

APPRAISAL REVIEW BOARD of WHARTON COUNTY PROTEST HEARING PROCEDURES

I. APPRAISAL REVIEW BOARD (ARB)

Pursuant to Section 41.66, Texas Property Tax Code (PTC), the Appraisal Review Board (ARB) Of Wharton County establishes the following procedures for protest hearings. It is the ARB's desire to keep all procedures on a "common sense" approach and comply fully with the requirements listed in the PTC. If a question of procedure arises, to which the ARB needs further direction, the first step will be to review provisions of the PTC, and if necessary, seek advice of legal counsel.

Members of the ARB are not employees or officers of any political subdivision that assesses or collects property taxes, nor are they employees or officers of the appraisal district. They are a body of citizens who have been appointed to impartially resolve protests filed by property owners within the appraisal district. The ARB hears protest concerning property values and other determinations made by the Central Appraisal District of Wharton County in the context of appraising properties for taxation. The ARB cannot hear matters concerning tax rates, the amount of taxes due, the ability to pay taxes or the manner in which tax monies are spent. ARB members have no responsibility for, or control over, appraisal district operations or its budget. For that reason, these topics may not be included in your protest.

II. ARB DUTIES

STATUTORY DUTIES: Each ARB member is responsible for ensuring that he or she understands the statutory duties of the ARB and shall comply with all statutory requirements in performing statutory duties as a member of the ARB.

NOTICES REQUIRED UNDER THE PROPERTY TAX CODE: Each ARB member is responsible for obtaining and maintaining familiarity with notices required under the Property Tax Code. If an ARB member has reason to believe that any notice that is required by law to be provided by the ARB is not being provided or does not meet the requirements of applicable law, the ARB member shall promptly notify the ARB chairperson. The ARB chairperson shall investigate each such report and take appropriate action to correct all verified problems.

III. ARB MEMBERSHIP

ARB members are not provided any statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an ARB member is contacted by an individual regarding requesting an appointment to the ARB, the member shall direct the individual to the person designated to receive applications or request for appointment to the ARB.

A. ARB OFFICERS

1. The officers of the Appraisal Review Board are the Chairperson, the Vice-Chairperson and the Secretary.
2. The Central Appraisal District Board of Directors shall select the chairperson and the secretary from among the members of the appraisal review board as per Property Tax Code 6.42. The vice-chairperson will be elected as soon as possible after the new board members are appointed. The vice-chairperson shall be elected from ARB members by a simple majority vote of those present and voting.
3. The chairperson will preside over the meetings of the board, and perform such other responsibilities as these rules require.
4. The secretary shall be responsible for overseeing the keeping of minutes for all of the board meetings, overseeing the keeping of all records of the board and for determining that all records by the board are sent. The secretary may delegate any of the above responsibilities to members of the appraisal staff provided by the Chief Appraiser for that purpose. The secretary will perform such other responsibilities as these rules and the law require.
5. The vice-chairperson will perform the duties of the chairperson in the absence of the chairperson and assist the chairperson in his performance of duties at the chairperson's request.

B. MEETINGS

1. Robert's Rules of Order will govern the conduct of all meetings of the ARB other than hearings. Where Robert's Rules are in conflict with the rules of this board, the rules of the board will govern. The person chairing the board may vote or make motions on any matter.
2. Once the ARB five member board has been officially appointed, the ARB may meet at any time at the call of the chairperson. A majority of the board may call a meeting of the board at any time.

CONFLICTS OF INTEREST: Each ARB member is responsible for ensuring that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or 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 chairperson in addition to any other individual or entity as may be provided by law. The chairperson shall 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 may not participate in a protest hearing. If the conflict exists due to

the provisions of the Local Government Code Chapter 171, an affidavit must be filed with the secretary of the ARB. The affidavit must be filed as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, no affidavit must be filed; however, the ARB member must recuse him or herself immediately from the hearing and report the conflict to the chairperson or secretary of the ARB. 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 is interested (i.e. there is no requirement under Tax Code Section 41.69 that the interest be substantial). Therefore, 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 shall immediately contact the ARB chairperson to address the matter. In the recusal process, the ARB member not only may not vote on the matter that is the subject of the protest, but also may not hear or deliberate on the protest.

