest. The panel's decision will not be changed even if the property owner successfully contacts the ARB by telephone at a later time.
- Panel members will not ask a property owner to present evidence by telephone or videoconference unless the property owner has timely complied with the requirement to file a notarized affidavit or unsworn declaration.

**5. Conducting Hearings Closed to the Public** -The chief appraiser and the property owner must file a joint motion to request that a closed hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest. The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code Section 41.66(d) and (d-1). Only the parties to the protest, their witnesses and the ARB members are permitted to stay in the hearing room. The ARB must follow the same order of proceedings as for hearings open to the public. The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with Comptroller Rule 9.803, generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27. The ARB must mark as "confidential" and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law. After deliberation, the ARB must reconvene in an open meeting and vote or take final action on the protest deliberated in the closed meeting. The ARB and parties cannot mention proprietary or confidential information during the open meeting.

**6. Right to Examine and Cross-Examine Witnesses or Other Parties**-Tax Code Section 41.66(b) states that "each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing." The ARB cannot prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross examination. To the extent possible, the ARB should advise the parties in advance of any time limitations that the ARB intends to impose regarding the presentation of evidence.

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

## **V. Evidence Considerations**

**1. A Party's Right to Offer Evidence and Argument-**The ARB cannot prohibit a party's right to offer evidence and argument but may enforce time limits and dictate the order of ARB hearings. To the extent possible, the ARB should advise the parties in advance of any time limitations the ARB intends to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible for each party to a hearing to fully present evidence and offer argument. **The ARB will strictly enforce a 15-minute time limit on each hearing.**

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

**3. Exclusion of Evidence Required by Tax Code Section 41.67(d), (e)-** If it is established during a protest hearing that the protesting party previously requested information under Tax Code Section 41.461 and that the opposing party did not deliver the information to the protesting party at least 14 days before the scheduled or postponed hearing, the opposing party cannot use or offer as evidence the information that was requested and not timely provided (evidence in any form timely provided may be presented at the hearing). The ARB must exclude evidence under Tax Code Section 41.67(d) only if and to the extent evidence presented at the hearing establishes that: 1) the information sought to be excluded as evidence was not delivered at least 14 days before the hearing; and 2) the information sought to be excluded as evidence was previously requested by the protesting party. Tax Code Section 41.67(e) prohibits the chief appraiser from offering evidence at a hearing in support of a modification or denial of an exemption or application unless: 1) the chief appraiser provided the reasoning for the modification or denial to the property owner in writing no later than the 14th day before the hearing date; and 2) evidence establishes that the additional reason was not known by the chief appraiser at the time the chief appraiser delivered the original notice of modification or denial.

## **VI. Other Issues**

**1. Compliance with the Law, Integrity, and Impartiality-**ARB members must comply with the law and always act in a manner that promotes public confidence in the integrity and impartiality of the ARB.

**2. Patience and Courtesy-**ARB members must be patient, dignified and courteous to parties appearing before the ARB.

**3. Bias or Prejudice-**ARB members must perform their ARB duties without bias or prejudice.

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

## **5. Compliance with Comptroller Rule 9.805.**

ARB hearing procedures must comply with Comptroller Rule 9.805 concerning appraisal review board evidence exchange and retention and audiovisual equipment requirements. The rule requires that ARB procedures include specific items that may vary by ARB. The rule addresses: the manner and form, including security requirements, in which a person must provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device; how 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. This section of the ARB's hearing procedures addresses each item required in Comptroller Rule 9.805.

- (a) **Exchange of evidence.** Before or immediately after an appraisal review board hearing begins, the appraisal district and the property owner or the owner's agent shall each provide the other party with a duplicated set of the evidentiary materials the person intends to offer or submit to the appraisal review board for consideration at the hearing. One set of these materials is to be exchanged with and retained by the other party, and another set of these materials is to be provided to and retained by the appraisal review board as evidence for its records as required under §9.803 of this title (relating to Requirements for Appraisal Review Board Records). The duplicated material sets shall be produced in either paper or electronic form.
  
