

The background of the cover features a large, faint, circular seal of the State Comptroller of Texas. The seal contains a five-pointed star in the center, surrounded by a wreath. The words "THE COMPTROLLER OF PUBLIC ACCOUNTS" are inscribed around the perimeter of the seal, and "TEXAS" is at the bottom.

2013

Susan Combs

Texas Comptroller of Public Accounts

Appraisal Review Board Manual



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Introduction to Appraisal Review Boards

What legal guidelines and precedents do you face as a member of an appraisal review board (ARB)? Who schedules protests and challenges? How do you decide what is a fair ruling on a protest or challenge? What is the limit of your authority? How do you let taxpayers and taxing units know your decisions? These questions and many more are routinely faced by ARB members.

The appraisal district board of directors appoints ARB members.¹ The directors provide the budget for appraisal review board operations as authorized by statute, but they have no authority over how the ARB conducts its business and, in fact, are prohibited from communicating with the ARB concerning matters that could be the subject of hearings.² The ARB is a decision-making body that has as its sole function the determination of statutorily-authorized protests and challenges brought by property owners and taxing units. ARBs are appointed to act independently of the appraisal district and to make fair and impartial determinations. ARBs only have the authority specifically given by statute.

An appearance before the ARB is often the first time a taxpayer faces a decision-making body of government. The ARB is encouraged to make the experience a positive one by its demeanor and willingness to listen. All ARB members should demonstrate fairness and courtesy in conducting hearings and consider the evidence presented by all parties to the protests.

The ARB may have to interpret the meaning of the Tax Code in some protests. For example, the legal requirements for exemption qualifications may require interpretation. When such interpretation is needed, the ARB should seek legal advice from its attorney.³

The ARB only has authority over protests submitted to it and has no role in the day-to-day operations of the appraisal office or in appraising property. It cannot instruct the appraisal

staff about how to perform appraisals. It cannot hire its own staff to schedule hearings or provide clerical and administrative assistance. Only the staff of the appraisal district is authorized to undertake these duties.⁴

The ARB has no authority to change a value or correct the appraisal records unless a protest or challenge has been determined. In a challenge, the chief appraiser must make the reappraisals or correct the records ordered by the ARB in relation to the challenge.⁵ Only in resolving taxpayer protests can the ARB make changes or set a value on its own, and such a change only affects the property in question.

Exhibit 1 lists the most important **DOs** and **DON'Ts** that allow ARB members to be successful when conducting a hearing and reviewing evidence.

This manual is designed to help newly-appointed ARB members find answers to the many questions they will encounter in their work and to help them perform their duties effectively. The manual provides general information about policy, procedures and legal guidelines. It outlines official responsibilities, available resources and the chronology of the review process. The manual also serves as the text for the official training course that new ARB members must take before participating in ARB hearings.⁶ This manual is not the same as the text used for the continuing education course that ARB members must take after taking this course, and it is not and cannot be substituted for that course.

The Comptroller's office is required to develop a continuing education course that must be completed by ARB members as soon as practicable during the second year of their terms. ARB members cannot be reappointed to the ARB unless they complete the continuing education course. They must successfully complete the course each year they continue to

¹ Tax Code §6.41(d)

² Tax Code §6.411

³ Tax Code §6.43(a)

⁴ Tax Code §6.43(f)

⁵ Tax Code §41.08

⁶ Tax Code §5.041 (b)