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

IV. PROCEDURES FOR FILING PROTEST AND NOTICE OF PROTEST HEARING

In accordance with Texas law, a property owner may protest any of the reasons for protest as listed on the Property Appraisal–Notice of Protest, Property Tax Form 50-132, in writing, each year, before the ARB. The written protest must be filed on or before May 31st or not later than the 30th day after the date a notice was mailed to the property owner. If you protest for any of the reasons as listed on Property Tax Form 50-132, the ARB shall deliver written Notice of Hearing to the person initiating a protest of the date, time, and place fixed for the hearing on the protest not later than the 15th day before the date of the hearing. You may waive your right to 15 day notice and will be scheduled for an earlier hearing if time is available. If you do not receive a hearing notification within a reasonable time period, you should contact the appraisal district. The ARB will not accept protest filings by facsimile or e-mail. Residential accounts with a homestead exemption may file an on-line protest at www.whartoncad.net under the Online Protest tab. At least 14 days before the hearing on a protest, the chief appraiser shall deliver to the person initiating the protest, a copy of the comptroller's "Property Taxpayer Remedies", a copy of these hearing procedures, and inform the protestor that the owner or the agent of the owner may inspect and may obtain a copy of the data, schedules, formulas, and all other information the chief appraiser plans to introduce at the hearing, and the charges for copies. This information is usually included with the delivery of ARB Notice of Hearing. Many protests can be resolved in an informal hearing with a CAD appraiser, provided the property owner supplies documentation to support his/her claims. **For an informal hearing, the property owner may visit with a CAD appraiser about their property any business day from 8 am – 4:30 pm. No appointment is necessary as it is a first come, first serve basis. Informal hearings end on the last day to protest. You cannot meet informally with a CAD appraiser the day of your scheduled hearing.** If you and the CAD appraiser reach an agreement, you will both sign a consent form and the value agreed upon will be the final value. If resolution of the protest cannot be reached at the informal hearing, you will then need to appear before the ARB at your scheduled hearing time.

V. FORMAT OF ARB HEARINGS

Hearing procedures, to the greatest extent practicable, shall be informal; however, certain procedures must be followed. The ARB uses Robert Rules of Order, when conducting its hearings. Unless the property owner and appraisal district agree in advance, the hearing is open to the public and is generally held before the ARB who will hear evidence from both the property owner and the appraisal district and will arrive at a ruling. 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.

VI. ARB HEARING SCHEDULING

Hearings before the ARB are held from mid-June to mid-July, with two sessions from 9:00 am to 12 noon, and two sessions from 1:30 pm till 4:30 pm on weekdays. One evening hearing beginning at 6:00 pm or a Saturday morning hearing beginning at 9:00 am shall be determined by the ARB. The ARB must hear a large number of protests in a relatively short time. The ARB must approve the appraisal records by July 20. Consequently, the ARB must be fairly rigid in maintaining its schedule. The ARB cannot set each protest hearing at a time that is convenient for the property owner or agent. Usually the ARB hearing is scheduled for 15 to 20 minutes. The ARB shall schedule a hearing when a timely notice of protest is filed and, in doing so, will be provided with clerical assistance by the appraisal district. The assistant, in accordance with Chapter 41 and other applicable sections of the PTC, shall schedule hearings and notify the owner or agent filing the protest of the hearing. The ARB may hear a protest that was not timely filed, only if the property owner shows good cause for late filing. Reasons for good cause are found in **VIII. ARB HEARING PROCEDURES AND CONDUCT** of these procedures.

The assistant shall schedule several protests per hearing session per day. The protests shall be heard as scheduled on a first come first serve basis. If the protesting party is late, the protest shall be moved to the end of the session or another time *as determined* by the ARB presiding officer.

