

**COMAL APPRAISAL DISTRICT  
APPRAISAL REVIEW BOARD  
RULES OF ORDER**

The Comal Appraisal Review Board, having been designated by the Appraisal District Board of Directors, and having been properly sworn, met and determined the following rules will govern the conduct of the Appraisal Review Board during all hearings and appeals brought before it.

**GENERAL RULES**

1. The board will conduct its business in accordance with Robert's Rules of Order.
2. Officers of the Appraisal Review Board will consist of the following:
  - a. Chairperson
  - b. Vice Chairperson
  - c. Secretary
3. The positions of Chairperson and Secretary are selected to a one year term by the Comal Appraisal District Board of Directors. The position of Vice Chairperson is elected by the Appraisal Review Board to serve a one year term. Board officers are expected to serve as panel chair when requested to do so by the Chairperson.
4. All meetings shall be in accordance with the Texas Government Code Chapter 551.
5. The Chairperson shall be responsible for preparation of the agenda. The Secretary shall be responsible for the posting of meeting notices in accordance with the Texas Open Meeting Act. The Vice Chairperson assumes the duties of the Chairperson in the Chairperson's absence. The Secretary assumes the duties of the Chairperson in the absence of both the Chairperson and Vice Chairperson.
6. Appraisal Review Board meetings will be held at the call of the Chairperson. The Chief Appraiser for the Comal Appraisal District has agreed to furnish necessary clerical support to the Appraisal Review Board. This will include preparation of agendas and the posting of meeting notices of dates, times, and places of meetings as determined by the Chairperson, keeping of the minutes and other records of proceedings, maintaining files of proceedings in the office of the Chief Appraiser.
7. All decisions made by the ARB must be a written order signed by the Chairperson.
8. To insure administrative due process of law, the Appraisal Review Board will assure in every case that:
  - a. There is timely and adequate notices;
  - b. All parties to the hearing have an opportunity to present evidence, examine and cross-examine witnesses and present arguments on protest subjects within the allotted time;

- c. Decisions by the board are made by lawful authority, upon consideration of duly admitted evidence;
- d. An adequate record of proceedings is maintained and written findings are based upon the evidence presented to the board during the hearing;
- e. Parties to the hearings are notified properly, in writing, as to the decisions rendered.

## **ARB Membership** [Tax Code Section 5.103(b) (16), (15), and (21)]

1. **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. **Conflicts of Interest**
  - a. Each ARB member is responsible for ensuring that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chairperson in addition to any other individual or entity as may be provided by law. The chairperson shall ensure prompt notification of reported conflicts of interest to the appropriate individuals.
  - b. If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member may not participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, an affidavit must be filed with the secretary of the ARB. The affidavit must be filed as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, no affidavit must be filed; however, the ARB member must recuse him or herself immediately from the hearing and report the conflict to the chairperson or secretary of the ARB.
  - c. ARB members must remember that while Local Government Code Chapter 171 addresses matters of "substantial interest," Tax Code Section 41.69 applies to any protest in which an ARB member is interested (i.e. there is no requirement under Tax Code Section 41.69 that the interest be substantial). Therefore, while a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether or not he or she has a conflict of interest that might prohibit his or her involvement, the member shall immediately contact the ARB chairperson to address the matter.
  - d. 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.
3. **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.

### **ARB Duties [Tax Code Section 5.103(b) (1), (5), and (6)]**

1. **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.
2. **Notices Required under the Property Tax Code.** Each ARB member is responsible for obtaining and maintaining familiarity with notices required under the Property Tax Code. If an ARB member has reason to believe that any notice that is required by law to be provided by the ARB is not being provided or does not meet the requirements of applicable law, the ARB member shall promptly notify the ARB chairperson. The ARB chairperson shall investigate each such report and take appropriate action to correct all verified problems.
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 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.

### **ARB Hearings [Tax Code Section 5.103(b)(3), (4), (7), and (14)]**

1. **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. All appeals to be heard during normal business hours, Monday through Friday, will be scheduled by name, date, hour, and location of the hearing. All appeals heard in the evening, Saturday, or Sunday will be scheduled by date, location and time the Appraisal Review Board opens the hearing session. A minimum of one evening or one Saturday or Sunday will be scheduled for hearings. Hearings will be conducted in the order the property owner or agent signs in.
2. **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.

