

# **CALHOUN CAD RULES AND MODEL HEARING PROCEDURES FOR APPRAISAL REVIEW BOARDS**

## **I. OFFICERS**

1.00 The officers of the Appraisal Review Board (hereinafter called "Board") are the Chairperson, the Vice-Chairperson and the Secretary.

1.01 The Board of Directors for the Calhoun County Appraisal District will elect the Chairperson, The Vice-Chairperson and the Secretary before the Appraisal Review Board begins their annual hearing.

Comment: Annual elections should be held because a new Board takes office each year due to the staggering of terms of Board members. The rule does not require election of officers at the first meeting because the Board members may want to get acquainted before electing officers. If the Board does not elect officers at the first meeting, an acting Chairperson should be selected and someone should be assigned the responsibility of keeping minutes. The election of officers must be an agenda item in order to comply with the Open Meetings Act.

1.02 The Chairperson will preside over the meetings of the Board and perform such other responsibilities, as these rules require.

1.03 The Vice-Chairperson will preside at meetings when the Chairperson is absent.

1.04 The Secretary shall be responsible for overseeing the keeping of minutes for all board meetings (written minutes will not be taken since all proceedings are taped-- and upon request, tapes or portions thereof may be transcribed into written form); for overseeing the keeping of records of the Board; for determining that all notices by the Board are sent; and for receiving and recording all notices of appeal filed by taxpayers who appeal decisions of the Board. The Secretary of the Board shall be responsible for compliance with the notice provision of the Open Meetings Act. 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 preside at meetings when the Chairperson and Vice-Chairperson are absent. The Secretary will perform such other responsibilities, as these rules and law require.

## **II. ARB MEMBERSHIP**

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

### **2.01 Administration of ARB Appointments**

**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 requests for appointment for the ARB.**

## **2.02 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 chairman in addition to any other individual or entity as may be provided by law. The chairman 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 himself or herself immediately from the hearing and report the conflict to the chairman 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 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 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 chairman 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.**

## **2.03 Ex Parte and Other Prohibited Communications**

**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.**

### III. MEETINGS

- 3.00 Robert's Rules of Order will govern the conduct of all meetings of the Board 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 of panel may vote or make motions on any matter.
- 3.01 The Board will meet at any time at the call of the Chairperson. [TEXAS PROPERTY TAX CODE 6.42(b)]. A majority of the Board may call a meeting of the Board at any time.
- 3.02 The meetings of the Board will be conducted in compliance with the Open Meetings Act, Chapter 551, TEXAS GOVERNMENT CODE.
- 3.03 Written minutes will not be taken since all proceedings are taped. Upon request, tapes or portions thereof may be transcribed into written form.
- 3.04 The Chairperson shall schedule hearings by the Board or panels of the Board. The Chairperson may delegate this responsibility to schedule hearings by the Board to members of the appraisal staff provided by the Chief Appraiser for that purpose.

### IV. QUORUM

- 4.00 A majority of the Board constitutes a quorum. [TEXAS PROPERTY TAX CODE 6.42(a)].

### V. ARB DUTIES

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

#### 5.00 Statutory Duties of an ARB

**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.**

#### 5.01 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 chairman. The ARB chairman shall investigate each such report and take appropriate action to correct all verified problems.**

## **5.02 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.**

## **VI. SPECIAL PROVISIONS GOVERNING HEARINGS OF AND DETERMINATION OF TAXING UNIT CHALLENGES**

- 6.0 All hearings of taxing unit challenges must be determined by the Board sitting as a whole. The Board shall conduct hearings on taxing unit challenges in the same manner as hearings on property owner protests, except that panels may not be used to hear challenges.
- 6.01 The Board must hear a challenge if the taxing unit initiating the challenge timely files a Challenge Petition. The Board may hear a challenge filed after the legal deadline, but only if it is filed before the Board approves the appraisal records.
- 6.02 The presiding officer of the taxing unit's governing body shall be notified of the challenge hearing by written notice delivered no later than ten (10) days before the date set for the hearing.
- 6.03 Any taxing unit in which the property is taxable is entitled to appear and offer evidence or argument at the challenge hearing.
- 6.04 The determination of a challenge must be made by written order of the Board. The Board may make its determination at the conclusion of the hearing or a subsequent meeting.

## **VII. HEARINGS OF THE APPRAISAL REVIEW BOARD**

- 7.0 The Board must hear a protest if the taxpayer initiating the protest files a notice of protest pursuant to TEXAS PROPERTY TAX CODE 41.44. The Board may hear a protest when requested by a taxpayer that has not timely filed a notice of protest.
- 7.01 Prior to scheduling a taxpayer protest, the Board will determine the sufficiency of the taxpayer's notice of protest. When a taxpayer files a notice of protest after the legal deadline, the Board will make a determination as to whether the taxpayer had good cause for his failure to file the notice on time [see TEXAS PROPERTY TAX CODE 41.44 (b)]. The Board may make its determination of good cause based upon the taxpayer's written explanation or may schedule a hearing or meeting upon the matter.
- 7.02 A protesting property owner is entitled to an opportunity to appear at the hearing and to offer evidence and/or arguments in support of the protest. The property owner must appear either in

person, through an agent designated in compliance with TEXAS PROPERTY TAX CODE 1.111, or by affidavit. A property owner appearing by affidavit shall attest to the affidavit before an officer authorized to administer oaths and shall submit that affidavit to the Board before the hearing. On the receipt of an affidavit, the Board shall notify the Chief Appraiser, who may inspect the affidavit and/or obtain a copy upon request.