SCHEDULING HEARINGS FOR PROPERTY OWNERS NOT REPRESENTED BY AGENTS: Pursuant to Tax Code Section 41.66(i), hearings filed by property owners not represented by agents designated under Tax Code Section 1.111 shall be scheduled for a hearing. More than one protest may be scheduled for hearings in the same session; however, if a hearing for a property owner is not started by the ARB within two hours of the scheduled hearing time, the ARB is required to postpone the hearing, if a postponement is requested by the property owner. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall 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.

SCHEDULING HEARINGS FOR MULTIPLE ACCOUNTS: if requested by a property owner or a designated agent, hearings on protests concerning up to 20 designated properties shall be scheduled on the same day by the ARB. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: "request for same-day protest hearings." No more than one such request may be filed in the same tax year by a property owner or a designated agent. The ARB may follow the practices customarily used in the scheduling of hearings under Section 41.66(j).

When a 25.25 or 41.411 protest is received, the ARB chairperson will be notified that a protest has been filed, the owner/agent will receive a letter from the ARB stating that the protest was received, and that the hearing will be scheduled in June.

VII. WHAT IS EVIDENCE?

Evidence may be documents, testimony, electronic presentations, or physical objects. Documents include any papers, affidavits, drawings or photographs that may be relevant to the protest. Testimony is any oral statement from a witness. Electronic presentations may include PowerPoint presentations or proprietary software. Physical objects may include samples of the building materials used or the soil found on a property. Comptroller Rule 9.803 requires the ARB to maintain all evidence presented at the hearing. The rule says a recording or a written summary of testimony may be used.

VIII. ARB HEARING PROCEDURES AND CONDUCT

CONDUCTING HEARINGS OPEN TO THE PUBLIC: Most protest hearings should be conducted in the following order:

- 1 Either the ARB Chairperson or the ARB assistant will announce the property owner, case number and account number, location of subject, nature of the protest, current market and taxable value.
- 2 The ARB Chairperson asks that the owner/agent and the CAD, in accordance with Tax Code Section 41.45(h), exchange all documents which are to be used as evidence in the protest and provide the ARB with copies.
The Presenters of Evidence, whether it is the Owner/Agent or CAD, must provide a minimum of (6) copies of all protest documentation which is to be presented as evidence and should also have a copy for their presentation. The (6) copies are one for each ARB member (5) and a copy to be exchanged between the owner/agent and CAD (1). A thorough and expeditious examination of evidence occurs when each ARB member has a copy of the evidence. The ARB Chairman's copy is a required copy and will be made part of the public record. For photos, 2 sets are required; one set will become part of the public record.
Evidence presented on an electronic device (CD-ROM, memory cards, PCs, iPADS, video recorders, projectors, digital cameras, cell phones, etc.) must be simultaneously visible by all ARB members, CAD, and the owner/agent and this suffices for each member having a hardcopy. However, this type of evidence will not be considered in the protest unless a required hardcopy of the electronic presentation is also provided for public record.
Comptroller Rule 9.803 requires the ARB to maintain ALL evidence presented at the hearing.
- 3 The ARB members shall execute an affidavit stating they have had no prior communications with any party relating to the subject property.
- 4 The ARB Chairperson welcomes the parties and reminds them of the hearing procedures in summary reminding them of hearing procedures, time limitations, and other relevant matters. Twenty (20) minutes is usually allocated for each hearing (2 or less properties). The ARB may waive the time limit at its discretion.
- 5 Any testifying witness will be asked if he/she holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- 6 Each person that will address the ARB during the course of the appointed hearing shall sign an Oath of Sworn Testimony, per Property Tax Code 41.67(a). The CAD representatives will sign an Oath of Sworn Testimony upon their first appearance of the day and understand that they are under that Oath for all remaining appearances of that day.
- 7 Unless both parties otherwise agree, the owner/agent goes first and the ARB Chairperson asks the **owner/agent to present their witnesses, documentary evidence, and related arguments and will be allotted approximately five to seven minutes. Any questions and/or comments the owner/agent may have for the CAD will be addressed to the ARB Chairperson, who will in turn address the CAD. At the end of the presentation, the ARB Chairperson asks that an opinion of value for the property must be stated by the property owner/agent.**
- 8 The ARB Chairperson will then ask the CAD if they would like to cross-examine the owner, agent, or witness.