3. **Scheduling Hearings for Multiple Accounts.** If requested by a property owner or a designated agent, hearings on protests concerning up to 20 designated properties shall be scheduled on the same day by the ARB. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: “request for same-day protest hearings.” No more than one such request may be filed in the same tax year by a property owner or a designated agent. 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 Section 41.66(j).

## **ARB Panel Assignments**

1. The Appraisal Review Board will function as one board, consisting of nine (9) members. The board may operate in panels consisting of a minimum of (3) three members. Panels can only make recommendations to the full ARB which will decide the final determination of a protest a quorum - that is, a simple majority of review board members - must be present to conduct business. In the event that it is necessary to assign hearing panels, the chairperson will designate a member to oversee the hearing to insure proper hearing procedures. That person will also be responsible for presentation of data to the full board in open session.
2. 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.
3. 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.”

## **Missed Filing Deadlines**

1. A property owner who misses the original filing deadline for a property protest may still file a protest under two situations:
  - a. **Under the provisions Section 41.411 of the Property Tax Code, Failure to Deliver Notice.** The property owner may file a late protest after the normal deadline but before the delinquency date or no later than 125th day after the date the property owner claims to have received the tax bill for the property.
    - i. Delivery in this context means the appraisal district mailed the notice, correctly addressed to the property owner at the last address furnished by the property owner.
    - ii. Delivery is presumed unless the property owner provides some evidence that he

or she did not receive notice.

- b. **Good Cause.** Must file prior to ARB records approval July 20th. Good cause is defined as something not within the taxpayers' control. Examples of this may include:
    - i. Accident
    - ii. Illness
    - iii. Emergency
    - iv. Act of God
    - v. Reliance on mistaken appraisal district advice(if admitted by the district)
    - vi. Misunderstanding regarding appraisal district advice(if admitted by the district)
    - vii. Agent ceased representing property owner and did not inform owner
    - viii. Owner tried to comply in good faith but mistake was made (clerical error, wrong postage, mail sent to tax collector instead of chief appraiser, etc.)
  - c. Examples of no good cause could include the following:
    - i. Forgot
    - ii. Conflicting social engagement
    - iii. Too busy
    - iv. Too difficult or time consuming
    - v. Did not understand requirements of the Tax Code and made no effort to inquire
    - vi. Taxes are too high
    - vii. Was on vacation
2. In either situation the ARB will hold a hearing first to determine if the ARB has jurisdiction to grant a hearing and second to determine if the property owner will be granted a hearing.

## **Postponements under Tax Code Section 41.45e**

1. 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 chairperson. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairperson or the chairperson's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.
2. 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 chairperson. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson's

representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairperson or the chairperson's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

3. 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 chairperson. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairperson or the chairperson's representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairperson or the chairperson's representative, the property owner, and the chief appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

**Postponements under the 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 business day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

**Postponements under Tax Code Section 41.45(g).** The ARB must postpone a hearing to a later date if:

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

**Postponements under Tax Code Section 41.66(h).** The ARB shall postpone a hearing (one time only) if the property owner requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. Only the property owner may request a postponement for this reason. The request for postponement must contain the mailing address

and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the seventh day after the date of receipt of the request.

**Postponements under 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.

**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.

### **Conduct of ARB Hearings [Tax Code Section 5.103(b)(2),(9), and (10)]**

1. Conducting Hearings Open to the Public. All proceedings will be limited to fifteen (15) minutes each. The panel chairperson at his or her discretion may allow additional time. The ARB or Panel Chairperson, for most protest hearings, will conduct the hearing in the following order:
  - a. Read the following statement: We are the appraisal review [board or panel] that will be hearing your protest today. We do not work for the appraisal district. We are appointed to perform an independent review of your protest. At the end of the hearing, you may complete a survey regarding your experience today [indicate where to fill out the survey, for electronic survey [surveymonkey.com/r/surveyarb](http://surveymonkey.com/r/surveyarb)]. The survey is voluntary. You may have the right to appeal our decision. Appeal information will be provided to you with our determination.
    - i. The ARB or ARB panel does not have to read the above statement if the owner of agent has previously appeared before the ARB or any ARB panel for the ARB of that county that same day.
  - b. Commence the hearing and announce the assigned protest number, property location and owner, and other identifying information.
  - c. Announce that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be provided.

