

ARB Hearing Procedures and Policy Manual

MASON COUNTY APPRAISAL REVIEW BOARD

Tax Code Section 6.41(a) establishes an appraisal review board (ARB) for each appraisal district. Subsection (b) requires that the board must have at least three members. The appraisal district board of directors by resolution may increase the size of the ARB to an appropriate number. Subsection (d) provides that, except as provided by Subsection (d-1), ARB members are appointed by resolution of a majority of the board of directors. ARB members have no statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. The district judge selects a chairman and a secretary from among the ARB members.

Tax Code Section 5.103(a) requires that the Comptroller of Public Accounts prepare model hearing procedures for appraisal review boards (ARB). The model procedures are required to be followed, according to subsection (d), when an ARB establishes its hearing procedures, as required by Tax Code Section 41.66(a). The Tax Code directs that hearing procedures "to the greatest extent practicable shall be informal."

Tax Code Section 5.103(b) lists 17 topics, 16 of which are addressed in Section (2) PTAD Model Hearing Procedures under the categories of (2.1) ARB membership, (2.2) ARB duties, (2.3) ARB hearings, (2.4) conduct of ARB hearings, and (2.5) evidence considerations. The last statutorily-required topic—"any other matter related to fair and efficient appraisal review board hearings"—is addressed under the last section entitled "(2.6) Other Issues."

An ARB may include additional procedures in its local hearing procedures regarding legal and administrative matters that are not addressed by these model procedures as long as they do not contradict or circumvent the model hearing procedures. These procedures can be found in Section (1) of this document.

No later than May 15 of each year, the ARB shall hold a public hearing to consider the proposed model hearing procedures and make amendments accordingly. The hearing procedures are then adopted by resolution.

The ARB must submit the adopted procedures to the following entities no later than 15 days after adoption:

- The Comptroller's Property Tax Assistance Division at ptad.arb@cpa.texas.gov;
- The appraisal district board of directors for which the ARB is established; and
- The appraisal district taxpayer liaison officer for which the ARB is established.

Copies of the procedures must be displayed in a prominent place in each room where hearings take place and on the appraisal district's website, if applicable.

ARB Board

(Chairman)

David Lampman

(Secretary)

Homer Sanchez

Approval Date:

April 12, 2022

Handwritten signatures of David Lampman and Homer Sanchez over horizontal lines.

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1 Mason County ARB Policies and Procedures

The Mason County ARB will utilize this document's policies and procedures to conduct appraisal review board hearings. We strongly encourage property owners to seek first an Informal Conference with the appraisal district prior to their Protest hearing. You may do so by contacting the CAD office directly by phone or by selecting the informal conference option in section 5 of the Property Owner's Notice of Protest Form 50-132-A.

At the beginning of each protest hearing, each ARB member hearing the protest will sign an affidavit stating that the board member has not communicated with another person in violation of Tax Code Section 41.66 Subsection (f). If a board member has communicated with another person in violation of Subsection (f), the member will be recused from the proceeding and may not hear, deliberate on, or vote on the determination of the protest.

The ARB may communicate with the chief appraiser, another employee of the appraisal district, a member of the board of directors, a property tax consultant, or an attorney representing a party to a proceeding before the ARB (1) during a hearing, (2) socially, (3) regarding topics that are limited to administrative, clerical, or logistical matters related to scheduling and operation of hearings, processing documents, issuance of order, notices or subpoenas, and the operation, appointment, composition, or attendance at ARB training.

1.1 Officers

The officers of the ARB are the Chairman and the Secretary who are appointed by the district judge.

- 1) The Chairman will preside over all meetings and hearings of the ARB and perform such other responsibilities as these rules require. The Chairman may vote or make motions in any matter before the ARB.
- 2) The Secretary will perform the duties of the Chairman in the absence of the Chairman and assist the Chairman in the performance of his duties at the Chairman's request.
- 3) The Secretary shall be responsible for the keeping of minutes for all ARB meetings and hearings. The Secretary will oversee the keeping of all records of the ARB and determine that all notices by the ARB are sent. The Secretary may delegate the clerical responsibilities to members of the appraisal staff provided by the Chief Appraiser for that purpose. The Secretary will perform other responsibilities as the law may require.