- 7.03 As provided in TEXAS PROPERTY TAX CODE 41.01(b), the Board may not review or reject an agreement between a property owner (or the owner's agent) and the chief appraiser under TEXAS PROPERTY TAX CODE 1.111(e) related to matters protested to the Board that have been filed but not determined.
- 7.04 As provided in TEXAS PROPERTY TAX CODE 41.46, a written notice showing the date, time, and place fixed for the hearing shall be delivered by the Board to the property owner initiating the protest not later than the 15<sup>th</sup> day before the date of the hearing, unless the property owner waives, in writing, the notice of the protest hearing. The Board shall give the chief appraiser advance notice of the date, time, place, and subject matter of each protest hearing.
- 7.05 If two or more persons file protests pertaining to the same property, those protests will be heard at the same time.
- 7.06 The Chief Appraiser, or his representative, shall appear at each protest hearing to represent the appraisal district.
- 7.07 The Chairperson of the Board or panel shall preside over all hearings of the Board. All cases scheduled for hearings will be assigned a cause number to identify the case during the proceedings of the Board. The Chairperson may vote or make motions in any matter before the Board.
- 7.08 The Board shall provide for hearing times on protests on Thursday evening from 7:00 o'clock to 9:00 o'clock p.m. as designated; and on Saturday from 9:00 o'clock a.m. to 12:00 o'clock noon as designated. [See TEXAS PROPERTY TAX CODE 41.71]

## **VIII. 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)]

### **8.00 Scheduling Hearings Generally**

**The ARB shall schedule a hearing when a timely notice of protest is filed and, in doing so, may be provided with clerical assistance by the appraisal district.**

#### **8.01 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 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 an ARB panel or 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.

## **8.02 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 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. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule hearings on protests 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 41.66(j).

## **8.03 ARB Panel Assignments**

If an ARB sits in panels as authorized by Tax Code Section 41.45(d), protests shall be assigned randomly, except that the ARB, with or without clerical assistance from the staff of the appraisal district, may consider the type of property or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Once a protest is scheduled to be heard by a specific panel, it shall not be reassigned to another panel without the consent of the property owner or a designated agent. If the ARB has cause to reassign a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB is required to 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.”

# **IX . POSTPONEMENTS**

## **9.00 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 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, an ARB

panel, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman'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 chairman or the chairman'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, an ARB panel, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman'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 chairman or the chairman'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, an ARB panel, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman'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 chairman or the chairman'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.

#### **9.01 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.

#### **9.02 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.**

### **9.03 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.**

### **9.04 Postponements Under 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 an ARB panel or 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.**

### **9.05 Postponements Under Tax Code Section 41.66(k)**

**If a protest is scheduled to be heard by a particular panel, the protest may not be reassigned to another panel without the consent of the property owner or designated agent. If the ARB has cause to reassign a protest to another panel, a property owner or designated agent may agree to reassignment of the protest or may request that the hearing on the protest be postponed. The ARB shall postpone the hearing on that request. 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. 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.

**X. 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)]

**10.00 Conducting Hearings Open to the Public**

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

- a. Commence the hearing and announce the assigned protest number, property location and owner, and other identifying information.
- b. Announce that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be 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 all testimony must be given under oath and swear-in all witnesses who plan to testify.
- g. Unless both parties otherwise agree, the property owner (or agent, as applicable) shall present his/her case first.
- h. If the property owner or agent presents his/her case first, he/she shall present evidence (documents and/or testimony). If witnesses are present, the property owner or agent may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
- i. Next, the appraisal district representative may cross-examine the property owner, the agent, or the representative and/or witnesses.
- j. If the property owner or agent presented his/her case first, the appraisal district representative shall present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
- k. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
- l. Members of the ARB shall not be examined or cross-examined by parties.

