



Texas Property Taxpayers' Remedies: How to Protest Your Property Value for Property Taxes

Property Tax Assistance • February 2009

Property Tax Basics

Property taxes are local taxes. Your local officials value your property, set your tax rates and collect your taxes. However, state law governs how the process works. You can play an effective role in the process if you know your rights, understand the remedies available to you and fulfill your responsibilities.

Property taxes are based on monetary value. For example, the property tax due on a vacant lot valued at \$10,000 would be ten times as much as the tax for one valued at \$1,000.

Your most important right as a taxpayer is your right to protest to the appraisal review board (ARB). You may protest if you disagree with any of the appraisal district's actions concerning your property. You may discuss your objections about your property value, exemptions and special appraisal in a hearing with the ARB, an impartial panel of your fellow citizens. Most appraisal districts will informally review your protest with you to try to resolve your concerns. Check with your district for details.

If you lease property and are required by the lease contract to pay the owner's property taxes, you may appeal the property's value to the ARB. You may make this appeal *only* if the property owner does not, however. This appeal right applies to leased land, buildings and personal property. The appraisal district will send the notice of appraised value to the property owner, who is required to send a copy to you. If you appeal, the ARB will send any subsequent notices to you.

State law prohibits the Comptroller's office from advising a taxpayer, appraisal district or ARB about a protest. State law also prohibits the Comptroller from intervening in a protest.

What is an Appraisal Review Board (ARB)?

An ARB is a group of citizens authorized to resolve disputes between taxpayers and the appraisal district. The appraisal district's board of directors appoints ARB members. Members must be residents of the appraisal district for at least two years to serve. Current officers and employees of the appraisal district, taxing units and the Texas Comptroller's office may not serve. In counties with populations greater than 100,000, former directors, officers and employees of the appraisal district cannot serve on an ARB. Some other specific Tax Code restrictions also apply. ARB members also must comply with special state laws on conflict of interest.

The ARB determines taxpayer protests. The ARB also decides issues that a taxing unit may challenge about the appraisal district's actions. In taxpayer protests, it listens to both the taxpayer and the chief appraiser. The ARB determines if the appraisal district has acted properly. ARB decisions are binding only for the year in question. ARB hearings begin around May 1, and the ARB should complete most of the hearings by July 20. In the largest counties, this deadline may be later.

ARB meetings are open to the public. Notices of the date, time and place of each meeting must be posted at least 72 hours in advance at the appraisal district office and the county clerk's office. The ARB's hearing procedures must be posted in a prominent place

in the room in which hearings are held. The chief appraiser must publicize annually the right to and methods for protesting before the ARB, in a manner designed to effectively notify all district residents. The ARB must provide for hearing times on evenings or on Saturdays or Sundays.

Should you protest?

The ARB must base its decisions on evidence. It hears evidence from both the taxpayer and the chief appraiser, and the chief appraiser has the burden of proof in most protest hearings.

Protest issues that an ARB can consider include:

• Is the proposed value of your property too high?

Ask one of the district's appraisers to explain the appraisal. Be sure the property description is correct. Are the measurements for your home or business and lot accurate? Gather blueprints, deed records, photographs, a survey or your own measurements to contest the appraiser's decision.

Are there any defects not noted in the district's survey, such as a cracked foundation or inadequate plumbing? Obtain photographs, statements from builders or independent appraisers.

Ask the appraisal district for appraisal records on similar properties in your area. Is there a big difference in their values? This comparison may show that your property wasn't treated equally.

Collect evidence on recent sales of properties similar to yours from neighbors or real estate professionals. Ask the appraisal district for the sales that it used.

Consider using an independent appraisal by a real estate appraiser. Insurance records also may be helpful.

If you decide to use sales information to support your protest, you should:

- ✓ obtain documents or sworn statements from the person providing the sales information.
- ✓ use sales of properties similar to yours in size, age, location and type of construction.
- ✓ use recent sales. Sales occurring close to Jan. 1 are best.
- ✓ weigh the costs of preparing a protest against the potential tax savings. Preparing a protest may not be worth the time and expense if it results in only a small tax savings.

• Is your property valued unequally compared with other property in the appraisal district?

Determine whether the value of your property is closer to market value than other, similar properties. For example, your property may be appraised at 100 percent of market value, while your neighbors' properties may be appraised at 90 percent. A protest based on the level of appraisal requires more evidence based on samples and value adjustments than a protest based on market value.

• Did the chief appraiser deny an exemption?

First, find out why the chief appraiser did so. If the chief appraiser denied your homestead exemption, obtain evidence that you owned your home on Jan. 1 and used it as your principal residence on that date.

If the chief appraiser denied a homestead exemption for part of the land around your home, show how much land is used as part of your residence.

If the chief appraiser denied an age-65 or older or disabled homestead exemption, or a disabled veteran's exemption, gather evidence to prove you qualify for those exemptions.

