

**HIDALGO COUNTY APPRAISAL REVIEW BOARD  
PROTEST HEARING PROCEDURES  
4405 S. PROFESSIONAL DR.-PO BOX 208, EDINBURG TX 78540  
(956) 381-8466 or 565-2461**

**ATTENTION!**

**ALL HEARINGS WILL BE CONDUCTED IN ENGLISH, PLEASE PROVIDE YOUR OWN INTERPRETER**

**ATENCION!**

**TODAS LAS AUDIENCIAS SE LLEVARAN A CABO EN INGLES, FAVOR DE TRAER SU PROPIO INTERPRETE**

Dear Property Owner:

The Hidalgo County Appraisal Review Board (ARB) is required to comply with the Model Hearing Procedures propounded by the Texas Comptroller of Public Accounts, which are given in Attachment A. In addition, the Hidalgo County ARB has developed procedures to apply the Model Hearing Procedures to local circumstances. Please read and study both the Model Hearing Procedures and the following procedures.

Attached is a "Notice of Protest Hearing" notifying you of the date, time and place fixed for the hearing on the protest you filed. In preparation to appear before the Appraisal Review Board (ARB), a property owner should keep several points in mind. Below are some GUIDELINES which will assist you in presenting your case to the ARB:

**IN PERSON:** Be prepared for the appointment. You should be ready to present your protest, along with all supporting documents, at the assigned time. **NOTE: PROTESTS ARE HEARD ON A "FIRST COME, FIRST SERVE BASIS" OF THE HOUR THAT YOU ARE SCHEDULED FOR.**

**BY MAIL:** Make certain all documents/evidence are properly notarized. Information by mail must be mailed to the Appraisal District (NOT THE APPRAISAL REVIEW BOARD) in such manner as to be received prior to the scheduled date and time of the hearing.

**BY TELEPHONE or VIDEOCONFERENCE CALL:** A property owner wishing to appear for a hearing by telephone conference call must:

- a.) Notify the Appraisal Review Board in writing no later than the tenth (10th) day before the date of the hearing; and
- b.) Provide any evidence in the form of a notarized affidavit filed before the hearing begins. A property owner is encouraged to submit any notarized affidavit at least five (5) days before a scheduled hearing to ensure adequate time for processing. A notarized affidavit or accompanying document should state the property owner's name, address, property account number and telephone number.

The following are suggested items of evidence you can furnish the ARB when appearing to your hearing. Original documents, etc. submitted to the ARB, as evidence will be retained as part of ARB records. Copies of the documents should be made and furnished to the ARB during the hearing.

**REAL PROPERTY:** Recent fee (180 days) appraisals; Home insurance policy; Photographs; Blue Prints; Sales contracts, bill of sale, deeds, certified copies of closing statements (if the sale occurred within the last three years); Sales of comparable properties (from Multiple Listing Service, contractors, owner's statement); If the property is for sale, a copy of the listing reflecting the asking price

**BUSINESS PERSONAL PROPERTY:** IRS Information; Inventory Ledgers; Depreciation Schedule; Current Fixed Asset List with original cost and year acquired; Income Statement for Last Five (5) Years; Sales Contracts, Sales of Comparable Properties; Federal Communication Commission (FCC) Registration Number; Federal Aviation Administration (FAA) Registration Number

**MINERALS:** Plugged & Abandoned Lease; Reserves Study as of January 1st; Division order;

The Appraisal Review Board (ARB) must base its decision on tangible evidence, provided by both sides.

A video of How to present your case at an Appraisal Review Board Hearing is available on our website under **Appraisal Info**.

Protests regarding the amount of taxes should not be included in your presentation. Each taxing unit in Hidalgo County sets tax rates separately and concerns regarding tax amounts should be addressed to applicable governing units.

**MOTIONS AFTER CERTIFICATION OF THE APPRAISAL RECORDS**

Once a roll has been approved by the ARB and certified by the Chief Appraiser, the appraisal roll may not be changed except under special limited circumstances. You do, however, have a right to protest on one of the below listed items:

- a.) Failure of Chief Appraiser or ARB to provide or deliver a notice of appraised value or any notice to which the property owner is entitled.
- b.) Clerical Error Correction.
- c.) Multiple Appraisals;
- d.) Inclusion of property that does not exist in the form or at the location described in the appraisal roll;

Motions 2, 3, and 4 must be filed any time before the end of five years after January 1 of the tax year.

