

Appraisal Review Board New Member Training

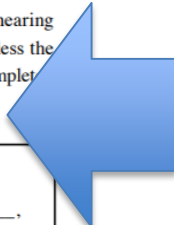
Property Tax Assistance Division



Training Credit

Statement of Compliance

In compliance with Tax Code Section 5.041, this form must be completed and submitted to the Texas Comptroller of Public Accounts upon completion of the mandatory Appraisal Review Board (ARB) new member training or upon completion of the mandatory continuing education training for returning ARB members. An ARB member may not participate in a hearing conducted by the ARB, vote on a determination of a protest, or be reappointed to an additional term on the ARB unless the person has completed the appropriate ARB training course, has received a certificate of course completion and has completed this statement indicating agreement to comply with the Tax Code in conducting ARB hearings.



ARB Members: Submit statement to Comptroller employee upon exiting

I, _____, _____
Print name

ARB member for the county of _____, _____
County

successfully completed the Comptroller's ARB new member/continuing education training program on _____, offered in _____, Texas.
Date City

Pursuant to Tax Code Section 5.041, I hereby affirm that I will comply with Tax Code requirements governing ARB protest hearing procedures.

Print Here → _____
Print Name

Sign Here → _____
Signature Date

CAD Employees: Sign-out at the registration table upon exiting

Why are you here?

Tax Code Section 5.041 - The comptroller shall:

- (1) approve curricula and provide materials for use in training and educating members of an appraisal review board;
- (2) supervise a comprehensive course for training and education of appraisal review board members and issue certificates indicating course completion;
- (3) make all materials for use in training and educating members of an appraisal review board freely available online;
- (4) establish and maintain a toll-free telephone number that appraisal review board members may call for answers to technical questions relating to the duties and responsibilities of appraisal review board members and property appraisal issues; and
- (5) provide, as feasible, online technological assistance to improve the operations of appraisal review boards and appraisal districts.

The comptroller may *not*

- Give advice
- Give legal opinion
- Interpret the law



Introduction

- The ARB is a decision- making body statutorily authorized to make determinations on protests and challenges
- ARB members are not a party to the protests

Independence

- ARB does *not* work for the CAD
- Fair and impartial determinations
- Appraisal district only offers clerical support
- Seek advice from *ARB attorney*

Do

- Act professional, courteous, respectful
- Ensure evidence is exchanged
- Deliberate openly
- Get legal advice from ARB attorney



Don't

- Argue, threaten or intimidate
- Show favoritism
- Fall asleep
- Text, whisper or pass notes
- Discuss pending protests outside
- Ask CAD staff for direction or advice



Chapter 1: Member Qualification

Members must have lived in the county appraisal district for at least **2** years

Members can not be-

- part of the Board of Directors
- delinquent on property taxes
- CAD employees or officers
- members of governing bodies
- paid by a public office
- employees of a taxing unit
- Comptroller employees
- owners of a business contracted with the CAD or a taxing unit

Consanguinity & Affinity Prohibitions

- Related by blood or marriage to an appraiser or tax agent representing property owners
- Related by blood or marriage to a member of the appraisal district's Board of Directors
- Spouse has substantial interest in contracts with the CAD or taxing unit served

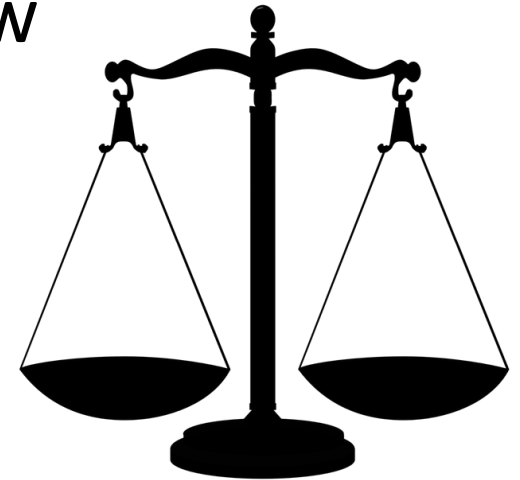
Terms

- Begin on Jan. 1
- Two-year terms
- Staggered; half of the member's terms expire each year