- d. 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.
- e. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
- f. 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.
- g. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify. Inform the property owner the representatives have been previously sworn in. If any person testifying or giving evidence refuses to take the oath, the record must reflect that refusal.
- h. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
- i. 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.
- j. Next, the appraisal district representative may cross-examine the property owner, the agent, or the representative and/or witnesses.
- k. 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.
- l. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
- m. Members of the ARB shall not be examined or cross-examined by parties.
- n. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- o. The other party may then offer rebuttal evidence.
- p. The party presenting its case first shall make its closing argument and state the ARB determination being sought.
- q. The party presenting its case second shall make its closing argument and state the ARB determination being sought. At this time if the property owner has not presented an argument and evidence to support each matter protested, he/she should be asked if they wish to withdraw these protests. If they do not withdraw the panel may dismiss any protests for which evidence was not presented.
- r. The ARB or panel chairperson shall state that the hearing is closed.
- s. The ARB or panel shall deliberate orally. No notes, text messages, or other form of communication are permitted between members. They may make a recommendation immediately, or they may postpone their determination until later. If the panel postpones



its recommendation, the property owner must be notified when the board/panel will make its decision.

- t. The ARB or panel chairperson shall ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue to be determined. A vote shall be taken and recorded by 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).
  - u. 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.
  - v. 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).
  - w. 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.
  - x. 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.
  - y. 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.
2. Conducting Hearings Closed to the Public
- a. 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.
  - b. The ARB or panel chairperson 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.
  - c. 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

Hearings Involving Appraisal 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.

- d. 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.
3. Review Board (ARB) members, Comal Appraisal District Board (CADB) members, Comal Appraisal District (CAD) Employees and elected officials.
    - a. Paragraphs 6.15, 6.411 and 41.66f of the Texas Property Tax Code govern exparte communications between CAD employees, CADB members and members of the ARB. These rules address certain instances in which ARB, CAD employees and CADB members may not discuss the appraised values of their personal property other than in an open meeting of the CADB or ARB.
    - b. The Tax Code does not prevent CAD employees, CADB members and ARB members from filing a protest on their property. However, these ex-parte restrictions do not afford CAD employees, CADB members and ARB members the same opportunity as other property owners to have an informal hearing with the CAD. CAD policy also restricts elected officials from participating in an informal hearing with the CAD.
    - c. Protest hearings involving CAD employees, CADB members, elected officials or ARB members will be heard by a board of no less than 5 members of the ARB.
    - d. In the event the ARB cannot constitute a quorum due to individual members recusing themselves, the CADB is required to appoint additional ARB members to hear those cases.
  4. Telephonic Hearings.
    - a. A property owner initiating a protest is entitled to offer evidence or argument. A property owner may offer evidence or argument by personally appearing, by appearing through a representative/agent, by affidavit and/or may appear by telephone conference call to offer argument. A property owner who appears by telephone conference call must also offer evidence by affidavit.
    - b. The appraisal review board (ARB) shall conduct a hearing on a protest by telephone conference call if:
      - i. The property owner notifies the board they intend to appear by telephone conference call in the owner's notice of protest; or
      - ii. by written notice filed with the board not later than the 10<sup>th</sup> day before the date of the hearing; or
      - iii. The board proposes that the hearing be conducted by telephone conference call and the property owner agrees to the hearing being conducted in that manner.
    - c. Responsibilities

i. Property Owner:

1. Notify the ARB you intend to appear by telephone conference call in the notice of protest or in writing/email not later than the 10<sup>th</sup> day before the date of the hearing.
2. Submit any evidence by affidavit prior to the scheduled date and time of your hearing by mail, fax or email.
3. In order to reduce confusion during the conference call, the property owner must clearly identify each page, picture, graph, or other figures with a numbering or lettering system contained in their evidence.
4. The property owner is responsible for calling the ARB. They should place the call to the ARB 3-5 minutes before the scheduled hearing time at the primary number 830-327-6065 or alternate 830-625-8597. Note that all hearings times are prevailing (Standard or Daylight) Central Time. You are responsible for providing access to any other person you wish to participate in the telephone conference. You may only offer argument by telephone; evidence must be in your affidavit.
5. If a request for a telephone conference is made after a hearing has already been scheduled, the ARB may have to reschedule the original hearing date and time to accommodate the telephone hearing request.

ii. Appraisal Review Board:

1. Conduct the hearing in accordance with Texas Comptroller and COMAL ARB procedures.
2. If the property owner's call is not accepted within 5 minutes of the scheduled hearing time take the owner's name and telephone number and call them back within two hours. They may reschedule their hearing if we do not call them back in the two hour period.
3. If the property owner does not call in within 5 minutes of the scheduled hearing conduct the hearing as if the owner was appearing by affidavit.