EXHIBIT 1
Appraisal Review Board DOs and DON'Ts

DOs	DON'Ts
<ol style="list-style-type: none"> 1. DO have ARB procedures that are clear and concise and easy to understand. 2. DO post the procedures in the hearing room as required by law and follow them. 3. DO ensure that hearings are scheduled at reasonable intervals and times, including weekends or evenings, as provided by law, so protesting parties do not have to wait for long periods of time before being able to meet with the ARB, either in panels or in whole. 4. DO inform the property owner of what to expect at the hearing, both in writing and orally at the beginning of the hearing. 5. DO let the parties know, in writing, before the hearing, how many copies of evidence they need to bring to the hearing as part of the ARB procedures and remind them orally at the beginning of the hearing. 6. DO ensure that the protesting party and the appraisal district representative exchange evidence prior to the start of the hearing. 7. DO allow an appropriate amount of time for the presentation of evidence — 15 minutes is often not enough for complex cases or for persons who have witnesses. 8. DO get legal advice from an attorney when questions arise. 9. DO make eye contact and listen attentively to the property owner and the appraisal district representative when they are presenting evidence and arguments. 10. DO act in a professional, courteous and respectful manner at all times. 11. DO ask questions of either party for clarification without expressing a personal opinion. 12. DO maintain accurate hearing records, including retaining copies of evidence and ensuring that the hearings are properly recorded. 	<ol style="list-style-type: none"> 1. DON'T make rude remarks, become argumentative, threaten or attempt to intimidate anyone. 2. DON'T show favoritism to either the property owner or the appraisal district or become an advocate for either party. 3. DON'T refuse to admit documents into evidence unless advised by legal counsel to take such an action. Simply weigh the relevance or sufficiency of the evidence to make a decision. 4. DON'T use legal jargon or other technical terms that are not familiar to the property owner. 5. DON'T exhibit a personal relationship with appraisal district staff or the property owner. If you cannot be impartial, you may not participate in the hearing. 6. DON'T whisper or pass notes when discussing an issue before making a determination. 7. DON'T let your attention wander and DON'T sleep during a hearing. 8. DON'T talk about pending protests to anyone. 9. DON'T ask for favors for friends or family regarding property values. 10. DON'T ask the appraisal staff for direction on a questionable issue. Always seek independent legal advice. 11. DON'T present testimony or become a party to the hearing through your words and actions. 12. DON'T assume the role of appraiser by calculating values; only the evidence presented at the hearing may be used to make a decision.

Source: Texas Comptroller of Public Accounts.

serve.⁷ The newly-mandated continuing education course required to continue serving on the ARB covers appraisal and legal issues in greater detail.

Neither this manual nor the continuing education course addresses every situation you may face as an ARB member. You should not rely solely on these manuals for answers to the many questions that arise. This manual is only a guide to train new ARB members as they begin their work. Please consult with your attorney about legal issues in protest hearings, the development of ARB hearing procedures and any other matter requiring interpretation of law.

This manual and more information about local property taxes are available on the Comptroller's website at: **www.window.state.tx.us/taxinfo/proptax/**. The Comptroller's office is continually developing new online technological assistance to improve the operations of ARBs, so it is a good idea to bookmark this page as a valuable resource.

Pursuant to Tax Code §5.041, the Comptroller's office established a toll-free telephone number dedicated to serving ARB members. ARB members needing assistance regarding technical questions relating to the duties and responsibilities of ARB members and property appraisal issues, can call 1-800-252-7551 and leave a message. A Property Tax Assistance Division (PTAD) staff person will contact you with the information you need.

⁷ Tax Code §5.041(e-1) and (e-2)

You may email general questions to:

ptad.cpa@cpa.state.tx.us.

Sign up to receive Comptroller's office email updates
on the topics of your choice at:

www.window.state.tx.us/subscribe.

Address general questions to PTAD by writing to:

Property Tax Assistance Division

P.O. Box 13528

Austin, TX 78711-3528

or by calling

the ARB Hotline: 1-800-252-7551

or

1-800-252-9121, press "2" and then "1" for Information Services

or

512-305-9999, press "2" and then "1" for Information Services

While the Comptroller's office can offer technical assistance, the law forbids it from advising an ARB member, property owner, owner's agent, appraisal district employee or public official on any matter that the Comptroller's office knows is subject to a protest to the ARB.⁸

⁸ Tax Code §5.041(f)



Chapter 1

Qualification, Appointment and Oath

Who can serve

Chapter 6, Subchapter C of the Tax Code addresses who is and is not eligible to serve on the ARB. To serve on the ARB, an individual must have lived in the appraisal district for at least two years before taking office. ARB members do not need any special qualifications, but they may not serve on the ARB if, at the time of service, they are the following:

- members of the appraisal district board of directors;
- employees of the appraisal district;
- board members, employees or officers of a taxing unit served by the appraisal district; or
- employees of the Comptroller of Public Accounts.⁹

In counties with populations of 100,000 or less, a person who has served for all or part of three consecutive terms is ineligible to serve during a term that begins on the next January 1 following the third of those consecutive terms. This means that a person must skip a term and can be reappointed thereafter.