Code of Judicial Conduct

A judge is an arbiter of facts and law for the resolution of disputes and is a highly visible symbol of government under the rule of law



Temporary Members


- Replace members that have violated prohibited communications
- Members sign an affidavit for each protest affirming they have not violated Tax Code section 41.66 (f)

Auxiliary Members

- Hear protests and assist board members
- Not entitled to vote on a protest
- Does not count towards a quorum
- Can't serve as chairman or secretary


Statement of Appointed Officer

Form 2201, Statement of Elected/Appointed Officer

<p>Form #2201 Rev. 09/2017 Submit to: SECRETARY OF STATE Government Filings Section P O Box 12887 Austin, TX 78711-2887 512-463-6334 512-463-5569 - Fax Filing Fee: None</p>	 <p>STATEMENT OF OFFICER</p>
Statement	
<p>I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.</p>	
<p>Title of Position to Which Elected/Appointed: _____</p>	
Execution	
<p>Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated therein are true.</p>	
<p>Date: _____</p>	<p>_____ Signature of Officer</p>

- ARB members sign this first
- Filed with your CAD

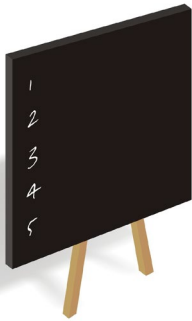
Oath of Office

Form #2204 Rev 9/2017	This space reserved for office use
Submit to: SECRETARY OF STATE Government Filings Section P O Box 12887 Austin, TX 78711-2887 512-463-6334 FAX 512-463-5569 Filing Fee: None	 OATH OF OFFICE
IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS, I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.	
_____ Signature of Officer	
Certification of Person Authorized to Administer Oath	
State of _____	
County of _____	
Sworn to and subscribed before me on this _____ day of _____, 20____.	
<small>(Affix Notary Seal, only if oath administered by a notary.)</small>	

- Sworn in prior to taking action
- Filed with your CAD

Pay

- Regular members are paid per day
- Auxiliary members are not paid per diem



Training

- Must be completed prior to participation
- Can not be provided by CAD or BOD members

Open Government Training

The Texas Government Code requires elected and appointed public officials to receive training in Texas open government laws. The Office of the Attorney General provides free video training courses to assist public officials in complying with this requirement. These videos are available at no cost and may be used as part of any training course on open government.

[Open Meetings Act
Training](#)

[Public Information Act
Training](#)

[Course Completion
Certificate](#)

- 2 hours of open government training required
- Complete once within 90 days

ARB Officers

- Chairman- ensures procedures are followed
- Secretary- sends notices, keeps minutes or audio recording, ensures posting procedures are followed

Chapter 2: General Operations

- Chief appraisers send notices April - May
- Must publish how to protest and deadlines for filing a submission

Professionalism



- conduct meetings professionally
- have fair and impartial hearings

Hearing Location & Procedures

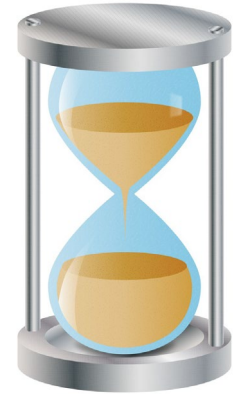
- CAD office – administrative & cost efficient
- Display model hearing procedures
- Allow for evening or weekend hearings
- Hearing procedures to the greatest extent practicable shall be informal

Scheduling

- Each case has an assigned number
- One hearing for each protest filed relating to 1 property
- One hearing for all owners of a property when an interest is shared
- Property owners may appear in person, by telephone conference or written affidavit
- Property owner must provide sufficient written notice when intending to appear by telephone or affidavit

Time Limits

- Procedure to limit each hearing to a “reasonable” time
- Controlled flexibility
- 2 hour wait limitation for property owners; reschedule availability



Legal Counsel & Support

- CAD staff provides *clerical* assistance
- ARB or county attorney- not associated with the CAD
- CAD cannot designate a specific attorney

Records

- Name of members present
- Date and time of hearing
- Property address
- Audio or written summary maintained
- All evidence and testimony
- Final order/determination



Chapter 3

Six Parts of the ARB Process

- Begin work by May 15
- Have most completed by July 20, or file for extension to August 30

Part 1: ARB received appraisal records

Chief appraiser transfers records by May 15

Chief Appraiser Certification

I, _____, chief appraiser
for _____ Appraisal District,
solemnly swear that I have made or caused to be made
a diligent inquiry to ascertain all property in the district
subject to appraisal by me and that I have included in the
records all property that I am aware of at an appraised value
determined as required by law.