1.2 Training

ARB members are not allowed to participate in hearings until they complete the Comptroller's training course and a statement agreeing to comply with Tax Code requirements during ARB hearings. During the second year of an ARB member's term, the ARB member must complete the Comptroller's continuing education training course and complete a statement agreeing to comply with Tax Code requirements during ARB hearings. An ARB member who fails to timely complete the course is not eligible to participate in hearings, vote on a determination of protest or be reappointed to an additional term.

1.3 Meetings

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 ARB, the rules of the ARB will govern.

- 1) The person chairing the ARB may vote or make motions on any matter.
- 2) The ARB will meet within ten (10) days after the date the Chief Appraiser submits the appraisal records to the ARB to examine the records.
- 3) The ARB will meet any time at the call of the Chairman. Tax Code 6.42(8)1. A majority of the ARB may call a meeting of the ARB at any time.
- 4) The ARB secretary will keep minutes of its meetings.
- 5) The chief appraiser prepares and posts meeting notices as required by law on behalf of the board. Only items posted in the meeting notice may be acted upon at a meeting.
- 6) Members of the ARB are entitled to be reimbursed for expenses related to performing board duties by the appraisal district budget for each day the ARB meets.
- 7) The Chief Appraiser or her authorized designee shall be present at all meetings and hearings of the ARB.

1.4 Quorum

A majority of the Appraisal Review Board constitutes a quorum. Tax Code 6.42(a). The ARB must have a quorum present before conducting any business. Any final ARB decision requires majority vote of the ARB members voting on that item.

1.5 Hearings

The ARB typically schedules protest hearings in early June and will do its best to accommodate property owner schedules. Hearings are scheduled between 8:00am and 4:00pm each day. A hearing is limited to fifteen (15) minutes per parcel for residential property and personal property allowing each party 5 to 7 minutes to present relevant evidence. Commercial hearings shall be limited to twenty (20) minutes per parcel. Hearings involving multiple accounts will be limited to a maximum of sixty (60) minutes. The ARB may waive the time limit at its discretion. Tax Code Section 41.66(b)

1.5.1 Tax Code Section 41.01 provides that the appraisal review board will make determinations on the following protest reasons, during the hearing.

- (1) determine protests initiated by property owners;
- (2) determine challenges initiated by taxing units;
- (3) correct clerical errors in the appraisal records and the appraisal rolls;
- (4) act on motions to correct appraisal rolls under Section 25.25;
- (5) determine whether an exemption or partial exemption is improperly granted and whether land is improperly granted appraisal as provided by Subchapter C, D, E, or H, Chapter 23; and
- (6) take any other action or make any other determination that this title specifically authorizes or requires.

The board may not review or reject an agreement between a property owner or the owner's agent and the chief appraiser.

1.5.2 Hearing Audio Visual and File Format

Audio Visual and File Format Information follows:

- (1) The appraisal district will make available to the property owner or the owner's agent any projection equipment (not computer or network) that it may use in the hearing. These devices are typically a large screen TV or projector that utilize a wired HDMI input. The property owner or the owner's agent may not access any CAD computers or CAD wired or wireless network. The property owner or the owner's agent is encouraged to work out their presentation needs prior to the scheduling of the hearing.
- (2) The appraisal district and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in the hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.
- (3) Evidentiary materials produced electronically shall be saved to a USB Flash (Thumb) drive formatted FAT32 (default) and readable in Microsoft Windows. Acceptable file formats are Adobe PDF, Microsoft (Word, Excel, PowerPoint) and Image files (photos) should be in Jpeg (.jpg) format.