• Did the chief appraiser deny agricultural or timber appraisal for your land?

If you protest the agricultural or timber value of your land, find out how the appraisal district calculated your value. Compare its information with that of local experts, such as the county extension agent, the U.S. Department of Agriculture or the agriculture department of a nearby university. State law requires you to apply timely (generally, before May 1) to receive the special appraisal based on productivity.

Find out why the chief appraiser denied your application. Agricultural appraisal laws have specific requirements for property ownership and use. Prove that your property qualifies. Gather your ownership and management records or obtain information from local agencies that provide services for farmers and ranchers.

• Did the chief appraiser wrongly determine that you took your land out of agricultural or timber use?

Is agricultural or timber activity still taking place on your land? If you have taken only part of the land out of agricultural or timber use, you may need to show which parts still qualify. If you are letting land lie fallow, show that the time it has been out of agricultural use is not excessive or is part of a typical crop or livestock rotation process for your county.

• Do the appraisal records show an incorrect owner?

Provide records of deeds or deed transfers to prove ownership. If you acquired the property after Jan. 1, you may protest its value until the ARB approves the appraisal records. The law recognizes both the old and new owners as having an interest in the property's taxes.

• Is your property being taxed by the wrong taxing units?

An error of this sort often is simply a clerical error. For example, the appraisal records may show your property as located in one school district when it actually is in another.

• Is your property incorrectly included on the appraisal records?

Some kinds of taxable personal property move from place to place quite regularly. Property is taxed at only one location in Texas. You can protest the inclusion of your property on the appraisal records if it should be taxed at another location in Texas.

• Did the chief appraiser or ARB fail to send you a notice that the law requires them to send?

You have the right to protest if the chief appraiser or ARB fails to give you a required notice. But unless you disagree with your appraisal, there is no point in protesting such a failure. Make sure that the appraisal district has your correct name and address.

A notice is presumed delivered if sent by first-class mail with a correct name and last known address. (In some instances, notices are sent by certified mail.) If you rebut this presumption with proof that you did not receive the notice, the appraisal district must prove that it mailed the notice properly. You have the right to a hearing on your property for an improperly mailed notice.

You *cannot* protest failure to give notice if the taxes on your property are delinquent. Before the delinquency date, you must pay a partial amount, usually the amount of taxes that are not in dispute.

How do you file a protest?

- 1 **File a written protest.** The appraisal district has protest forms available, but you need not use one. A notice of protest is sufficient if it identifies the owner, the property that is the subject of the protest and indicates that you are dissatisfied with a decision made by the appraisal district.
- 2 **File your notice of protest by May 31** or no later than 30 days after the appraisal district mailed a notice of appraised value to you, *whichever date is later*. Note that the deadline is 30 days after *mailing* the notice, not its receipt. If you are an off-shore worker or on full-time military duty, you may be entitled to file a late protest.

If the chief appraiser sends you a notice that your land is no longer in agricultural or timber use, you must file your protest within 30 days of the date upon which the chief appraiser mailed the notice. The chief appraiser sends this notice by certified mail.

If you file a notice of protest *before* the ARB approves the appraisal records, you are entitled to a hearing only if the board decides that you had good reason for failing to meet the deadline.

If you *don't* file a notice of protest before the ARB approves the appraisal records, you lose your right to protest. You also lose the right to appeal the taxable value of your property.

If your protest is late because the chief appraiser or ARB failed to mail a required notice of appraised value or a denial of exemption or agricultural or timber appraisal, you may file your protest any time before the taxes become delinquent or no later than the 125th day after the date you claim you received a tax bill from one or more of the taxing units that tax your property. You must pay some current taxes before the delinquency date to be entitled to this type of hearing.

In some cases, you may file with the ARB to correct an error even after these deadlines. Contact your appraisal district or the Comptroller's office if you have questions about clerical errors, substantial value errors, double taxing or other possible errors.

How should you prepare for a protest hearing?

The ARB will notify you at least 15 days, based on the notice's postmark date, in advance of the date, time and place of your hearing. Try to discuss your protest issue with the appraisal office in advance. You may work out a satisfactory solution without appearing before the ARB. If you have not designated an agent to represent you before the ARB, you are entitled to one postponement without showing cause. The ARB may grant additional postponements if you can show reasonable cause, or the chief appraiser can agree to a postponement. You must appear at a hearing (in person, by affidavit or through an agent) or you may lose your right to appeal.

At least 14 days before your protest hearing, the appraisal district will send you a copy of *Texas Property Taxes: Taxpayers' Rights, Remedies and Responsibilities*; a copy of the ARB procedures; and a statement affirming that you may inspect and obtain a copy of the data, schedules, formulas and any other information the chief appraiser plans to introduce at your hearing. The district will also notify you of your right to request

a postponement of your hearing. If you request this information, the appraisal district may charge for copies. The charge may not exceed \$15 on a residential property or \$25 on a non-residential property.