- 9 The ARB Chairperson asks the CAD to present their documentary evidence, related arguments, and witnesses if present and will be allotted approximately five to seven minutes. **Any questions and/or comments the CAD may have for the owner/agent will be addressed to the ARB Chairperson, who will in turn address the owner/agent.** At the end of the presentation, the ARB Chairperson asks that an opinion of value for the property must be stated by the CAD.
- 10 The ARB Chairperson will then ask the owner, agent, or witness, if they want to cross-examine the CAD.
- 11 Members of the ARB shall not be examined or cross-examined by parties. The property owner or agent and the appraisal district representative are prohibited from debating each other. All communications must be directed to the ARB members.
- 12 The ARB Chairperson will ask owner/agent for rebuttal.
- 13 The ARB Chairperson will ask CAD for rebuttal.
- 14 The ARB Chairperson will announce that the ARB can now ask the owner/agent and CAD clarifying questions only on items presented as evidence and testimony.
- 15 The ARB Chairperson will ask the **owner/agent** to make its closing argument and state the ARB determination being sought.
- 16 The ARB Chairperson will ask the **CAD** to make its closing argument and state the ARB determination being sought.
- 17 The ARB Chairperson shall state that the hearing is closed.
- 18 The ARB shall deliberate orally and only on items presented as testimony. No notes, text messages, or other form of communication are permitted.
- 19 The ARB Chairperson shall 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 to be determined.** A vote shall be taken and recorded by the ARB assistant. Separate motions and determinations must be made for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations).
- 20 The ARB Chairperson thanks the parties for their participation and announces that the determinations of the ARB will be mailed by certified mail to the owner/agent as soon as practicable.

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.

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 shall 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 shall be marked as “confidential” and maintained as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB shall 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 shall 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. To the extent possible, the parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence.

PROPERTY OWNER’S RIGHT TO APPEAR: A property owner who is entitled to appear at a hearing may appear in person; by a representative with written authorization signed by the owner; by a duly appointed agent with a signed Appointment of Agent Form; or by written, sworn affidavit in its ORIGINAL form. The ARB shall accept and consider a motion or protest filed by an agent if an agency authorization is filed at or before the hearing on the motion or protest. The ARB may not require that an agency authorization be filed at an earlier time. The ARB may not require a person to designate an agent to represent the person in a property tax matter other than as provided by Tax Code Section 1.111. The property owner or agent may offer evidence or argument by affidavit without personally appearing if the owner or agent attests to the affidavit before an officer authorized to administer oaths or notary and submits the **ORIGINAL** affidavit **prior to the scheduled hearing**. The Affidavit must identify the property owner by name and address, state the account number and description of the property, state the date and time of the hearing, and state whether the property owner plans to attend the hearing in person. A form for an affidavit (Form No. 50-283)

is available from the appraisal district. Faxed or email affidavits are not accepted. A taxing unit entitled to challenge may appear by a designated agent.

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, if the request is made **at least 24 hours prior to the scheduled hearing date** before the date of the hearing. The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairperson or the chairperson's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought. In addition and without limit as to the number of postponements, the ARB shall postpone a hearing if the property owner or his/her designated agent at any time shows good cause, as defined in Tax Code Section 41.45(e-2). The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairperson or the chairperson's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought. In addition and without limit, the ARB shall postpone a hearing if the chief appraiser consents to the postponement. The request may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the ARB. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairperson or the chairperson's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

POSTPONEMENTS UNDER TAX CODE SECTION 41.45(e-1): A property owner or a person designated by the property owner as the owner's agent to represent the owner at the hearing 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.