1.5.3 Hearing Presentations

- Tax Code Section 41.45(h) requires the parties to exchange, before or immediately after the ARB hearing begins, any materials they intend to use at the hearing.
- The property owner will be given the option to present their case either before or after the appraisal district presents its case. Tax Code Section 41.66(b)
- Both parties may present an argument and evidence and may examine and cross-examine witnesses and other parties. The ARB will determine the order of hearings for witness examination and cross-examination. Tax Code Section 41.66(b)
- The property owner must offer an opinion of value and present argument and evidence related to the market and appraised value or the inequality of appraisal of the owner's property Tax Code Section 23.01(g)
- The ARB considers (3) Comparables as reasonable support of an Incorrect appraised (market) value and (5) Comparables supporting a value that is (unequal compared with other properties) for a residential and commercial property protest.
- The Tax Code requires that all testimony be given under oath and before an individual testifies, an ARB member is to swear in the witness under Tax Code Section 41.67(a).
- Licensed Appraisers, real estate brokers / agents, or property tax consultants making presentations to the ARB must identify that they hold such a license.
- In determining whether the burden of proof has been met, the ARB must weigh all the evidence presented by both parties. This responsibility requires that the ARB consider the credibility and reliability of each witness as well as the quality of the evidence each presents. To make its determination, the ARB

must rely solely on the evidence presented at the hearing and then weigh each party's evidence to make its decision.

- If changes to the appraisal records are ordered due to a determination of excessive appraised or market value and also a determination of unequal appraisal, the lower of the two determinations shall be shown in the appraisal records.

1.5.4 ARB Protest Determination and Records Keeping

The ARB Secretary will record minutes and evidence for each ARB proceeding that will contain information described in Comptroller Rule 9.803. The ARB will make its determination recordings on Comptroller Form 50-221 (Order Determining Protest or Notice of Dismissal) after the hearing is closed.

Comptroller form 50-221 will be provided to the ARB by the appraisal district in addition to their evidence packet. The form will be pre-populated with Owner, Account, Description, and Case number.

2 PTAD Model Hearing Procedures

Adopted from PTAD Model Hearing Procedures for Appraisal Review Boards dated January 01, 2022.

2.1 ARB Membership

[Tax Code Section 5.103(b)(12), (15), and (16)]

2.1.1 Administration of ARB Appointments

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

2.1.2 Conflicts of Interest

Each ARB member must ensure that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or that restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chair in addition to any other individual or entity as required by law. The chair must ensure prompt notification of reported conflicts of interest to the appropriate individuals.

If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member cannot participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, the member must file an affidavit with the ARB secretary. The ARB member must file the affidavit as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, the ARB member does not have to file an affidavit but must recuse himself or herself immediately from the hearing and report the conflict to the ARB chair or secretary.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of "substantial interest," Tax Code Section 41.69 applies to any protest in which an ARB member has interest (i.e. Tax Code Section 41.69 does not require the interest to be substantial). While a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether he or she has a conflict of interest that might prohibit his or her involvement, the member must immediately contact the ARB chair to address the matter.

In the recusal process, the ARB member cannot hear the protest, deliberate on the protest or vote on the matter that is the subject of the protest.

2.1.3 Ex Parte and Other Prohibited Communications

ARB members must not engage in prohibited ex parte or other communications. If one or more individuals approach the ARB member and appear to engage or attempt to engage in a prohibited communication, the ARB member must immediately remove himself or herself from the conversation.

2.2 ARB Duties

[Tax Code Section 5.103(b) (1), (5), and (6)]

2.2.1 Statutory Duties of an ARB

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

2.2.2 Notices Required under the Property Tax Code

Each ARB member must obtain and 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.