- m. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).**
- n. The other party may then offer rebuttal evidence.**
- o. The party presenting its case first shall make its closing argument and state the ARB determination being sought.**
- p. The party presenting its case second shall make its closing argument and state the ARB determination being sought.**
- q. The ARB or panel chairman shall state that the hearing is closed.**
- r. The ARB or panel shall deliberate orally. No notes, text messages, or other form of communication are permitted.**
- s. The ARB or panel chairman 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 a designated appraisal district staff person or member of the ARB assigned for this purpose. 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).**
- t. Thank the parties for their participation and announce the determination(s) of the ARB and that an order determining protest will be sent by certified mail.**

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

**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, 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.**

**Records for each ARB proceeding must be kept according to Tax Code Section 41.68 and Comptroller Rule 9.803. The secretary of the ARB is responsible for ensuring proper record keeping, maintenance, and retention.**

### **10.01 Conducting Hearings Closed to the Public**

**A joint motion by the chief appraiser and the property owner is required to request that the hearing be closed due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.**

**The ARB or panel chairman 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 panel 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.**

### **10.02 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.**

### **10.03 Party’s Right to Appear by an Agent**

**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.**

## **XI. FURTHER PROCEEDINGS**

- 11.00 If the Board should determine that further evidence is required in order to make a decision, the Board shall schedule a continuation of the hearing at a later date and inform the parties of the rescheduled date (however, an additional fifteen [15] days notice shall not be required).

## **XII. TIME LIMITS FOR HEARINGS**

- 12.00 The Board shall attempt to complete a hearing in fifteen (15) minutes and may terminate any portion of a hearing in order to insure the prompt completion of the hearing. The Board shall allow the parties approximately equal periods of time in which to offer their evidence and arguments. If more than one protesting property owner appears at the hearing, they will share the same amount of time that would be given a single property owner. A party who anticipates the need for a hearing longer than fifteen (15) minutes, should notify the Board in writing at the time of filing a notice of protest or as soon thereafter as practicable. The Board or panel may waive the time limit at its discretion.

## **XIII. EVIDENCE CONSIDERATIONS**

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

### **13.00 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.**

### **13.01 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 property 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.**

### **13.02 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.**

#### **XIV. ISSUANCE OF SUBPOENAS**

- 14.00 The Board sitting as a whole, on its own motion or at the request of a party, may subpoena witnesses or books, records, or other documents. To issue a subpoena, the Board must conduct a hearing to determine that good cause exists for the issuance of the subpoena. Said hearing may be held without notice to the parties and the Board's decision may be based upon the written request of the party requesting the subpoena. The Board may subpoena witnesses, books, records, or other documents of the appraisal district or of the property owner who is a part of the protests. Records of the appraisal district that are made confidential by law must be subpoenaed by the Board in order to be considered in any protest hearing. [TEXAS PROPERTY TAX CODE 22.27 & 41.61].
- 14.01 A party to a hearing or proceeding of the Board must make a request for subpoena in writing. [TEXAS PROPERTY TAX CODE 41.61(b)].
- 14.02 The Board shall issue a subpoena requested by a party if the requesting party shows good cause for issuing the subpoena and deposits with the Board a sum the Board determines is necessary to pay the costs of service and compensation of the person to whom the subpoena is directed.
- 14.03 When a party requests a subpoena, the Board shall determine an amount of deposit reasonably sufficient to insure payment of the costs estimated to accrue for issuance and service of the subpoena and for compensation of the individual to whom it is directed. [TEXAS PROPERTY TAX CODE 41.61(b)(2)].
- 14.04 The Board shall approve the amount of compensation for each person to whom a subpoena is directed. Each person to whom a subpoena is directed must present a written claim to the Board for the amount of compensation to which he is entitled.
- 14.05 Persons to whom a subpoena is directed are entitled to the following compensation:
1. The reasonable costs of producing any documents subpoenaed as approved by the Board.
  2. Mileage of fifty-six (56) cents a mile for going to and returning from the place of the proceedings.
  3. A fee of \$10.00 per day for each whole or partial day that the individual is necessarily present at the proceedings.

Comment: The above rates represent the required minimums. The Board may prescribe greater fees or mileage, but these must be uniformly applicable to all individuals entitled to them. [TEXAS PROPERTY TAX CODE 41.62(b)].

## **XV. AFFIDAVITS IN LIEU OF PERSONAL APPEARANCE**

15.00 A property owner may appear by affidavit instead of appearing personally or by agent. An affidavit must be considered by the Board only if:

1. it contains statements that the evidence or argument presented in the affidavit are true and correct;
2. it is attested before an officer authorized to administer oaths (such as a notary or judge);
3. it is submitted to the Board hearing the protest before it begins the hearing on the protest. [TEXAS PROPERTY TAX CODE 41.45(b)].

## **XVI. RECORDS OF HEARINGS**

16.00 The appraisal district will keep the official recordings of the proceedings. Upon written request, the official recordings made by the appraisal district will be copied to CD and delivered to the requesting party. There will be a fee for this service. Upon request, the Board may allow the taxpayer to record the hearing if the Board in their sole discretion determines that the process will not be disruptive to the proceedings.

## **XVII. OTHER ISSUES**

[Tax Code Section 5.103(17)]

### **17.00 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.**

#### **17.01 Patience and Courtesy**

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

#### **17.02 Bias or Prejudice**

**Members of the ARB shall perform their ARB duties without bias or prejudice.**

### **17.03 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.

### **XVIII. CHANGES TO RULES OF PROCEDURE**

18.00 Upon a vote of the majority of the Board, any rule may be changed or altered so long as it is not in conflict with the Statutes of the State of Texas.