e.) Errors that result in an incorrect appraised value for the owner's property. The error may not be corrected unless it resulted in an appraised value that exceeds by more than one-third the correct appraised value. Compliance with payment requirements of Section 25.26 PTC must be met.

f.) Errors that result in an incorrect appraised value (joint motion of the property owner and the Chief Appraiser must be filed prior to the taxes become delinquent)

**NOTE: YOU CANNOT OBTAIN A FINAL DETERMINATION OF ANY AFTER CERTIFICATION PROTEST IF THE TAXES ON YOUR PROPERTY ARE NOT PAID PRIOR TO THE DELINQUENCY DATE OF SUCH TAXES (SEC. 25.26 & 42.08 PTC)**

#### **HEARING PROCEDURES**

At the beginning of the meeting, the Chairman of the Board calls the meeting to order, declares a quorum is present and the Board is open for business. The Chairperson shall schedule hearings by the board or panels of the Board. Hearings scheduled for that day are heard on a **"FIRST COME, FIRST SERVE BASIS", OF THE HOUR THAT YOU ARE SCHEDULED FOR.**

#### **USE OF PANELS**

The Appraisal Review Board, at its sole discretion, may conduct protest hearings through the use of panels consisting of three (3) members which panel will make a recommendation for final action to be considered by a quorum of the full board. The final determination of a protest heard by a panel must be approved by a quorum of the full board.

The Chairperson of the Board shall make the initial assignments of board members to panels at the beginning of each meeting. For each panel selected, the Chairperson will designate one member to serve as alternate Chairperson of the panel. The Chairperson of the panel, or the alternate in his or her absence, shall preside over the hearings and exercise the authority of the Chairperson of the Board with respect to the hearing. At any time, the ARB Chairperson determines that a full board hearing is desired or necessary, the full board shall be convened.

A property owner may request that a single-member panel appointed by the Chairman, 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.

**1. APPEARANCE:** A property owner who is entitled to appear at a hearing may appear in person, by an appointed representative, by telephone conference call, or by submission of sworn affidavit. A taxing unit may appear by designated agent. The board will not hear property owners or taxing units in which a protest or challenge petition has not been filed.

**2. FAILURE TO APPEAR:** If an appellant fails to appear in person, by an appointed representative, by telephone conference call, or by submission of sworn affidavit on the date scheduled for hearing, the motion will be deferred until all other motions scheduled on that date have been heard, then called again. If the appellant still does not respond, the board will take NO ACTION on the motion, and the property remains as valued, unless the Chief Appraiser, on his own motion, makes a recommendation for a change on the account. The Chief Appraiser's motion will be accepted and a determination made on his motion. However, a property owner or his/her designated agent who fails to appear at the hearing is entitled to a new hearing if the property owner or the owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

**3. RESCHEDULING:** The ARB shall postpone a scheduled hearing to a later date if the property owner or his/her designated agent shows good cause for postponement. The hearing may not be postponed to a date less than five or more than thirty days after the date scheduled for the original hearing unless the date and time of the hearing as postponed are agreed to by the ARB, the property owner, and the chief appraiser. A property owner who is not represented by an agent, is entitled to one postponement of a hearing without showing good cause, if the request is made before the date of the hearing. The ARB shall respond in writing or by e-mail to a request for postponement of a hearing not later than the seventh day after the date of receipt of the request. The ARB authorizes the ARB's Recording Secretary to reschedule property owners or the owner's agent, if they meet the requirements for items (a) through (e) as listed below in Item 4. However, the ARB may reschedule a hearing for any circumstance they deem to be a good cause.

**4. AFTER DEADLINE PROTEST:** A property owner who misses the original deadline to file a protest may still file an after-deadline protest. The deadline in this case is the day before the ARB approves the appraisal records. In such a case, the property owner receives a **two-step hearing**. First, the ARB decides whether the property owner had good cause for missing the deadline. Second, if the ARB determines the owner had good cause, then the ARB will hear the protest at a later date. Below are the good cause reasons the ARB will be considering before granting a hearing.

- a.) Death in the immediate family;
- b.) Immediate family in the hospital, under doctor's care, an extreme medical or family emergency, or illness requiring Doctor's care;
- c.) Being on active military duty
- d.) Being involved in a legislative or judicial function (i.e., jury duty, subpoenaed for court appearance, elected official serving a function in his/her capacity)
- e.) The failure of Chief Appraiser or ARB to mail any notice as required by the Texas Property Tax Code;

**5. HEARING LIMITATION:** To expedite the hearing process, each taxpayer will be allowed up to **five (5) minutes** for their presentation; then the Appraisal District will be allowed up to **five (5) minutes**, with the taxpayer having an additional **two (2) minutes** for rebuttal. The chairman of the board or panel will make certain each case is allowed sufficient time to present testimony.