For counties with populations of more than 100,000, a person may not serve if: (1) he/she has served for all or part of three previous terms or is a former member of the board of directors, officer, or employee of the appraisal district; (2) the person served as a member of the governing body or officer of a taxing unit for which the appraisal district appraises, until the fourth anniversary of the date the person ceased to be a member or officer; or (3) the person has ever appeared before the appraisal review board for compensation.¹⁰

An individual cannot serve as an ARB member if he or she is related within the second degree by blood or marriage to a paid tax agent or person engaged in appraising property

for tax purposes in the appraisal district or if he or she is related within the third degree by blood or second degree by marriage to a member of the appraisal district's board of directors. Knowingly violating this provision is a Class B misdemeanor.¹¹ **Exhibit 2** provides details on degrees of consanguinity (blood relations) and affinity (marriage relations).

The law also bars an individual from ARB service if he or she, or a business entity in which he or she has a substantial interest, has a contract with the appraisal district or with a taxing unit served by the appraisal district. Likewise, the taxing units and the appraisal district are prohibited from contracting with an ARB member or a business entity in which an ARB member has a *substantial interest*. Substantial interest is defined as either: combined ownership by the member or the member's spouse of at least 10 percent of the voting stock or shares of the business; or service by the member or the member's spouse as a partner, limited partner or officer in the business entity.¹²

An individual is also barred from serving on the ARB if he or she holds some other paid public office. The Texas Constitution does not allow a person to hold more than one paid public office. ARB members should contact legal counsel to interpret what constitutes a paid position or whether a public officer is receiving compensation.

The Tax Code disqualifies a person from serving on an ARB if the person owns property on which delinquent property taxes have been owed for more than 60 days after the date the person knew or should have known of the delinquency. This restriction does not apply if the person is paying the delinquent taxes under an installment payment agreement or has deferred or abated a suit to collect delinquent taxes.¹³

⁹ Tax Code §6.412(c)

¹⁰ Tax Code §6.412(d)(2)

¹¹ Tax Code §6.412(a)-(b)

¹² Tax Code §6.413(d)

¹³ Tax Code §6.412(a)(2)(A) and (B)

EXHIBIT 2
Chart of Kinship for Appraisal Personnel
Degrees of Consanguinity and Affinity Prohibitions

1 st DEGREE	2 nd DEGREE	3 rd DEGREE
By Consanguinity <ul style="list-style-type: none"> • Parents • Children By Affinity <ul style="list-style-type: none"> • Spouses of relatives listed under consanguinity • Spouse • Spouse's parents • Spouse's children • Stepparents • Stepchildren 	By Consanguinity <ul style="list-style-type: none"> • Grandparents • Grandchildren • Brothers & sisters By Affinity <ul style="list-style-type: none"> • Spouses of relatives listed by consanguinity • Spouse's grandparents • Spouse's grandchildren • Spouse's brothers & sisters 	By Consanguinity <ul style="list-style-type: none"> • Great grandparents • Great grandchildren • Nieces & nephews • Aunts & uncles By Affinity NO PROHIBITIONS
<p style="text-align: center;">Restrictions on Eligibility of Chief Appraisers, Directors, Appraisal Review Board Members and Others</p> <ul style="list-style-type: none"> • Appraisal review board members are ineligible to serve if they are related within the second degree by consanguinity or affinity to someone engaged in the business of appraising property for compensation for use in proceedings before the appraisal district or appraisal review board or of representing property owners for compensation in that district. Tax Code § 6.412(a)(1) • Appraisal review members are ineligible to serve if they are related within the third degree by consanguinity or within the second degree by affinity to a member of the appraisal district's board of directors. Tax Code § 6.412(a)(3) • Appraisal review board members are ineligible to serve if they or their spouses have substantial interests in contracts with the appraisal district or taxing units participating in the district. Tax Code § 6.413(a) • Appraisal review board members may not participate in a taxpayer protest in which they are related to a party by affinity within the second degree or by consanguinity within the third degree. Tax Code § 41.69 • Chief appraisers are disqualified from employment if related within the second degree by consanguinity or affinity to someone engaged in the business of appraising property for compensation for use in proceedings before the appraisal district or appraisal review board or of representing property owners for compensation in that district. Tax Code § 6.035(a) • Directors of appraisal districts are ineligible to serve if related within the second degree by consanguinity or affinity to someone engaged in the business of appraising property for compensation for use in proceedings before the appraisal district or appraisal review board or of representing property owners for compensation in that district. Tax Code § 6.035(a) • Chief appraisers or individuals related to chief appraisers within the second degree by consanguinity or affinity may not prepare appraisals to be used as evidence in protests or challenges concerning property that is taxable in the appraisal district in which the chief appraiser is employed. Tax Code § 6.035(d) • Directors of appraisal districts are ineligible to serve if they or their spouses have substantial interests in contracts with the appraisal district or taxing units participating in the district. Tax Code § 6.036(d) • Persons may not be employed by the appraisal district if they are related to a member of the board of directors within the second degree by affinity or within the third degree by consanguinity. Tax Code § 6.05(f) • Persons or their spouses may not be employed by or contract with the appraisal district if they are related to the chief appraiser within the first degree by consanguinity or affinity. Tax Code § 6.05(g) 		