2.2.3 Determination of Good Cause under Tax Code Section 41.44(b)

“Good cause” for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests must carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) must uniformly applied. The ARB should give due consideration to good cause claims in a manner that properly respects the rights of property owners and their agents while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

2.3 ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

[Tax Code Section 5.103(b)(3), (4), (7), and (14)]

2.3.1 Scheduling Hearings Generally

The ARB must schedule a hearing when a timely notice of protest is filed and, in doing so, the appraisal district can provide the ARB with clerical assistance.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the appraised value of the property if the property owner does not file a protest relating to the property. Under Tax Code Section 41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code Section 1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

2.3.2 Scheduling Hearings for Property Owners, Agents and Qualifying Lessees

Pursuant to Tax Code Section 41.66(i), the ARB must schedule hearing requests filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, the property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting

the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

2.3.3 Scheduling Hearings for Multiple Accounts

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

2.3.4 ARB Panel Assignments [Tax Code Section 41.66 (k)(k-1) and 41.45(d)(d-1)]

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.”

2.3.5 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 facsimile, email, 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 the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the property owner or the designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). The property owner or designated agent must request the postponement in writing, including by facsimile, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by facsimile, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone a hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

2.3.6 Postponements Under Tax Code Section 41.45(e-1)

A property owner or owner's agent who fails to appear at the hearing is entitled to a new hearing if the property owner or owner's agent file, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

2.3.7 Postponements Under Tax Code Section 41.45(g)

The ARB must postpone a hearing to a later date if:

- (1) the property owner or the owner's agent is also scheduled to appear at an ARB protest hearing in another appraisal district;
- (2) the other scheduled ARB protest hearing is scheduled to occur on the same date as the hearing set by this ARB;
- (3) the hearing notice delivered to the property owner or the owner's agent by the other ARB bears an earlier postmark than the hearing notice delivered by this ARB or, if the postmark date is identical, the property owner or agent has not requested a postponement of the other hearing; and
- (4) the property owner or the owner's agent includes with the postponement request a copy of the hearing notice delivered to the property owner or the owner's agent by the other ARB.

2.3.8 Postponements Under Tax Code Section 41.66(h)

The ARB must postpone a hearing (one time only) if the property owner or the designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

2.3.9 Postponements Under Tax Code Section 41.66(i)

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

2.3.10 Postponements Under Tax Code Section 41.66(k)(k-1)

Once the ARB schedules a hearing by a specific panel, the ARB can reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, a property owner or designated agent may agree to reassignment or request that a hearing postponement. The ARB must postpone the hearing on that request. A change of panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute panel reassignment.

A property owner or agent must consent to a special panel ARB hearing reassignment or request a postponement if they disagree with the reassignment. A change of special panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute a special panel hearing reassignment.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

2.4 Conduct of ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

[Tax Code Section 5.103(b)(2), (9), and (10)]

2.4.1 Conducting Hearings Open to the Public

In Accordance with Tax Code Title 34.1.9 (D) rule 9.805 (a) the appraisal district and the property owner or the owner's agent shall each provide the other party with a duplicated set of the evidentiary materials the person intends to offer or submit to the appraisal review board for consideration at the hearing. One set of these materials is to be exchanged with and retained by the other party, and another set of these materials is to be provided to and retained by the appraisal review board as evidence for its records as required under §9.803 of this title (relating to Requirements for Appraisal Review Board Records). The duplicated material sets shall be produced in either paper or electronic form.

This introductory statement will 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 survey regarding your experience today. The survey is voluntary. You also have the right to appeal our decision. We will provide the appeal information to you with our determination.

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

ARBs should conduct most protest hearings in the following order:

- a. Commence the hearing and announce the assigned protest 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. Welcome the parties and remind them of 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. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
- 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, the property owner or agent must state an opinion of the property's value (if applicable).
- i. Next, the appraisal district representative may 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, the appraisal district representative must state an opinion of the property's value (if applicable).

- k. Then, the property owner or agent can cross-examine the appraisal district representative and/or witnesses.
- l. The parties cannot examine or cross-examine the ARB members.
- 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 forms of written communication are permitted.
- s. The ARB or panel chairman must ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations). Single-member panels must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest. Special panels appointed in certain counties must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination or refer the matter for rehearing to another special panel composed of members who did not hear the original protest. If ARB does not have at least three other special panel members available, the ARB may make the determination.
- t. Thank the parties for their participation and announce the ARB determination(s) and that an order determining protest will be sent by certified mail or email in counties with populations greater than 120,000 where property owners can submit a written request for email delivery of the notice of determination. Provide the property owner or agent documents indicating that the members of the board hearing the protest signed the required affidavit.