When you present your protest to the ARB, you may appear in person; send someone whom you authorize in writing to appear on your behalf; or send a sworn affidavit with evidence to support your protest. A sworn affidavit is a notarized statement of your evidence to support your case. Contact the appraisal district or the Comptroller's office for an affidavit form, but you need not use this form. If your letter contains all the information required, you may have your letter notarized and send it to the ARB.

- **Do not contact ARB members outside the hearing.** ARB members are prohibited from communicating with others about a property under protest. Each ARB member must sign an affidavit stating that he or she hasn't discussed your case with anyone. An ARB member who discusses your case outside the hearing must remove himself or herself from your hearing. An ARB member who communicates on specific evidence, argument, facts or the merits of a protest with the chief appraiser or appraisal district staff outside the hearing commits a criminal offense (a Class C misdemeanor).
- **Be on time and prepared for your hearing.** The ARB may place time limits on hearings.
- **Stick to the facts of your presentation.** The ARB has no control over the appraisal district's operations or budget, tax rates for local taxing units, inflation or local politics; addressing these topics in your presentation wastes time and will not help your case.
- **Present a simple and well-organized protest based on clear evidence.** Stress key facts and figures. Write them down in logical order and give copies to each ARB member. You are required to give a copy of your evidence to the appraisal district staff at or before the hearing. Photographs and other documents are useful.
- **Recognize that the ARB acts as an independent judge.** The ARB listens to both the taxpayer and chief appraiser before making a decision. It is *not* a case of the taxpayer against the ARB *and* the chief appraiser. Appraisal district staff must take an oath to tell the truth. The ARB will ask you to take an oath as well, either by swearing or by affirming, before you present evidence. Should you refuse to take the oath, the ARB will note this fact and may take it into account as it weighs the evidence. The chief appraiser has the burden of proving your property's value by a preponderance of the evidence presented at the ARB hearing. If he or she fails to meet the burden of proof, the ARB must determine in your favor. A recent addition to the law adds another tool for the owner of a property under protest with a market or appraised value of \$1 million or less. If a property owner submits to the appraisal district a properly conducted, recently completed and certified appraisal of property value at least 14 days before the hearing, the appraisal district must provide evidence that clearly refutes the independent appraisal. If the appraisal district fails to do so, the ARB is required to rule in favor of the property owner.

Should you appeal to district court or request arbitration?

Once the ARB rules on your protest, it will send you a written order by certified mail. If you are dissatisfied with the ARB's findings, you have the right to appeal its decision to the state district court in the county in which your property is located. You should consult with an attorney to determine if you have a case. Within 45 days of receiving the written order, you must file a petition for review with the district court.

You also are required to make a partial payment of taxes, usually the amount of taxes that are not in dispute, before the delinquency date. You may ask the court to excuse you from prepaying your taxes; to do so, you must file an oath attesting to your inability to pay the taxes in question and argue that prepaying the taxes restrains your right to go to court on your protest. The court will hold a hearing and decide the terms or conditions of your payment. At the district court, you may ask to have your appeal resolved through arbitration, by a jury or by a judge.

As an alternative to filing an appeal in state district court, a property owner is entitled to appeal through binding arbitration an appraisal review board order determining a protest concerning the appraised or market value of real property if:

- 1 the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less; and
- 2 the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property.

To apply for binding arbitration, you must file a request within 45 days, just as with filing a lawsuit. You must complete the request for binding arbitration form prepared by the Comptroller and submit the form and a \$500 deposit (money order or cashier's check) to the appraisal district in which the ARB order was issued. The money order or cashier's check must be made payable to the Comptroller of Public Accounts. The appraisal district will forward your request and deposit to the Comptroller. The Comptroller will appoint an arbitrator that both you and the appraisal district agree upon to arbitrate your case, or will appoint an arbitrator randomly if no agreement is reached. The arbitrator will arrange for an arbitration proceeding. After considering the evidence of the parties, the arbitrator will issue a decision concerning the value of the property. If the arbitrator's decision is closer to your value, the appraisal district will pay the arbitrator's fee and the Comptroller will refund your deposit, less the 10 percent that the law directs the Comptroller to retain. If the arbitrator's decision is closer to the appraisal district value or equal to half of the difference between your value and the appraisal district's value, then the arbitrator's fee is paid from your deposit.

For answers to questions about your property value or the appeals process in your county, contact:

County Appraisal District:

Hidalgo County Appraisal

E-mail/Web (if any):

<http://www.hidalgoad.org>

Address:

4405 S. Proffesional Dr.

City/State/Zip:

Edinburg, Texas 78539

Phone Number:

(956) 381-8466

Prepared as Required by Texas Property Tax Code

By the Texas Comptroller of Public Accounts

Publication #96-528 • February 2009

www.window.state.tx.us/taxinfo/proptax/remedy09.html