Appointing the ARB – size and terms

The appraisal district directors, except in counties with a population of 3.3 million or more and adjacent counties with populations of 550,000 or more (exception counties), appoint ARB members. The boards of directors of two or more adjoining appraisal districts may operate a consolidated ARB by interlocal agreement. The appraisal district board of directors determines the number of ARB members to serve on the ARB, with a statutory minimum of three members.¹⁴

In the exception counties, the administrative district judge (the judge) appoints the ARB members. The judge may make ARB appointments directly or may, by written order, appoint from three to five persons to perform the duties of ARB commissioners. If the judge chooses to appoint ARB commissioners, each commissioner must have the same qualifications as those required of an ARB member. ARB commissioners serve a one-year term beginning Jan. 1. The judge may reappoint ARB commissioners to successive terms at his or her discretion.¹⁵

ARB commissioners are not disqualified from serving as a member of the ARB. They meet to perform their duties as directed by the judge. The county's appraisal district is required to provide the judge or the ARB commissioners, as the case may be, the number of positions that require appointment to the ARB. The appraisal district is also required to provide the judge or ARB commissioners any reasonable assistance they request.

ARB commissioners must provide a list of proposed ARB members to the judge when requested by the judge, but no later than Jan. 1 of each year. The list must include at least five more names than the number of ARB positions to be filled. The judge may accept the proposed names or reject the list and return it to the ARB commissioners. If the judge rejects the list, the ARB commissioners must propose a new list until it is acceptable to the judge. When the judge is satisfied with the list presented to him or her by the ARB commissioners, the judge will enter an order designating the individuals as members of the ARB.¹⁶

ARB members in all counties serve two-year staggered terms; approximately half the members' terms expire each year.

¹⁴ Tax Code §6.41

¹⁵ Tax Code §6.41 (d-2) and (d-8)

¹⁶ Tax Code §6.41 (d-4), (d-5), (d-6), (d-7), and (d-9)

Terms begin Jan. 1. The appraisal district board of directors must adopt a resolution providing for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. In making the initial or subsequent appointments, the board of directors or, in the exception counties, the judge or the judge's designee must indicate which members are to serve one-year terms required to comply with the staggered provisions of the law.¹⁷

In counties having a population of 100,000 or less, a person who has served all or part of three consecutive terms as an ARB member is ineligible to serve a fourth consecutive term, but may be appointed thereafter if he or she sits out at least one full ARB term in order to be eligible to serve again.¹⁸ In counties with a population of more than 100,000, members can only serve three terms.

Taxing units that vote for appraisal district directors may disapprove certain appraisal district board of directors' actions, including the appointment of an ARB member. To do so, a majority of a voting taxing unit's governing body must pass a resolution within 15 days after the appraisal district board appoints the member.¹⁹

ARB member removal

Under certain circumstances, a majority of the appraisal district directors may remove ARB members. In the exception counties, the judge or the judge's designee may remove an ARB member appointed by them. While the law does not require the appraisal district board of directors to adopt a specific procedure for the removal of ARB members, it may be good practice.