Part 2: ARB hears and determines challenges

- Challenge- a taxing unit hearing
Challenges can't dispute one particular property; they focus on an area, or group.
- Protest- a taxpayer hearing



Part 3: ARB hears property owner protests

- An owner, designated agent or lessee with an interest may file for protest
- Joint hearings for properties with multiple owners
- Lessees can only file if the owner does not

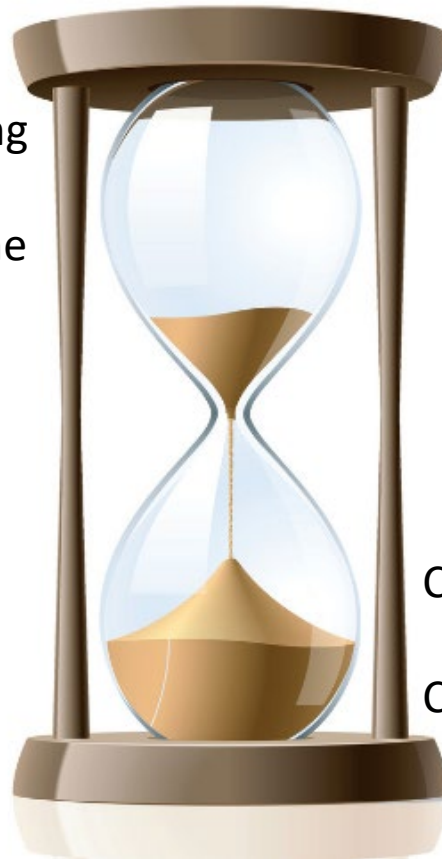
Filing Deadlines

- Deadlines that fall on a weekend or legal state/national holiday are postponed until the next business day
- Timely submittal- documentation bears receipt date *on* or before the due date
- Mail presumed to be delivered when deposited in the mailbox

Chapter 41 Protest vs Chapter 25 Correction

Protest anything

Protest deadline



Correction limited

Correction deadline

Chapter 41 Protest vs Chapter 25 Correction

41

- Protest by Property Owner/Agent
- No Taxes Due
- ARB, Property Owner and CAD

25

- Correction by Property Owner/agent or Chief Appraiser
- Taxes must be timely paid
- ARB, Property Owner, CAD and Taxing Unit

Good Cause

- Property owner misses filing deadline
- Good cause- circumstance out of taxpayer's control
- **ARB** determines if the owner had good cause prior to hearing the protest
- Legal counsel should be sought
- Taxpayer must file before ARB approves records

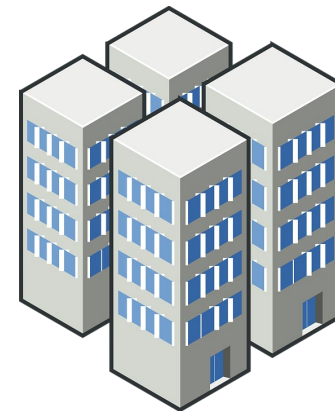
Payment Requirements



- Payment on the taxable portion of the property under protest must be made before the delinquency date
- Oath of inability to pay- exception authorized by the ARB to waive this requirement

Rentals

Lessor required to send lessee a copy of the appraised value no later than the 10th day after the owner receives it, if lessee pays property taxes



Forfeiture Of Remedy

Nonpayment of Taxes

- Unpaid taxes results in inability to get a protest determination
- Paying taxes in full does not mean value is correct
- Refunds given if a value is reduced by the ARB

Notice of Protest*

Must be in writing and

1. identify the property owner
2. identify the property subject to protest
3. indicate dissatisfaction with CAD determination

