

# APPRAISAL REVIEW BOARD OF AUSTIN COUNTY PROTEST HEARING PROCEDURES

## INTRODUCTION

Pursuant to Sections 5.103(d) and 41.66(a) of the Texas Tax Code, Austin County Appraisal Review Board (ARB) establishes the following procedures in compliance with the model hearing procedures as promulgated by the Comptroller of Public Accounts. It is the ARB's desire to keep all procedures on a "common sense" approach and comply fully with the requirements listed in the Tax Code. If a question of procedure arises in which the ARB needs further direction, the first step will be to review provisions of the Tax Code, and if necessary, seek the advice of legal counsel.

## I. ARB MEMBERSHIP

### A. 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.

### B. 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.

### C. 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.

## II. ARB DUTIES

### A. 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.

### B. 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.

### C. 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.

Circumstances that the ARB has recognized as good causes for postponements include the following: 1) being on active military duty; 2) being in the hospital; or under doctor’s care during the protest hearing period; 3) a death in the immediate family; 4) being on judicial or legislative service or in a pending court hearing; 5) failure to receive administrative due process; or 6) other matters of good cause as determined by the ARB. The ARB must be notified of a request for postponement prior to the scheduled hearing date. The property owner should submit written documentation to verify the request. For good cause hearings, documentation must be received prior to the ARB approval of the appraisal records. \*See addendum.

## III. ARB HEARINGS (FORMAL HEARINGS)

### A. Scheduling Hearings Generally

The ARB shall schedule a hearing when a timely notice of protest is filed and, in doing so, will be provided with clerical assistance by the appraisal district. An employee of the appraisal district will be designated as “assistant to the ARB.” This person, in accordance with Chapter 41 and other applicable sections of the Tax Code, shall schedule hearings and notify the owner/agent of the hearing.

The assistant shall schedule several protests per day, in 20-minute intervals. Typically, fifteen minutes shall be allocated for each hearing.

If a property owner is unable to attend any regular hearing time during normal business hours, and if the property owner requests an evening hearing in writing, the assistant shall schedule that property owner’s hearing for an evening hearing. The ARB will choose one evening during each hearing season to schedule such evening protests.

### B. 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.

### C. 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).

#### D. 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."

#### E. 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.

F. 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.

G. 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.

H. 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. A request for postponement of a hearing must contain the mailing address and e-mail address of the person requesting the postponement. An appraisal review board shall respond in writing or by e-mail to a request for postponement of a hearing not later than the seventh day after the date of receipt of the request.

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I. 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.

J. 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 re-assigned 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 post-poner 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.

#### IV. CONDUCT OF ARB HEARINGS (FORMAL HEARINGS)

**Bring 6 copies of the evidence you plan on presenting to the ARB with you to your hearing OR 1 copy and your electronic media (cd, portable flashdrive). If photos are being submitted, one set will be sufficient. All evidence submitted to the ARB must be kept in the hearing file (including photos, maps, etc.) ***THE APPRAISAL DISTRICT WILL NOT BE RESPONSIBLE FOR MAKING YOUR COPIES.*** Should you choose to submit evidence, photos, etc. electronically during your hearing, you may bring a PORTABLE FLASH DRIVE or CD to use on the equipment provided by the Appraisal District. Neither the ARB nor the Appraisal District can assist in using the equipment. ***THE FLASH DRIVE / CD BECOMES PART OF THE HEARING FILE.*****

##### A. Conducting Hearings Open to the Public

This introductory statement should be read at the beginning of each hearing:

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. You have the right to appeal our decision. Appeal information will be provided to you with our determination, along with a voluntary survey regarding your experience today, that can be sent to the Texas Comptroller's office.

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

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

- a. Chairman welcomes the parties. Commence the hearing and announce property location, owner, and other identifying information.
- b. Chairman announces that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be provided. Evidence may be presented to the ARB electronically; **HOWEVER**, 1 hard copy is required for the permanent hearing file.
- c. Chairman states 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. Chairman explains the content of the hearing procedures, time limits for the hearing, and other relevant matters.
- e. If there is a witness, Panel Chairman asks if the witness holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- f. Chairman informs all parties that all testimony must be given under oath and swears in all witnesses who plan to testify.
- g. The Chairman asks the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
- h. If the property owner or agent presents his/her case first, he/shall present evidence (documents and/or testimony). The property owner or agent may examine their witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) from the property must be stated.
- i. 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 Chairman calls on the appraisal district representative to 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. Chairman asks for rebuttal evidence from the other party.