5. **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.
6. **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.

7. **Protest involving market value and unequal appraisal.** The ARB will first hear evidence relevant to the market value. At that time the board or panel will make a motion to establish market value. Evidence relating to the unequal value is heard after the market value is established. Upon hearing the equity evidence the board or panel will make a motion to establish equity value. If the market value and equity value are different the lower value will prevail and becomes the final determination of value.
8. If a panel's decision results in a tie, a second panel may rehear the protest. The second panel must be composed of ARB members who did not hear the first protest. If three new members are not available, the full ARB determines the protest.
9. A panel's decision is not final until a majority of the entire ARB approves the panel's recommendations. The entire ARB will rule on panel hearings at the conclusion of the day. If an ARB member(s) wishes to contest a panel recommendation, the ARB Chairperson will ask the entire ARB to hear their reasons for not approving the panel recommendation. A motion will be made to approve or disapprove the original panel's recommendation. If a majority of the entire ARB rejects the panel's decision, the property owner will receive a second hearing from either the full ARB or a new panel composed of ARB members who did not hear the first protest. The ARB must notify the property owner of the new hearing in the same manner as provided for a regular ARB hearing.

### **Evidence Considerations [Tax Code Section 5.103(8), (11), and (13) J]**

1. **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.
2. **Prohibition of Consideration of Information Not Provided at the ARB Hearing.** In a protest hearing, the ARB will not consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for any appraisal district record (i.e., appraisal roll history, appraisal cards) to be considered by the ARB, it must be presented as evidence by or on behalf of a party (e.g. chief appraiser, appraisal district representative, property owner, agent, or witness) at the protest hearing.
3. **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.

4. **Evidence Relevance.** Evidence presented by the taxpayer should support the reason for protest checked on the notice of protest form or letter. The two most common protests are "value is over market value" and "is unequal compared with other properties". Examples of evidence for an over market protest include sales information for similar properties sold during the appropriate time frame. Examples for an unequal with other properties evidence includes appraised value for similar properties in the subject's area. In both cases the similar properties should be adjusted for differences. Board members should weigh all evidence presented accordingly.

**Burden of Proof** The burden of proof varies depending on the type of protest. The more common protests are discussed below:

1. Appraised value is over market value: The appraisal district has the burden of establishing the property's value by the preponderance of the evidence in all cases except in those instances addressed in Property Tax Code Section 41.43(a-1) - (a- 4) in which the Appraisal District has burden of proof by clear and convincing evidence. The appraisal report and the appraiser must comply with the provisions of section 41. 43 of the property tax code.
2. Unequal appraisal. The chief appraiser must establish one of the following to prevail:
  - a. The property's appraisal ratio is equal to or less than the median level of appraisal of a reasonable and representative sample of other properties in the district;
  - b. the property's appraisal ratio is equal to or less than the median level of appraisal of a sample of properties consisting of a reasonable number of other properties similarly situated to or of the same general kind or character; or
  - c. the property's appraised value is equal to or less than the median appraised value of a reasonable number of comparable properties appropriately adjusted.
3. In cases where the property owner fails to deliver a required rendition prior to the date of the ARB hearing, the property owner has the burden to prove the property's value.

### **Other Issues [Tax Code Section 5.103(17)j]**

1. Compliance with the Law, Integrity, and Impartiality. Members of the ARB shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the ARB.
2. Patience and Courtesy. ARB members must be patient, dignified, and courteous to parties appearing before the ARB.
3. Bias or Prejudice. Members of the ARB shall perform their ARB duties without bias or prejudice.
4. Confidential Information. Members of the ARB shall not disclose or use for any purpose unrelated to ARB duties confidential information acquired in the performance of ARB duties.
5. Hearing Procedures. The ARB will develop and approve hearing procedures to govern the proceedings. These procedures will incorporate the Comptroller's Model Hearing Procedures.