*Does not require a signature

Electronic Protests

- County population > 500,000
- Unequal or appraised value
- Email addresses are confidential



Notice of Hearing

Delivered at least  15 days before hearing date

Right to Inspect Appraisal Records

- Property owners and their agents can inspect and copy records related to their property
- Information must be made available 14 days before their hearing
- Data not made available cannot be used
- Confidential data received remains confidential

Settlement by agreement

Texas Comptroller of Public Accounts **Form 50-218**

Settlement and Waiver of Protest

To the Appraisal Review Board for _____ County

Case No.: _____ Date Filed: _____

Property Owner: _____ Description of Property:

SETTLEMENT AND WAIVER OF PROTEST

I acknowledge that the subject matter of the protest filed on the above date concerning the property described above has been settled. I hereby withdraw my protest and waive my right to any further proceeding in this matter.

Describe Actions to be Taken:

sign here _____
Property Owner

sign here _____
Appraisal District Representative

sign here _____
Agent's Signature if on Behalf of Property Owner

_____ Date

- Property owner meets informally with CAD staff to resolve dispute
- If owner and CAD come to agreement, a settlement and waiver to protest is signed
- This signed form is final

Property Owner Representation


- Agents, or tax consultants, can be authorized to represent a property owner
- Agents cannot authorize themselves
- Attorneys do not have to file an agent form
- Lessee representation is similar

Granting a Hearing

- Being denied a hearing can lead to district court
- District court could cover attorney fees
- Mineral interests may file in multiple CADs

Ex Parte Contacts & Affidavit

EXHIBIT 15
Affidavit for Protest Hearing

 AFFIDAVIT FOR PROTEST HEARING

Appraisal District Name	Phone (area code and number)
Address	
Description of Property	

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, personally appeared _____
_____, who, being by me duly sworn, deposed as follows:

"My name is _____. I have not communicated with
another person in violation of Tax Code Section 41.66(f)."

Signature

SWORN TO AND SUBSCRIBED before me on the _____ day of
_____, _____.

Notary Public in and for the
State of Texas

My Commission expires:

- No communication about a protest is to occur outside of the hearing on the protest
- Affidavit certifies communication about a protest has not occurred

Prohibited Communication

- Removal means no voting, “hearing” or discussing the protest
- ARB members who talk to the chief appraiser, CAD employee or board of director member about a protest can be punished with...

Class A Misdemeanor

-Fine or jail time-



Appearance

- All testimony given under oath
- Tax consultants representing a property owner should be registered and certified
- Telephone or affidavit appearance requires evidence to be submitted with a notarized statement



Part 4- Orders of Determination

- ARB decisions may be postponed
- Order shows value given by CAD and value determined by ARB
- Each issue protested gets a determination

Part 5- ARB Approves Appraisal Records

- Appraisal firms make information available no later than 15 days after requested
- Records should be *substantially* approved by July 20th, or August 30th
- To achieve 95% completion, larger values might be heard first
- Taxing units can't levy without chief appraiser certification

Part 6- Certification

- Appraisal records= appraisal roll
- July 25th- deadline for chief appraiser to prepare and certify rolls for the tax assessor
- Taxing units cannot levy taxes on properties under protest until ARB has final value
- Tax bills do not go to owners if a protest is pending
- Supplemental records may be added



