

# THE AGRICULTURAL APPRAISAL ADVISORY BOARD

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# **The Agricultural Appraisal Advisory Board: Information for Appraisal Districts**

Effective August 28, 1989, Sec. 6.12, Property Tax Code, requires chief appraisers to appoint an agricultural appraisal advisory board. The legislature created this advisory board to help improve communications between the farming and ranching community and the appraisal district.

Because the law is new and many chief appraisers are not experienced in working with an agricultural advisory board, we offer this review of the law and suggestions for its implementation.

## **Appointing the Board**

The law requires the chief appraiser, with the advice and consent of his board of directors, to appoint an agricultural advisory board.<sup>1</sup>

The agricultural advisory board must have at least three members. These members must be appointed by the chief appraiser with the advice and consent of the board of directors. The chief appraiser may appoint more than three members, again with the advice and consent of his board of directors. The law specifies the qualifications of the three required members.

Two members of the advisory board must be owners of qualified 1-d, 1-d-1 agricultural, or 1-d-1 timberland in the appraisal district who have lived in the district at least five years. One board member must be a representative of the “agricultural stabilization and conservation service” in the appraisal district. The Agricultural Stabilization and Conservation Service (ASCS) is a branch of the United States Agriculture Department—a federal agency. The agency’s national headquarters has prohibited its local offices from appointing an employee of the service to the board.

The ASCS headquarters states that if the chief appraiser contacts the county ASCS office, the ASCS county committee should appoint one of its members, not an ASCS employee, to the advisory board. The ASCS also does not consider the committee member’s representation on the board an official ASCS function. Because the ASCS is a federal entity, the state has no authority over the agency’s decisions about participation on the advisory board. We suggest that chief appraisers accept appointment of an ASCS committee member as the ASCS representative.

The chief appraiser may not appoint an appraisal district officer or employee to serve on the board. When making appointments to the board, the chief appraiser should try to achieve a balanced representation of agricultural or timber land owners. Some factors the chief appraiser should consider are: geographical differences in the area, different types of agricultural operations in the area, and the different sizes of agricultural and timber operations in the area.

The more representative of the community’s diversity the board is, the more likely the chief appraiser is to get useful advice and assistance. In appraisal districts having a great diversity of agricultural operations, the chief appraiser may wish to increase the size of the board to get adequate representation of all groups. Remember, though, that advisory boards should not be so large that business cannot be easily conducted. Our experience shows that groups of six to eight members are the least cumbersome and most productive.

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<sup>1</sup> The author of the bill adding Sec. 6.12 to the Property Tax Code, Representative Robert Earley, has stated that the phrase “with the advice and consent of the board of directors” means that the agricultural advisory board is not mandatory. Under Representative Earley’s interpretation, the board of directors may decide not to give its consent to the appointment of an advisory board, but the chief appraiser must present his appointments to the board.

## Terms and Compensation

Board members may not receive compensation for their service on the advisory board.

Advisory board members serve for two-year staggered terms. When making his first appointments to the board, the chief appraiser is required to appoint one half of the members to one-year terms if the board has an even number of members. If the board has an odd number of members, the chief appraiser is required to appoint one fewer than a majority to one-year terms.

## Meetings

The chief appraiser calls advisory board meetings and he must call a meeting at least three times a year. The board may have more than three meetings a year—the act simply requires at least three meetings.

To insure smooth, orderly proceedings, the board may choose to operate under Roberts Rules of Order or to adopt its own procedures. In addition, the board may choose a chairman and other officers.

The board is an advisory body, so it is not subject to the Open Meetings Act. However, the intent of the act was to increase public participation in the agricultural appraisal process, so we recommend that the board hold open meetings.

Detailed discussions of the Open Meetings Act and the requirements for publishing notice of the meetings appear in the May, 1989, issue of STATEMENT and the *Board of Directors Manual* published by the State Property Tax Board. In general, notice of the time, date, place, and subject matter of the meeting must be posted in a place convenient to the public (the courthouse) at least 72 hours before the meeting takes place. Appraisal districts serving all or parts of four or more counties must publish notice in their administrative offices and in each county courthouse they cover. In addition, these districts must file notice with the Secretary of State.

The appraisal district may wish to appoint a staff member to be a liaison with the agricultural advisory board. The appraisal district staff may be responsible for compiling materials and setting the agenda for meeting, taking and recording meeting minutes, contacting the media, and posting notice of meetings.

## The Agricultural Advisory Board's Duties

Under the Property Tax Code, the board's function is to advise the chief appraiser on major issues dealing with agricultural and timber appraisal—net to land, degree of intensity standards, and other agricultural use and appraisal issues.<sup>2</sup>

As an advisory body, the board has no decision making authority or responsibility. The chief appraiser and the appraisal review board have statutory and legal responsibility to set values and make decisions on qualification for agricultural appraisal—this responsibility cannot legally be delegated to any other group or person not directly under the chief appraiser's authority. The agricultural advisory board should not become involved in matters dealing with individual properties or in approving applications for agricultural appraisal.