- o. Chairman requests the party who presented its case first to make its closing argument and state the ARB determination being sought.
- p. Chairman requests the other party to make its closing argument and state the ARB determination being sought.
- q. 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. Chairman thanks the parties for their participation and announces 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.

#### B. Conducting Hearings by Telephone Conference Call

A property owner initiating a protest is entitled to offer evidence or argument by affidavit without personally appearing. To appear at a hearing by telephone conference call, a property owner must notify the ARB by written request not later than the 10th day before the date of the hearing. To offer evidence or argument at a hearing conducted by telephone conference call, a property owner must submit a written affidavit of any evidence before the hearing begins. If the property owner fails to submit the written affidavit, the protest will be denied. A property owner is responsible for providing access to a hearing conducted by telephone conference call to another person the owner invites to participate in the hearing.

The following statement will be read at the beginning of a telephone conference call:

“We are the appraisal review board 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. The Comptroller’s office. The survey is voluntary. You also have the right to appeal our decision. Appeal information will be provided to you with our determination.”

Specific procedures have been adopted by the Appraisal Review Board for telephone conference calls, which will be provided to all property owners requesting an ARB hearing by telephone conference call.

### C. 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.

### D. 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. The ARB will not tolerate abusive cross-examination.

### E. 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.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to file a protest if the property owner does not and to designate, under Tax Code Section 41.413, another person to act as his/her agent with the same authority and limitations as an agent designated under Tax Code Section 1.111.

## V. EVIDENCE CONSIDERATION

### A. 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 fully present evidence and offer argument.

### B. 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.

C. 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.

VI. OTHER ISSUES

A. 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.

B. Patience and Courtesy

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

C. Bias or Prejudice

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

D. 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.

E. Failure to Appear Timely

***A property owner or agent who is 20 minutes late for their scheduled hearing time will be considered a “no-show” and their protest will be dismissed. See Section III, Subsections E through J of these procedures for exceptions.***

VII. ARB MEMBER REMOVAL PROCESS

REMOVAL OF ARB MEMBERS

ARB members may be removed by a majority vote of the Austin County Appraisal District (ACAD) Board of Directors for the following infractions:

1. Violating sections 6.412, 6.413, 41.66, 41.66(f), or 41.69 Texas Property Tax Code

- The ARB member is related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district for which the appraisal review board is established; or 6.412

- Owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless: *6.412*
    - the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or
    - (B) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065
  - The board member continues to hold office knowing that an individual related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the board member is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district for which the appraisal review board is established. An offense under this subsection is a Class B misdemeanor. *6.412*
  - The person is a member of the board of directors, an officer, or employee of the appraisal district, an employee of the comptroller, or a member of the governing body, officer, or employee of a taxing unit. *6.412*
  - Having a conflict of interest as defined by Section *6.413*
  - Communicating with another person concerning:
    - the evidence, argument, facts, merits, or any other matters related to an owner's protest, except during the hearing on the protest; or
    - a property that is the subject of the protest, except during a hearing on another protest or other proceeding before the board at which the property is compared to other property or used in a sample of properties. *41.66*
  - Communicating with the chief appraiser or an appraisal district employee concerning a taxpayer protest outside of the hearing. *41.66(f)*,
  - Participates in the determination of a taxpayer protest in which he is interested or in which he is related to a party by affinity within the second degree or by consanguinity within the third degree, as determined under Chapter 573, Government Code. *41.69*
2. Attendance Policy: Good cause relating to attendance at called meetings of the ARB. Attendance includes not only missing meetings but conducting personal business and thereby forcing protesting property owners to suffer unwarranted delays. Such behavior includes, but is not limited to, conducting personal business either inside or outside of the meeting room. In addition to the above-stated attendance requirements, a person who engages in conduct not related to ARB hearings while scheduled ARB hearings are being held shall be subject to removal from the ARB.