- (b) **Evidentiary materials on a portable electronic device.** If a property owner intends to present evidentiary materials on a portable electronic device, such materials shall be saved in an acceptable file format type and shall be downloaded to an acceptable portable, electronic device. The file format type and small, portable, electronic device must be considered generally accepted technology, as specified in these hearing procedures, and must be suitable for retention by the ARB. For security purposes, the electronic files on devices produced pursuant to this section shall be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance by or exposure to the recipient's computer system. **A property owner who intends to use an electronic device for evidentiary purposes at their hearing must provide the device to DCAD prior to being called for their hearing to enable DCAD to conduct a security scan or review of the device. A failure to comply with this section will preclude the device from being introduced or used in the hearing. Furthermore, if DCAD reports that the device has been deemed unsafe or unsuitable for use, the ARB will preclude the use of the device in the hearing.**
  
- (c) **Electronic file format types and devices.** Property owners are solely responsible for providing copies of all evidence provided by them to the ARB panel. According to state law, this evidence must be retained by the ARB. Any party may submit evidence in documentary form by submitting a hard copy of the document into evidence during the ARB hearing. The ARB encourages property owners to bring four (4) hard copies of any evidence they wish the ARB to consider. The following file format types are considered acceptable for use before the ARB: Adobe portable document format (PDF); Microsoft Word/Excel /PowerPoint; JPG, GIF, and still photographs. In order to prevent a delay in your hearing, you should consider uploading your evidence electronically via the DCAD website at least 48 hours prior to the start of your hearing. You should limit the number of photos you submit as evidence to a reasonable number due to time restraints and system capabilities. Select the best photos that clearly represent the

condition of your property. **The ARB reserves the right to limit the presentation of photos to the extent that the number of photos are deemed excessive, repetitive and/or irrelevant to the proceeding.**

- (d) **Video and Audio Files.** Video files and audio files may not be introduced and will not be considered.
- (e) **The ARB WILL NOT accept evidence presented on memory cards, tablets, PC's, video recording and display devices, projectors, digital cameras, cell phones or any other medium that cannot be retained and copied for permanent record.** DCAD and the property owner or the owner's agent may agree to exchange evidence in a manner other than provided in ARB hearing procedures so long as a copy of the evidence may be retained in the records of the ARB and satisfies the requirements of law. The ARB has the right, at its discretion, to evaluate the validity of any evidence submitted by either party. If there is any doubt as to the validity of the evidence presented, each panel member shall weigh the credibility of the evidence in their deliberations.
- (f) **Audiovisual equipment requirements.** If the appraisal district uses audiovisual equipment at appraisal review board hearings, the appraisal district shall make available this same equipment or audiovisual equipment of the same general type, kind, and character for use at the hearing by the property owner or the owner's agent. The equipment made available shall be capable of reading and accepting the same types of file formats and devices the appraisal review board has determined are generally accepted under subsection (c) of this section. In the alternative, property owners and their agents may bring their own audiovisual equipment for their presentation of evidentiary materials at appraisal review board hearings. If the operation of audiovisual equipment at the hearing requires access to and connection with the Internet for the presentation, the parties must provide their own Internet connection and access through their own service provider. The property owner and the owner's agent may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the appraisal review board hearing procedures. The appraisal district and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in the hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.
- (g) Property owners and their agents may bring their own audiovisual equipment for their presentation at appraisal review board hearings but must provide their own Internet access, if needed, through their own service provider.
- (h) **Property owners and their agents may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the hearing procedures.**

## VII. Other Matters

1. ARB members may not leave their seats while a hearing is ongoing. Should an ARB member need to leave the hearing for a short break, the hearing may be suspended by the panel Chair, to be resumed upon the return of the member. In the case of a panel with more than three members, a member may be excused by the panel Chair for a longer period and the hearing may

then be resumed; the departing member may only return to the panel /hearing room and take their seat on the panel after the hearing has been completed. In the case of a hearing with only a three-member panel, if a panel member needs to be excused for a longer period, the panel Chair should request a replacement member by asking the ARB Chair to name a replacement.