The following is a discussion of some of the areas in which the board may advise or assist the chief appraiser. For more detailed information about productivity appraisal, consult the *Manual for the Appraisal of Agricultural Land* and *Guidelines for the Valuation of Timberlands*, available from the State Property Tax Board.

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<sup>2</sup> Sec. 6.12, Property Tax Code, governs the board's statutory duties. The statute says: The Board shall advise the chief appraiser on the valuation and use of land that may be designated for agricultural use or that may be open space agricultural or timber land within the district.

# Agricultural Land

The Texas Constitution permits productivity appraisal with two sections in Article VIII—Sec. 1-d and Sec. 1-d-1. Chapter 23, Subchapters C, D, and E, Property Tax Code, are the laws that implement the constitutional provisions. 1-d-1 appraisal is commonly called “open-space” appraisal because the constitution and Property Tax Code refer to “open-space land.” 1-d appraisal is often called “agricultural use” appraisal. Land that qualifies for these appraisals is appraised based on its productivity value rather than on its market value. Usually, the land’s productivity value is substantially lower than its market value.

The law gives the chief appraiser the prime responsibility for qualifying and appraising agricultural land. The State Property Tax Board, however, is charged with the responsibility of developing agricultural appraisal manuals for both 1-d and 1-d-1 land. The law also directs the SPTB to develop procedures for verifying that land qualifies for agricultural appraisal.

The *Manual for the Appraisal of Agricultural Land* is a State Property Tax Board administrative rule and has been approved by a committee consisting of the governor, attorney general, comptroller, agriculture commissioner, and commissioner of the General Land Office. This manual sets out appraisal procedures and eligibility requirements for 1-d and 1-d-1 appraisal and is available through the appraisal district or the State Property Tax Board, Publications Section.

The methods described in the manual are required; appraisal districts are required by law to follow them, so agricultural advisory board members should be familiar with the manual and the required procedures. Because the manual thoroughly discusses agricultural appraisal, we will briefly summarize below the major areas in which the advisory board may help the chief appraiser carry out his duties.

**Developing Categories of Land.** One of the chief appraiser’s duties is to develop a list of land classes or categories typical in the appraisal district area. After the land classes are developed, the chief appraiser places land qualified for 1-d-1 appraisal in the class that most closely matches the land’s use.

Typical land classes in Texas include irrigated cropland, dry cropland, improved pasture or grassland, native pasture or grassland, orchard, and wasteland. These classes may be divided into sub-classes according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors that influence the land’s productive capacity. Also, unusual or intensive land uses, such as egg producing, mass-producing poultry or turf-grass farming may require a separate, intensive use category. Development of land classes is discussed in more detail on pages 22 and 23 of the *Manual for the Appraisal of Agricultural Land*.

The board can help the chief appraiser identify the typical land classes, divide the classes into appropriate sub-classes, and develop a system for placing land in the proper category.

**Setting Degree of Intensity Standards.** The degree of intensity test measures whether land is being farmed or ranched to the extent typical for agricultural operations in the appraisal district area. Land does not qualify for agricultural appraisal unless it is used to the degree of intensity typical for the area. The degree of intensity test is intended to exclude farms or ranches on which token agricultural use occurs in an effort to obtain tax relief.

The chief appraiser must set degree of intensity standards for agricultural operations in the appraisal district. To set good standards, he must gather a great deal of information about typical agricultural operations. First, the chief appraiser must analyze each type of commodity product in his area, breaking down the typical steps of production for each commodity. He then determines what the typical farmer or rancher puts into his operation in terms of time, capital investment, labor, and equipment at each step in the production. Usually, this information will be used to set minimum levels of inputs for each step in production. Property owners who cannot show they

meet minimum levels cannot in most cases qualify for agricultural appraisal. Degree of intensity standards are discussed in more detail on pages 9 and 10 of the *Manual for the Appraisal of Agricultural Land*.

The board can be instrumental in developing degree of intensity standards for the area by helping the chief appraiser analyze the steps involved in each type of agricultural operations, the typical level of inputs, and types of commodity production in the district.

**Determining Net to Land Values.** After qualifying land for agricultural appraisal, the chief appraiser must determine its productivity value. To do this, he determines the “net to land” for each land class. Net to land is the average annual net income that a land class would be likely to have generated over a five-year base period. The law requires the chief appraiser to determine the net to land using a cash or share lease method.