The Chair or Vice-Chair of the ARB may ask that an ARB member, whose attendance, in his/her view, has hindered the operation of the Board, request that the ACAD Board of Directors remove the ARB member for violation of the attendance policy. The Chair/Vice-Chair should submit information to the ACAD Board of Directors to substantiate the violations.

An ARB member who is eligible to be removed may submit to the Board of Directors evidence intended to negate the removal, but the decision whether to remove the ARB member remains solely within the discretion of the Board of Directors. An ARB member may appear at an open meeting before the Board of Directors to offer evidence or argument against the removal, but the right of the ARB member to address the Board shall not be any different than the right of the general public to address the Board (that is, the ARB member shall not be given more than five minutes to address the Board of Directors without consent of the full Board).

## EVALUATING COMPLAINTS AGAINST ARB MEMBERS

1. Complaints against individual ARB members received from other ARB members, the public, or employees of the appraisal district should be referred to the ARB Chair, unless the ARB Chair is the subject of the complaint. If the ARB chair is the subject of the complaint, the Vice-Chair should receive the referral.
2. If the Chair/Vice-Chair feels there is an ethical or other reason that he/she should not conduct an investigation into the complaint, the Chair/Vice/Chair may appoint an impartial party to conduct the investigation.
3. As soon as practicable, the ARB Chair or the designated investigator should complete an impartial investigation by doing the following:
  - Collecting evidence.
  - Interviewing the party/parties making the accusation.
  - Interviewing the ARB member about whom the complaint is made.
4. If the complaint is substantiated and involves violating sections *6.412*, *6.413*, *41.66*, *41.66(f)*, *41.69*, or the attendance policy, the ARB Chair or designated investigator should deliver written findings plus any evidence to the Chair of the ACAD Board of Directors.
5. The Chair will then place an item concerning potential removal of the ARB member on the agenda of the next Board of Directors meeting or call a special meeting to handle the removal, if applicable.
6. If the complaint involves personal skills, the ARB Chair/Vice Chair or investigator should coach the ARB member on how the situation could have been better handled after speaking with the offended party and understanding exactly what occurred.
7. In the event no violation of sections *6.412*, *6.413*, *41.66*, *41.66(f)*, *41.69*, or the attendance policy is found, the party/parties filing the complaint, as well as the affected ARB member, should be informed of the outcome of the investigation.

## Addendum

### DEFINITION OF "GOOD CAUSE" FOR EXTENSION OF TIME OR LATE FILING

If a property owner fails to take a required action within the time limits expressed in the Texas Property Tax Code, the Austin County Appraisal Review Board will find that "good cause" for an extension of time to take that action exists only if the property owner demonstrates that all the following conditions apply:

1. the failure to act was (a) not done deliberately, or because of conscious indifference on the part of the property owner, but occurred because of accident or honest mistake; or (b) was caused by unforeseen events beyond the control of the property owner;
2. upon learning of the failure to act, the property owner diligently attempted to remedy the failure as soon as was reasonably possible;
3. the relief sought by the property owner will not affect appraised values which have already been approved by the ARB and certified to the affected taxing units; and
4. the Tax Code specifically authorizes a hearing on the late protest if a finding of "good cause" is made, and the protest is filed within the time period authorized by the Tax Code.

**Examples of good cause** would include incidents completely outside the control of the property owner, and would include the following (this is not an exhaustive list, and other items may be added):

Accident

Illness

Emergency

Act of God

Reliance on mistaken appraisal district advice (if admitted by district)

Misunderstanding regarding appraisal district advice (if admitted by district)

Agent ceased representing property owner and did not communicate this fact to the owner

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.).

**Examples of no good cause** would include the following:

Forgot

Conflicting social engagement

Too busy

Too difficult or too time-consuming

Was never told that action was necessary

Did not understand requirements of Tax Code (and no effort to inquire)

Taxes are too high, and ARB should provide remedy

Was on vacation for two months and mail was not forwarded

(Hearing Procedures Adopted: April 5, 2022)