**6. AFFIDAVIT:** Section 41.66f (1) (2) ARB members are prohibited from communicating with another person concerning:  
a.) The evidence, argument, facts, merits, or any other matters related to an owner's protest, except during the hearing on the protest; or  
b.) A property that is the subject of the protest, except during a hearing on another protest or other proceeding before the board at which the property is compared to other property or used in a sample of properties.

At the beginning of a protest hearing, each member of the appraisal review board hearing the protest must sign an affidavit stating that the board member has not communicated with another person in violation of Subsection (f).

If a board member has communicated with another person in violation of Subsection (f), the member must be excused from the proceeding and may not hear, deliberate on, or vote on the determination of the protest. The board of directors of the appraisal district shall adopt and implement a policy concerning the temporary replacement of an appraisal review board member who has communicated with another person in violation of Subsection (f).

**7. TESTIMONY/EVIDENCE:** After all witnesses have been sworn in, the ARB is ready to hear testimony and evidence regarding the protest or challenge. Each party to a protest is entitled to present evidence, examine or cross-examine witnesses, and present argument on the issue dealt with during the Hearing. Testimony and questions shall be addressed to the ARB.

Unless both parties agree otherwise, the protesting party shall present their evidence first, followed by the Chief Appraiser or his representative, then by other interested parties, if any. The ARB normally withholds all questions until all testimony and evidence have been presented by both parties. The ARB, however, reserves the right to ask questions in order to clarify testimony and evidence as it is being presented.

**8. DETERMINATION OF PROTEST:** After hearing testimony and evidence presented, the ARB shall make its determination by written order. If the ARB requires additional information, the protest will be tabled for a later date before making final determination. The Board sitting as a whole shall determine any protest heard by a panel. All written motions submitted to the ARB shall be determined by written order to the Chief Appraiser.

**ADOPTION OF RULE: THE ABOVE RULES WERE ADOPTED BY A MAJORITY VOTE OF THOSE PRESENT OF THE HIDALGO COUNTY APPRAISAL REVIEW BOARD AT A DULY CALLED MEETING IN COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT AND WITH A QUORUM PRESENT ON THE 21<sup>st</sup> DAY OF MARCH, 2023.**

  
Chairman, Appraisal Review Board

ATTEST:

  
Secretary, Appraisal Review Board

**Attachment A**  
**Model Hearing Procedures for Appraisal Review Boards**

**I. ARB MEMBERSHIP**

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. ARB members are appointed by the local administrative district judge. 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.

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 Chair shall ensure prompt notification of reported conflicts of interest to 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 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", 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 or not 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 not only cannot vote on the matter that is the subject of the protest, but also cannot hear or deliberate on the protest.

Ex Parte and Other Prohibited Communications: ARB members must not engage in prohibited ex parte or other communications. If an ARB member is approached by one or more individuals that appear to engage or attempt to engage in prohibited communication, the ARB member must immediately remove himself or herself from the conversation.

**II. ARB DUTIES**

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. Tax Code Section 41.01 addresses the duties of the ARB and the actions they are authorized to make.

Notices Required under the Property Tax Code: Each ARB member must obtain & 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 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 such 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 hearing, not informal meetings between property owners and appraisal staff)**

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.

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 designated agent 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 or the full ARB within two hours of the scheduled hearing time. The request for postponement 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.

Scheduling Hearings for Multiple Accounts: If requested by a property owner or a 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 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 Tax Code Section 41.66(j).

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.”

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 property owner must request the postponement **before** the hearing date in writing, including by fax or 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 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 a date less than 5 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 designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). The request may be made in writing, including by fax 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 may take action 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 5 or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition, and without limit, the ARB must postpone a hearing if the Chief Appraiser consents to the postponement. The request may be made in writing, including by fax 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 may not be postponed to a date less than 5 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 7<sup>th</sup> day after the date of receipt of the request.

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 files, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

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 7<sup>th</sup> day after the date of receipt of the request.

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 a hearing on a protest filed with the ARB of 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 notice of hearing delivered to the property owner or the owner’s agent by the other ARB bears an earlier postmark than the notice of hearing delivered by this ARB or, if the date of the postmark is identical, the property owner or agent has not requested a postponement of the other hearing; and (4) the property owner or the owner’s agent includes with the postponement request a copy of the notice of hearing 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 if the property owner or 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. A request for postponement of a hearing 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. The ARB is not required to postpone a hearing more than one time under this section.