2. Should issues or questions arise during a protest hearing conducted by a panel of the ARB that cannot be resolved by that panel, the Chair of that panel will notify the ARB Chair and request his/her presence in the hearing. The ARB Chair will, at the hearing, receive any substantive information on the issue in question so as to attempt to resolve or clarify the same and make a recommendation. In the event the panel is still unable to resolve the issue or question after input from the ARB Chair, the panel may suspend or postpone the hearing to allow the ARB Chair to contact legal counsel for the ARB. All communications between members of the ARB, property owner, and the Chief Appraiser (or his/her designee) shall be limited to those permissible under Tax Code Section 6.411 (c-1) and 41.66(f).
3. At the formal ARB hearing, the ARB will prohibit the carry of handguns in any area where a meeting or hearing is being conducted or where property owners are waiting to be called for their hearing.. Notices will be posted.
4. In the event the local hearing procedures conflict with the Model Hearing Procedures for Appraisal Review Boards published by the Office of the Comptroller of Public Accounts for the State of Texas (the "Comptroller"), the Comptroller's Model Hearing Procedures shall control.
5. Under the Tax Code, the ARB is responsible for determining the market value of your property. This may also be referred to as the appraised value of your property. **THE ARB DOES NOT MAKE A DETERMINATION ON THE ASSESSED VALUE OF YOUR PROPERTY.** The assessed value, which is the value on which your property taxes are based, is determined by application of law and not by the ARB.
6. **If you are scheduled for a hearing on a protest or motion that has property tax payment requirements:**

(a) The pendency of a motion filed under Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided by Subsection (d), a property owner who files a motion under Section 25.25 must pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion that is not in dispute before the delinquency date, or the property owner forfeits the right to proceed to a final determination of the motion.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the motion by making the payment. If the property owner files a timely motion under Section 25.25, taxes paid on the property are considered paid under protest, even if paid before the motion is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a motion if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the ARB shall determine compliance with this section in the same manner and by the same procedure as provided by Section 41.4115(d) and may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.

**7. Sec. 41.4115. Forfeiture of Remedy for Nonpayment of Taxes.**

(a) The pendency of a protest under Section 41.411 does not affect the delinquency date for the taxes on the property subject to the protest. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b) and, for purposes of Subsection (b), that delinquency date is postponed to the 125th day after the date one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing under Section 41.44(c-3). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided in Subsection (d), a property owner who files a protest under Section 41.411 must pay the amount of taxes due on the portion of the taxable value of the property subject to the protest that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the protest.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the protest by making the payment. If the property owner files a timely protest under Section 41.411, taxes paid on the property are considered paid under protest, even if paid before the protest is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a protest if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the board shall hold a hearing to review and determine compliance with this section, and the reviewing board may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances. If the board determines that the property owner has not substantially complied with this section, the board shall dismiss the pending protest. If the board determines that the property owner has substantially but not fully complied with this section, the board shall dismiss the pending protest unless the property owner fully complies with the board's determination within 30 days of the determination.

(e) If the ARB hearing is held after the delinquency date, generally after January 31 of the year immediately following the protest year, proof of timely payment may be required. Taxes paid after delinquency generally do not satisfy the requirements of the Tax Code.

**8. If your protest alleges the failure of DCAD or the ARB to deliver a notice:**

- (a) A property owner must be prepared to present evidence concerning the notice. If the ARB panel determines that a notice was not delivered as defined by Tax Code section 1.07 the panel will immediately hold a hearing on the substantive issues raised in your protest. If the panel does not find a violation concerning the delivery of a notice, as defined by
- (b) Tax Code section 1.07, the panel will deny the motion and will not consider the substantive issues.