Under a lease method, net to land is the rent that would be due to the property owner under a cash lease, share lease, or other typical lease arrangement, less expenses typically paid by the owner. In a cash lease, the rent is a fixed amount. In a share lease, the rent is a share of the gross receipts for the year, less a share of certain expenses. Income from hunting leases or other recreational leases must also be included in net to land.

The agricultural advisory board can help the chief appraiser gather sets of leases typical for the area. Also, the board can help the chief appraiser determine what are typical expenses in the area.

The process of setting net to land through the lease method is discussed in the *Manual for the Appraisal of Agricultural Land* in pages 23-27 and in Appendix D.

**Unavailable Leases.** In some cases, neither share nor cash leases will be available for comparison with operations in the immediate area. For example, fish farms and exotic game ranches are rare, and finding enough leases in the immediate area to determine net to land is difficult if not impossible.

Where leases aren't available, the chief appraiser must use alternative methods to determine the amount a reasonable person would pay to share or cash lease the land. In these cases, the chief appraiser may go outside the immediate area to find comparable operations. Using its combined knowledge, the board may help the chief appraiser find comparable leases and compare them with local operations to determine net to land.

If no reasonably comparable leases are available, the chief appraiser must develop an owner-operator budget to determine what a reasonable lessee would pay to lease the land in questions. The board may help the chief appraiser develop a reasonable owner-operator budget. These issues are discussed on pages 25 and 27-28 and Appendix B of the *Manual for the Appraisal of Agricultural Land*.

## Timber Land

Land used to produce timber may qualify for productivity appraisal under Art. VIII, Sec. 1-d-1, Texas Constitution, and Chapter 23, Subchapter E, Property Tax Code. The chief appraiser has the primary responsibility for qualifying and appraising timber land, but, as is the case for agricultural appraisal, the State Property Tax Board is required to develop a manual setting forth the methods for verifying that land qualifies for timber appraisal and for appraising timber land.

This manual is called *Guidelines for the Valuation of Timberlands* and is a State Property Tax Board administrative rule. Like the agricultural manual, the timber manual is approved by the five-member committee composed of the governor, attorney general, comptroller, agriculture commissioner, and commissioner of the General Land Office.

Appraisal districts are required to follow the methods set forth in the timber manual, so agricultural advisory board members in areas where timber is produced should be familiar with the *Guidelines for the Valuation of Timberlands*. The manual is available from the appraisal district or the State Property Tax Board, Publications Section. The manual thoroughly discusses timber appraisal, so the following is a brief summary of the areas in which the agricultural advisory board may be of help to the chief appraiser.

**Developing Timber and Soil Classification.** The Property Tax Code requires that timber land be classified based on the land's soil type, soil capability, general topography, weather, location, and other important factors as determined by competent governmental sources. Within each appraisal district, the chief appraiser must determine the major soil classes on which timber is produced. Generally, there are four major soil productivity classes. Next, the chief appraiser determines the categories or forest types in the district—usually there are three forest types: hardwood, pine, and mixed. Each forest type may be subdivided into the four soil types for 12 general categories.

The advisory board may help the chief appraiser identify soil classes and forest types.

Timber classification is discussed on pages 7 and 8 of the *Guidelines for the Valuation of Timberlands*.

**Setting Degree of Intensity Standards.** The degree of intensity test for timber land measures whether the land is being used to the extent typical for commercial timber operations in the area. The timber manual does not extensively discuss developing degree of intensity standards, but the general principles may be found in the *Manual for the Appraisal of Agricultural Land*, pages 9 and 10. Remember, however, that management practices and inputs will differ between agricultural operations and timber operations.

**Determining “Principal Use” of Timber Land.** To qualify land for timber appraisal, the chief appraiser must find that the land is principally used for the production of timber. The timber manual states that land is principally used for timber production when the “existing timber resources are sufficient to warrant management for commercial production or the land resource is being developed and managed for the production of timber.” Land that meets this standard is often called “commercial forestland.”

Principal use for timber production is discussed on page 6 of the *Guidelines for the Valuation of Timberlands*.

The agricultural advisory board may help the chief appraiser gather information about commercial production of timber—the level of resources required to interest commercial timber producers in land and commercial production practices. The chief appraiser may use this information to determine if land is principally used for timber production.

**Estimating Net to Land.** Net to land is the average net income that would have been earned by a class of timber land over the preceding five years by an ordinarily prudent manager of timber land and timber production.

To determine net to land, the chief appraiser multiplies the land's potential average annual growth (expressed in cords or board feet of wood), by the average stumpage value, taking into account the three general types of timber (hardwood, pine, and mixed) as produced on the four different soil types, and by subtracting from the product reasonable management costs and other reasonable expenses of timber production.

Net to land estimates are discussed on pages 9-18 of the *Guidelines for the Valuation of Timberlands*.

The advisory board may help the chief appraiser determine average growth, average stumpage value, and typical, reasonable expenses of timber production.