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 request for postponement not later than the seventh day after the date of receipt of the request.

Postponements Under Tax Code Section 41.66(k)(k-l): Once the ARB schedules a hearing by a specific panel, the ARB cannot 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 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 7<sup>th</sup> day after the date of receipt of the request.

#### **IV. CONDUCT OF ARB HEARINGS (formal hearings, not informal meetings between owners and appraisal district staff)**

Conducting Hearings Open to the Public: This introductory statement must be read at the beginning of each hearing:

We are the Appraisal Review Board that will hear your protest today. We are not employees of the appraisal district. We are appointed to perform an independent review of your protest. You can complete a voluntary survey regarding your experience today. You also have the right to appeal our decision. Appeal information will be provided to you with our determination letter.

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

For most protest hearings, the hearing should be conducted in the following order:

- a. Panel Chair welcomes the parties. Commence the hearing and announce the assigned protest number, property account number, property location, property owner and other identifying information
- 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.
- 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. Panel Chair explains 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 they must give all testimony under oath and swear in all witnesses who plan to testify.
- g. Panel Chair states that the property owner may first present their case or defer to the Appraisal District Representative for their presentation.
- h. 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. At the end of the presentation, an opinion of value for the property must be stated, if applicable.
- i. Next, the appraisal district representative can cross-examine the property owner, the agent or representative and/or witnesses.
- j. 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, an opinion of value for the property must be stated, if applicable.
- k. Then, the property owner or agent can cross-examine the appraisal district representative and/or witnesses.
- l. Members of the ARB will not be examined or cross-examined by parties.
- m. The party presenting its case first can offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- n. The other party can then offer rebuttal evidence.
- o. The party presenting its case first must make its closing argument and state the ARB determination being sought.
- p. The party presenting its case second must make its closing argument and state the ARB determination being sought.
- q. The ARB or Panel Chair must state that the hearing is closed.
- r. The ARB or panel must deliberate orally. No notes, text messages, or other form of communication are permitted.
- s. The ARB or 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 determinations for each protested issue. Single member panels and Special 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 or special panel composed of someone who did not hear the original protest.
- t. Panel Chair will announce the determination(s) of the ARB and that an Order Determining Protest will be sent by certified mail or email.
- u. Panel Chair should thank the parties for their participation and inform the taxpayer that he or she may complete a survey regarding his or her experience today.

If the ARB member 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 property owner or agent be provided 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. See section VI, Other Issues, for more information regarding audiovisual equipment requirements.

The property owner or agent and the appraisal district representative are prohibited from debating 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.

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 the 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.

Conducting Hearings by Telephone or Videoconference Call: Tax Code Section 41.45(n) allows a property owner initiating a protest can 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 10<sup>th</sup> day before the date of the hearing if the property owner 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 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 video conference (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. If the property owner fails to call to check in, or appear in person within 15 minutes of their scheduled formal hearing, the panel will conduct the hearing(s) via appearance by affidavit or unsworn declaration. If an affidavit has not been submitted, the formal hearing will be dismissed for failure to appear.

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 Secretary of the ARB is responsible for ensuring that a separate tape recording or written summary of testimony is kept for the closed meeting in accordance with the provisions of Comptroller Rule 9.803 generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27 and 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.

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 may not prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross-examination. The parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence.

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**

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 to each party to a hearing to fully present evidence and offer argument.

Prohibition of Consideration of Information Not Provided at the ARB Hearing: [Tax Code Section 41.66(e)] 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.

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 the requested information not made available in any form

as evidence in the hearing. The ARB must exclude evidence under Tax Code Section 41.67(d) only if evidence presented at the hearing establishes that: (1) the information sought to be excluded as evidence was not 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**

Compliance with the Law, Integrity, and Impartiality: Members of the ARB shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the ARB.

Patience and Courtesy: ARB members must be patient, dignified, and courteous to parties appearing before the ARB

Bias or Prejudice: ARB members must perform their ARB duties and responsibilities without bias or prejudice.

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.

Required Contents: The ARB's adopted hearing procedures must comply with Comptroller Rule 9.805 concerning ARB 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: 1) 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 small, portable, electronic device; 2) how to retain the evidence as part of the ARB's hearing record; and 3) 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 must address each item required in Comptroller Rule 9.805.