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

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

2.4.2 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. Tax Code Section 41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10th day before the date of the hearing if the property intends to appear remotely. To offer evidence or argument at a hearing conducted remotely, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted remotely to another person the owner invites to participate in the hearing.

Tax Code Section 41.45(b-2) requires the ARB to provide the telephone number for conducting the teleconference call or the URL address for conducting the videoconference (if offered in that county). The ARB must hold the hearing in a location with equipment that allows all ARB members and parties to the protest in attendance to hear and see the property owner's argument.

2.4.3 Conducting Hearings Closed to the Public [Tax Code Section 41.66(d), (d-1)]

The chief appraiser and the property owner must file a joint motion to request that a closed hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code Section 41.66(d) and (d-1). Only the parties to the protest, their witnesses and the ARB members are permitted to stay in the hearing room. The ARB must follow the same order of proceedings as for hearings open to the public.

The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with Comptroller Rule 9.803, generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27. The ARB must mark as "confidential" and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law.

After deliberation, the ARB must reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. The ARB and parties cannot mention of the proprietary or confidential information during the open meeting.

2.4.4 Right to Examine and Cross-Examine Witnesses or Other Parties

Tax Code Section 41.66(b) states that "each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing." The ARB

cannot prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross-examination. To the extent possible, the ARB should advise the parties in advance of any time limitations that the ARB intends to impose regarding the presentation of evidence.

2.4.5 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.

2.5 Evidence Considerations

[Tax Code Section 5.103(8), (11), and (13)]

2.5.1 A Party's Right to Offer Evidence and Argument

The ARB cannot prohibit a party's right to offer evidence and argument but may enforce time limits and dictate the order of ARB hearings. To the extent possible, the ARB should advise the parties in advance of any time limitations the ARB intends to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument.

2.5.2 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.

2.5.3 Exclusion of Evidence Required by Tax Code Section 41.67(d), (e)

If it is established during a protest hearing that the protesting party previously requested information under Tax Code Section 41.461 and that the opposing party did not deliver the information to the protesting party at least 14 days before the scheduled or postponed hearing, the opposing party cannot use or offer 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.

2.6 Other Issues

[Tax Code Section 5.103(17)]

2.6.1 Compliance with the Law, Integrity, and Impartiality

ARB members must comply with the law and always act in a manner that promotes public confidence in the integrity and impartiality of the ARB.

2.6.2 Patience and Courtesy

ARB members must be patient, dignified and courteous to parties appearing before the ARB.

2.6.3 Bias or Prejudice

ARB members must perform their ARB duties without bias or prejudice.

2.6.4 Confidential Information

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

2.6.5 Required Contents That Vary By ARB

ARB model hearing procedures must comply with Comptroller Rule 9.805 concerning ARB evidence exchange and retention and audiovisual equipment requirements. Audio Visual and File Format Information follows:

- (4) The appraisal district will make available to the property owner or the owner's agent any projection equipment (not computer or network) that it may use in the hearing. These devices are typically a large screen TV or projector that utilize a wired HDMI input. The property owner or the owner's agent may not access any CAD computers or CAD wired or wireless network. The property owner or the owner's agent is encouraged to work out their presentation needs prior to the scheduling of the hearing.
- (5) The appraisal district and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in the hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.
- (6) Evidentiary materials produced electronically shall be saved to a USB Flash (Thumb) drive formatted FAT32 (default) and readable in Microsoft Windows. Acceptable file formats are Adobe PDF, Microsoft (Word, Excel, PowerPoint) and Image files (photos) should be in Jpeg (.jpg) format.