The appraisal district board of directors may remove an ARB member for the following reasons:

- ARB member's relative is a fee appraiser or tax agent appearing before the ARB;
- ARB member owes delinquent property taxes under certain circumstances;²⁰
- ARB member or certain relatives have a substantial interest in an appraisal district or taxing unit contract;²¹

¹⁷ Tax Code §6.41(e)

¹⁸ Tax Code §6.412(e)

¹⁹ Tax Code §6.10

²⁰ Tax Code §6.412

²¹ Tax Code §6.413

EXHIBIT 3
Code of Judicial Conduct*

- A Judge Should Uphold the Integrity and Independence of the Judiciary.
- A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities.
- A Judge Should Perform the Duties of Office Impartially and Diligently.
- A Judge May Conduct the Judge's Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations.
- A Judge Should Refrain From Inappropriate Political Activity.
- A Judge Shall Comply with the Code of Judicial Conduct.

Preamble

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code of Judicial Conduct are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

** The Code of Judicial Conduct includes eight Canons; the last two are procedural in nature and are not included here. Each Canon is described in much greater detail at <http://www.courts.state.tx.us/Judethics/canons.asp>.*

Source: Office of Court Administration, 2011.

- ARB member is involved in an ex parte communication about a protest outside of the hearing;²²
- ARB member participates in a hearing when he or she has a conflict of interest or is related to a party of the hearing by marriage within the second degree or by blood within the third degree;²³ or
- ARB member fails to attend ARB meetings as established by the appraisal district board's policy.²⁴

ARB members can find throughout the Tax Code directives that define the limits of their authority. In addition, the ARB should conform to the highest ethical standards. The *Code of Judicial Conduct (Exhibit 3)* governs the conduct of judges and may serve as a guide for ARB members.

Appointment of Temporary ARB Members

The Tax Code allows appraisal district directors to appoint temporary replacement ARB members in only one situation: when an ARB member cannot sign an ex parte affidavit. At each protest hearing, an ARB member must sign an affidavit that the member has not communicated about certain elements of the protest with another person except during the hearing on the protest. If an ARB member cannot sign the affidavit, the ARB member cannot hear the protest on that property.²⁵

The Tax Code does not set out a process for naming a replacement; the appraisal district's board of directors' policy on appointing ARB members should provide for naming temporary ARB members. For example, if the ARB has enough members to place one regular ARB member on a panel needing a temporary member, the board of director's policy may

²² Tax Code §41.66

²³ Tax Code §41.69

²⁴ Tax Code §6.41(f)

²⁵ Tax Code §41.66(g)

choose to use current members as temporary panel replacements. On the other hand, a board of director's policy may prefer to designate a number of eligible individuals to serve only as temporary replacements for removed members.

Appointment of Auxiliary ARB Members

The Tax Code also authorizes appraisal district directors to appoint auxiliary ARB members to hear taxpayer protests and assist the board in performing its duties. The appraisal district directors by resolution select the number of auxiliary members.

Auxiliary board members are appointed in the same manner and for the same term as regular board members and are subject to the same eligibility requirements and restrictions. In addition to hearing taxpayer protests before the ARB and sitting on hearing panels, auxiliary members are also entitled to make recommendations to the ARB regarding a protest. Auxiliary members sitting on a hearing panel are considered regular board members for all purposes relating to the conduct of a hearing. However, an auxiliary member is not entitled to vote on the determination of the protest by the board, do not count towards a quorum, and cannot serve as chairman or secretary of the ARB.²⁶

Access to criminal history record information

An appraisal district is authorized to obtain Department of Public Safety (DPS) criminal history records related to a person applying for an appointment to an ARB. Additionally, if the ARB members are appointed by the local administrative judge, an appraisal district is authorized to provide the local administrative judge or the ARB commissioners the criminal history record information obtained from DPS.²⁷

Oath of office

Newly appointed and reappointed ARB members must sign a statement and take an oath of office before beginning a term. Jan. 1 of the year in which the term begins is the earliest date the oath may be administered. ARB members must be properly sworn before taking any official action. After the ARB member signs the required statement (**Exhibit 4**) and takes

the oath of office (**Exhibit 5**), he or she files the statement with the appraisal district office.²⁸

The Secretary of State's Statutory Documents Division provides forms for this purpose online at www.sos.state.tx.us/statdoc/statforms.shtml#AUF.