6. **Meeting Disruptions.** While meetings are open to the public, no one may disrupt the proceedings. Anyone who does so shall be cautioned regarding the consequences. As a final resort, a disruptive person will be removed from the meeting room. Additionally, it is a Class B misdemeanor if a person with intent to prevent or disrupt a lawful meeting, obstructs or interferes with the meeting by physical action or verbal utterances. (Section 42.02, Penal Code.
7. **Electronic recording.** Any proceeding of the board/panel may be electronically recorded by the board/panel or any other interested person. Any recording of a hearing by the taxpayer may not disrupt or interfere with normal hearing procedures.
8. An Appraisal Review Board is required to comply with Rule 9.803 adopted by the Property Tax Division of the State Comptroller's Office. In compliance, the following requirements will be met by the Comal Appraisal Review Board in the conduct of hearings and proceedings, and the record kept by the board/panel shall contain the following items:
  - a. the names of the ARB members present and the date of the proceeding;
  - b. the name of the chief appraiser or his designee present at the proceeding;
  - c. the names of all other people appearing at the proceeding on behalf of the appraisal district;
  - d. the name and residence address of the property owner or the challenging taxing unit, as applicable;
  - e. the names of any people appearing at the proceeding on behalf of the board and any protesting or challenging party, a description of their relationship to the party on whose behalf they are appearing and a copy of any legally required written authorization for their appearance in a representative capacity;
  - f. a description of the property subject to protest or challenge;
  - g. the notice of protest, challenge petition, or other document that gave rise to the proceedings and any written motions submitted to the board;
  - h. all affidavits signed by the ARB members in accordance with Tax Code §41.66(f)-(g);
  - i. an audio recording of testimony presented during the preceding or a written summary of testimony if no audio recording is made;
  - j. all documents or physical evidence, including affidavits admitted as evidence;
  - k. the name and residence address of every witness and a statement that the witness testified under oath;
  - l. any formal motions made and the ARB' s ruling on the motions;
  - m. all written requests for subpoenas, copies of subpoenas issued, all responses to subpoenas, and records indicating compliance with Tax Code §41.61;
  - n. all records pertaining to service and enforcement pursuant to Tax Code §41.62;
  - o. all records pertaining to compensation for subpoenaed witnesses and records indicating compliance with Tax Code §41.63;
  - p. the final order the ARB issued;

- q. the date of any final order and the date the notice is placed in the mail; and
  - r. all notices pertaining to the protest or challenge received by the board pursuant to Tax Code §42.06
9. All persons testifying before the board/panel must be administered an oath of sworn testimony. Appraisal District staff members are sworn-in at the first meeting of the ARB. Once administered, the oath will cover all testimony given by the chief appraiser or staff members. The chairperson may remind these representatives at any time that they are still under oath. Each property owner, or any person giving testimony on behalf of the property owner, will be administered the oath before testimony is given. If any person testifying or giving evidence refuses to take the oath, the record must reflect that refusal.
10. Exchange and Presentation of Evidence:
- a. Exchange of Evidence. Before or immediately after an appraisal review board hearing begins, 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. The duplicated material sets shall be produced in either paper or electronic form. If the evidence is in a paper format the property owner should present five (5) copies of their evidence at the time of their check-in for the hearing. If photographs are submitted as evidence one (1) copy is adequate. If the evidence is in digital form it may be submitted on a USB flash drive (i.e. thumb or jump drives, USB or memory sticks) and compact discs (i.e. CD's, DVD's). For security purposes, the electronic files on these devices shall be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance. File formats that are acceptable are PDF, .jpg or .jpeg and any of the Microsoft Office Suite file formats (Word, Excel, and PowerPoint). If the property owner does not wish to leave a digital copy of their evidence they may still present digitally but are required to provide one (1) paper copy of the evidence. All evidence submitted to the Appraisal Review Board will be kept as part of the record.
  - b. Presentation of Evidence. Appraisal District presents digital evidence to the board through use of a computer and external projector viewed on a wall screen. A laptop computer is available for the property owner to present their digital evidence in the same manner using any of the file formats discussed in paragraph 10(a) above. The property owner may bring their own audiovisual equipment if so desired but must provide their own Internet access, if needed, through their own service provider. Property owners may not access the appraisal district office's network or Internet connection or any of the district's office technology or equipment other than the laptop made available under this section.