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 hearing before the other ARB 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 request for a postponement 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 shall postpone a hearing (one time only) if the property owner requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. Only the property owner may request a postponement for this reason. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall 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 THE TAX CODE SECTION 41.66(i): Hearings on protests filed by property owners not represented by agents designated under Tax Code Section 1.111 shall be scheduled for a specific time and date. More than one protest may be scheduled for hearings at the same time and date; however, if a hearing for a property owner is not started by the full ARB within two hours of the scheduled hearing time, the ARB is required to postpone the hearing, if a postponement is requested by the property owner. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall 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.

DETERMINATION OF GOOD CAUSE UNDER TAX CODE SECTION 41.44(b): "Good Cause" for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests should be carefully considered and standards in making determinations of good cause under Tax Code Section 41.44(b) should be uniformly applied. The ARB should give due consideration to good cause claims in such a manner that properly respects the rights of property owners while not undermining

or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties. Circumstances that the ARB has recognized as good cause for filing late protests and/or postponements of hearings include the following: 1) being on active military duty; 2) being in the hospital or under doctor's care during the protest hearing period; 3) a death in the immediate family; 4) being on judicial or legislative service or in a pending court hearing; 5) failure to receive administrative due process; or 6) other matters of good cause as determined by the ARB. The ARB must be notified of a request for postponement prior to the scheduled hearing date. The property owner should submit written documentation to verify the request. For good cause hearing, documentation must be received prior to the ARB approval of the appraisal records.

IX. EVIDENCE CONSIDERATIONS

The chief appraiser shall inform the protesting party that he or she may inspect and may obtain a copy of the data, schedules, formulas, and all other information that will be introduced at the hearing. The charge of the copies should reflect legal copying charges, \$.25 per page for copy, and an additional charge for gathering/providing information, but not to exceed \$15.00 for each residential account, and \$25.00 per account for other types of property. Requested information that was not made available in a timely fashion cannot be used as evidence in the hearing. **Sales Data is considered confidential information, per HB 2188, and protesting parties will be required to sign a statement confirming the information will be held confidential.** Once the signed statement and payment for copies has been received by the CAD, the requested information will be submitted to the requesting party. A property owner of a property under protest with a market value of \$1 million or less may submit to the appraisal district a certified appraisal of property value **at least 14 days before the hearing**. The certified appraisal must represent a market value as of January 1, be within 180 days of the hearing date, notarized as sworn information and meet additional requirements listed in PTC Section 41.43(a-2).

A PARTY'S RIGHT TO OFFER EVIDENCE AND ARGUMENT: The ARB may not prohibit a party's right to offer evidence and argument. However, the ARB may enforce time limits and dictate the order of ARB hearings. To the extent possible, the parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence 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: In a protest hearing, the ARB will not consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for any appraisal district record (i.e., appraisal roll history, appraisal cards) to be considered by the ARB, it must be presented as evidence by or on behalf of a party (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): If it is established during a protest hearing that information was previously requested under Tax Code Section 41.461 by the protesting party and that the information was not made available to the protesting party at least 14 days before the scheduled or postponed hearing, the requested information not made available may not be used as evidence in the hearing. The ARB shall make a determination to 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 made available at least 14 days before the hearing; and (2) the information sought to be excluded as evidence was previously requested by the protesting party. Evidence presented at a hearing must be relevant to the grounds stated in the written notice of protest. Property is generally appraised as of January 1, and changes that occur after January 1 are not relevant.

ONCE AGAIN:

The Owner/Agent and the CAD must provide a minimum of 6 copies of all protest evidence.
For photos, 2 sets are needed; one set will become part of the public record.

RECORDS OF HEARINGS and AUDIO & VIDEO PROCEDURES: The ARB shall keep such records of its hearings as are required by law and by rule of the State Comptroller of Public Accounts. All hearings will be audio recorded by the CAD. The audio recordings are a part of the open records and evidence presented by both parties. Audio recordings will be made available to the public after the ARB has turned the appraisal records over to the CAD, with a two week notice, at the expense of the requestor for a minimum charge of \$20.00 per recording. Review of audio recordings will be allowed in the offices of the CAD. The owner/agent may also audiotape the proceeding.