Chapter 5: Protest Grounds

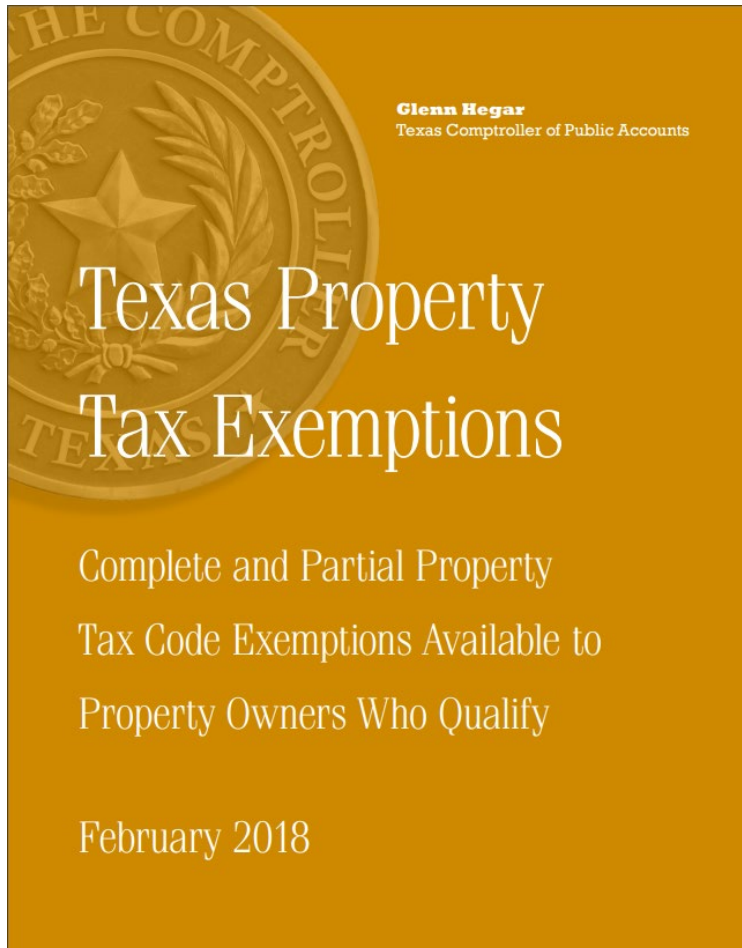
Exemptions

- Property is taxable unless it meets legal requirements for an exemption
- Exemption cases depend on
 - Owner qualification
 - Property qualification
 - Property use

Owner Qualification

- January 1 determines if an owner qualifies
- Status depends on age, disability, military service or kinship
- Applications are due by May 1
- Organizations must have a charter or bylaws and operate as a nonprofit

Qualifications & Use



Types of Use- exclusive,
primary or incidental

Taxable Situs



Situs = location

Real Property

Fixed items: land, mines, quarries, improvements



Personal Property

- January 1 determines situs
- *Moveable*: mobile homes, food trucks, construction equipment or distribution trucks



Goods in transit

- Interstate commerce- items that cross states in transit
- Interstate commerce is not taxable in Texas



Property crossing taxing units

- Jan. 1 determines situs
- The January 1 county is the taxable county;
i.e. mobile homes

Multi- state equipment

Taxable situs determined by how much time is spent at a designated location or at the company's principal office



Taxation of business personal property

Tangible personal property used for production of income is to be rendered annually

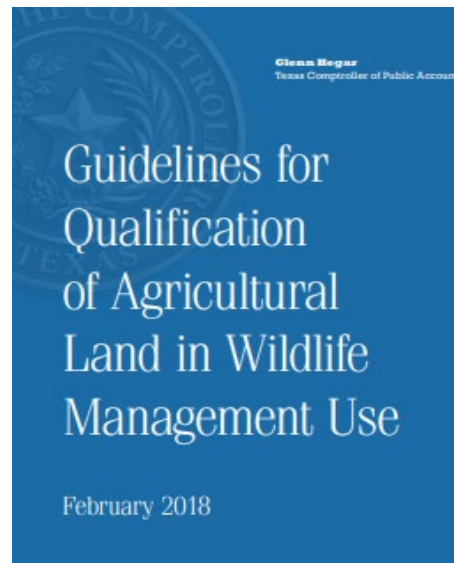
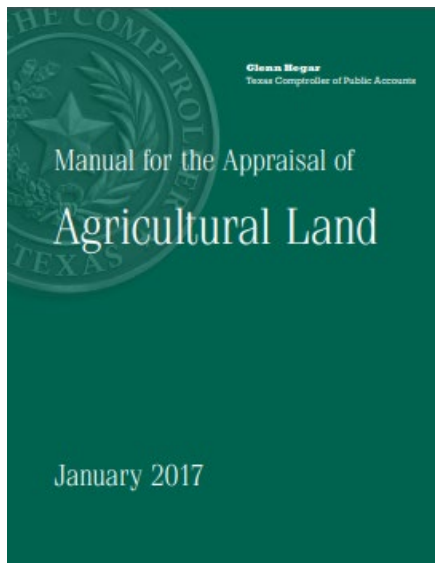
- a. owner's good faith estimate of market value
- b. rendered value is explained or follows
a depreciation schedule

Agricultural, timber and other appraisals

Special appraisals required for

1. land qualifying for ag, timber or wildlife
2. inventories
3. special inventory
4. oil and gas interests
5. property used by a nonprofit HOA

Comptroller Publications



Special Inventory

- Cars
- Boats and motors
- Heavy equipment
- Motor homes

Market value is calculated using $1/12^{\text{th}}$ of the previous year's qualifying sales to produce current taxable value

Ownership

The person who owns the property on Jan. 1 is liable for that year's taxes



Other adverse actions

Any action that adversely affects a property owner such as-

- a. canceling an exemption
- b. imposing a late file penalty

Owners should be notified of changes.

Chapter 6

Evidence and Burdens of Proof



Evidence

- Appraisal Districts have the burden of proof regarding protests of appraised or market value as well as unequal
- Only evidence presented *during* a hearing can be used
- Evidence may be documents, testimony, physical objects or electronic data

Testimony

- Oral statements made by a witness sworn in during a hearing
- Property owners are experts on their home

The 3 R's of Evidence

- Relevance
- Rightness
- Reliability



Relevance

- Makes a fact more or less probable w/out the evidence
- The fact is of consequence in determining the action

Reliability

- Property owners are considered eligible to provide opinions of value as experts of their property
- Consider the qualifications of each witness and their testimony

Rightness

- Consider relevance and reliability
- Ensure fairness and efficiency



Burdens of Proof

- Appraised or market value protests- appraisal district has the burden of establishing value
- Ownership or exemption protests rely on property owner's evidence
- Appraised values aren't presumed correct
- *Quality* of evidence bares more weight

Clear & Convincing Evidence

- Protests with market or appraised values < \$1 Million
- All conditions must be present to weigh
- Chief appraiser has burden of establishing value increase in a year following a protest determination using substantial evidence that supports it

Weighing evidence

- Evaluate strength, value and believability
- Determination is based on facts presented



Chapter 7

Duties after Records Approval

Late-filed Exemption Applications

ARB approval needed after chief appraiser grants, denies or modifies a late-filed exemption

Supplemental Records

- Property not included, or omitted, in initial record submissions
- ARB reviews and approves by the same process as the original appraisal records
- ARB adopts an order to approve them

Failure to deliver notices

- Evidence required to show notice never delivered
- Owner must file before the property's delinquent date
- Payment is still required by the property owner

Corrections

- Can be fixed up to 5 years after error was made
- Typically file before taxes go delinquent
- New owner has the same right to file as the Jan. 1 owner

Types of Corrections

- Clerical errors
- Multiple appraisal
- Ownership error
- Non-existent

1/3 Over Appraisal

Appraised value > correct value by more than 1/3

(Corrected Value x 1/3 or 33.33%) + (Corrected Value) = Threshold
for Current Appraised Value

Or

Corrected Value/75% = Threshold for Current Appraised Value

Joint Motion

- Property owner *and* chief appraiser file motion to correct
- Agreement made between them is final

Forfeiture of remedy for nonpayment

- Owner must pay portion of taxes not in dispute
- Oath of inability to pay may be filed
- Overpayment is not considered defeat; refunds are possible



Chapter 8

Post ARB Review

State District Court

- Must be filed within 60 days after ARB determination
- ARB orders may be reviewed and overturned
- ARB determination is being appealed

Binding Arbitration

- For homesteads and properties appraised at \$5 million or less
- Within 45 days from receiving an ARB determination, owner must file for arbitration with the appraisal district
- Arbitrator from the registry determines the appropriate value

State Office of Administrative Hearings (SOAH)

- Value must be greater than \$1 million
- Owner must file with appraisal district no later than 30 days after ARB final determination
- Hearing will take place in a metropolitan city nearest to the property with a judge

Sign Out Procedure

- ARB members- submit Statement of Compliance to Comptroller staff member
- CAD employees- sign out at the registration table to receive TDLR credit