Video equipment must be set up in an area designated by the ARB. **Equipment must be set up between 8:00 am and 8:30 am the day of the hearing so as not to disrupt other hearings. Equipment cannot be removed until the end of the last hearing of the day.** Owner/agent is responsible to provide someone to operate the equipment. It must be stationary and not disruptive to the hearing process.

X. RULING and SUBPOENAS

The Chairperson shall preside over all hearings of the ARB. The chairperson may vote or make motions in any matter before the ARB. Roberts Rule's of Order shall govern the proceedings.

The board, sitting as a whole, may subpoena witnesses or books, records, or other documents. PTC Sections 22.27 & 41.61 will govern the process by which the ARB proceeds with a subpoena. Persons to whom a subpoena is directed are entitled to compensation: 1) Reasonable cost of producing any requested documents subpoenaed as approved by the ARB; 2) Mileage of \$0.555 a mile for going and returning from the place of proceedings; 3) Fee of \$50 per day for each whole or partial day the individual is needed at the proceedings.

XI. GUIDELINES FOR PROTESTS

The ARB has adopted these guidelines for protests that are most effective and will help a protestor present a more effective case to either the appraisal district or the ARB.

PRESENTING A PROTEST: Prior to appearing before the ARB, a protestor should keep several points in mind:

Be on time and prepared for your appointment. Due to the volume of owners that do not show for their appointments, several hearings are scheduled at the same time, and heard on a first come, first served basis. *Fifteen to twenty minutes shall be allocated for each hearing (2 or less properties). The board may waive the time limit at its discretion.* You should be ready to present your protest, along with supporting documentation, at the assigned time. Documentation would include comparable sales, recent appraisals, photos, etc. If you present a recent appraisal, you must have presented it to the CAD for review at least 14 days before your hearing, see IX. EVIDENCE CONSIDERATIONS of these hearing procedures. The protestor must provide a minimum of 6 copies of all protest evidence to be presented. This allows a copy for each ARB member and a copy for the CAD. The ARB Chairperson's copy will be made part of the public record. For photos, 2 sets are required. Evidence shown on an electronic device (CD-ROM, memory cards, PCs, iPADS, video recorders, projectors, digital cameras, cell phones, etc.) or presented in any other form will not be considered unless the required copies are provided.

CAD Staff will not be able to prepare your copies. Arrive prepared.

- Stick to the facts in your presentation. The ARB is empowered to deal with market value, agricultural use value, exemptions, and identification of taxing units, inequalities. **Its members have NO responsibility for or control over Central Appraisal District operations, tax rates for the Taxing jurisdictions or politics. We suggest these topics not be included in your protest.**
- Be direct, concise, and honest. All testimony should be directed to members of the ARB. Be sure that the **information and comments you bring before the Board are limited to the MATTER STATED in your Notice of Protest.**
- Recognize that the ARB is serving in a quasi-judicial function. Much the same as a judge, the ARB listens to the presentations of both the property owner and CAD and makes a determination. It is not a case of property owner versus the CAD and the ARB. **The decision weighs on the EVIDENCE presented on each case and based on its own presentation.**
- Prepare a simple but well organized presentation: The ARB will hear the presentation of many property owners during its hearings, so it is to your advantage to stress key facts and figures. By writing them down in logical order and making copies for each ARB member, you can better ensure that the ARB has all the information it needs to make a sound decision.

PROTESTING MARKET VALUE: Per the Texas Property Tax Code SECTION 1.04(7) "Market Value" means the price at which a property would transfer for cash or its equivalent under prevailing market conditions if: a) exposed for sale in the open market for a reasonable time for the seller to find a purchaser; b) both the seller and the purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and c) both the seller and purchaser seek to maximize their gains and neither is in a position to take advantage of the exigencies of the other. Questions to help determine if market transaction: Known to be for sale? Listed or posted? Was it adjoining property you owned? Were parties to the sale related? Was financing unique, not available to general public? Owner financed? Was it a forced sale: estate? Bid/Auction? Foreclosure? Tax sale? Court-ordered? In-Lieu of Foreclosure?

SUGGESTED PROCEDURES FOR PROTEST VALUE: 1) File a RENDITION for property with the Appraisal District by April 15th; 2) Read your NOTICE OF APPRAISED VALUE very carefully when it is received in May or early June; 3) Do some comparisons. Find other property like yours and check for equality and level of appraisal. Same Class, close in square footage and amenities, close in age are some examples to ensure a comparable property. Find and price houses similar to yours that are for sale or have sold in the last 12 months. What are properties selling for now? CAD website: whartoncad.net; 4) If you disagree with the value on the Notice of Appraised Value, file a LETTER OF PROTEST with the Appraisal District, after reviewing your property with a staff Appraiser at the Central Appraisal District; 5) Be on time for your appointment with the Board of Review. Don't forget your DOCUMENTED EVIDENCE and EXHIBITS. REMEMBER: have an extra 6 copies to leave with each ARB member and CAD staff. Real Property Evidence could include such items as pictures, sales amounts of similar properties and/or closing statements, if the sale

meets the standard of a market transaction. Personal Property Evidence could include a list of all assets, a copy of a current financial statement for your business, a bill of sale, contracts listing personal, and/or pictures. In your preparation, the CAD can print appraisal cards and small maps that you'd like to use. Due to the volume of requests, there is a small charge just to cover the supplies. To have time to compare and prepare, don't wait until the last minute to make your requests. If you have any questions, or need more information, contact the Central Appraisal District.

PROTESTING UNEQUAL APPRAISAL: A property owner who protests on the grounds that the appraisal of the owner's property is unequal compared to the appraisals of other property should be prepared to address one or more of the following issues: 1) whether the appraisal ratio of the property is greater than the median level of appraisal of a reasonable and representative sample of other properties in the appraisal district; 2) whether the appraisal ratio of the property is greater than the median level of appraisal of a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind of character as that property; or 3) whether the appraised value of the property is greater than the median appraised value of a reasonable number of comparable properties appropriately adjusted.

Be direct, concise, and honest. Stress facts and circumstances which support your protest. The protestor who simply says, "This appraisal is too high to me" is not likely to prevail. The fact that your property is appraised at a value greater than your neighbor's does not prove that your property was appraised erroneously. Values from prior years or the decisions of previous ARB's do not bind the current ARB. Each tax year stands alone. If there is any verbal abuse by either witness, the ARB Chairperson has the option of making a motion to recess your protest or ask for a vote at that time.

XII. ARB DECISION

When the ARB has heard all testimony and examined all evidence presented on a protest, it makes its recommendation to maintain, lower, or raise the value accordingly. The final decision of the ARB, known as the Notice of Final Order/Order Determining Protest, is issued in writing and provided to property owner or his/her authorized agent by certified mail and to the CAD. The written orders direct the Chief Appraiser to make the appropriate changes to the district's current appraisal records. A copy of the Final Order/Order Determining Protest from the formal hearings is signed by the ARB Chairperson and specifies the ARB's disposition of the protest. Inquiries may be directed to the ARB Chairperson. A property owner may have the right to appeal the ARB decision to Binding Arbitration, to SOAH (State Office of Administrative Hearings), or to District Court.

XIII. OTHER ISSUES

- 1 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.
- 2 Patience and Courtesy - ARB members must be patient, dignified, and courteous to parties appearing before the ARB.
- 3 Bias or Prejudice - Members of the ARB shall perform their ARB duties without bias or prejudice.
- 4 Confidential Information - Members of the ARB shall not disclose or use for any purpose unrelated to ARB duties confidential information acquired in the performance of ARB duties.
- 5 A final motion to dismiss all protests that failed to appear, aka no show protests, will be made on the last day of the hearing prior to returning the appraisal records to the CAD.

A copy of these hearing procedures shall be posted in a prominent place in the room in which the hearing is held.

Appraisal Review Board of Wharton County Hearing Procedures
Adopted on this 25th day of April 2017