Pay and training for ARB members

When setting its budget, the appraisal district board of directors must include amounts for appraisal review board per diem payments and expense reimbursements. Specifically, ARB members (not auxiliary members) are entitled to be paid by the day (per diem) for each day the board meets. They are also entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. Auxiliary ARB members are entitled to compensation as provided by the appraisal district budget and are not entitled to per diem or reimbursement of expenses.²⁹

ARB members, including auxiliary members, must complete the Comptroller's training course before participating in any hearings unless the ARB member is appointed *after* the Comptroller's office has offered ARB training courses for that year. In such a situation, the ARB member may participate in hearings, but must complete the training course at the first opportunity after the appointment. ARB members must also complete annual continuing education training each year they remain on the ARB. The Comptroller's office issues a certificate to ARB members who complete the required training.³⁰

The Comptroller's new member training and continuing education cannot be provided by an appraisal district, the chief appraiser or other appraisal district staff, a member of the board of directors, ARB board member, or a taxing unit.³¹ However, the ARB is allowed to retain a certified appraiser to instruct ARB members on valuation methods if the appraisal district budgets for it.³² An ARB may consider, based on legal advice, training itself concerning procedural and administrative matters, so long as the training does not include appraisal and legal issues addressed in the Comptroller's training courses.

²⁸ Texas Constitution Art. XVI, § 1

²⁹ Tax Code §6.42(c) and §6.414(f)

³⁰ Tax Code §5.041

³¹ Tax Code §5.041(e-3)


³² Tax Code §5.041(h)

²⁶ Tax Code §6.414

²⁷ Government Code §411.1296

EXHIBIT 4

Form 2201, Statement of Elected/Appointed Officer

Form #2201 Rev. 10/2011 Submit to: SECRETARY OF STATE Government Filings Section P O Box 12887 Austin, TX 78711-2887 512-463-6334 512-463-5569 - Fax Filing Fee: None	<div style="text-align: right;">This space reserved for office use</div> <div style="text-align: center;">  STATEMENT OF OFFICER </div>
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Statement

I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

Position to Which Elected/Appointed: _____

City and/or County: _____

Execution

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated therein are true.


Date: _____

Signature of Officer

Source: Texas Secretary of State, 2011.

EXHIBIT 5

Form 2204, Oath of Office

Form #2204 Rev. 10/2011 Submit to: SECRETARY OF STATE Government Filings Section P O Box 12887 Austin, TX 78711-2887 512-463-6334 Filing Fee: None	<div style="text-align: right;">This space reserved for office use</div> <div style="text-align: center;">  OATH OF OFFICE </div>
--	--

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,

I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

Signature of Officer

State of _____)
 County of _____)

Sworn to and subscribed before me
 this _____ day of _____, 20____.

(seal)

Signature of Notary Public or Other Officer
Administering Oath

Printed or Typed Name

Source: Texas Secretary of State, 2011.

The Tax Code provides that certain communication about the training course is prohibited. Except during a hearing or other ARB proceeding, the following persons cannot communicate with the ARB regarding the Comptroller's training course or any matter presented or discussed during the course:

- the chief appraiser;
- other appraisal district employees;
- a director of the appraisal district;
- an officer or employee of a taxing unit served by the appraisal district; and
- an attorney who represents (or whose firm represents) the appraisal district or taxing unit.³³

ARB members should be aware of laws that require mandatory training for public officials on the Texas Open Meetings Act and Public Information Act. The laws require at least two hours of open government training, consisting of a one-hour educational course on the Open Meetings Act and one-hour educational course on the Texas Public Information Act from the Office of the Attorney General.³⁴

The Open Meetings Act training requirement applies to all elected or appointed officials who routinely participate in meetings subject to that law as part of their regular duties including ARB members. The Public Information Act training requirement applies to elected or appointed officials who respond to public information requests. ARB members have **90 days** to complete the required training and need take the course only once. The Office of the Attorney General (OAG) provides free training for all public officials through both online and video courses available for viewing on their website at www.oag.state.tx.us/opinopen/og_training.shtml#11. Officials may obtain a DVD copy of the training courses by calling the OAG's Public Information and Assistance line at 1-800-252-8011.

ARB officers

The board of directors of the appraisal district, by resolution, selects a chairman and a secretary from among the ARB members. If possible, the board of directors of the appraisal district should appoint a chairman of the ARB who has a background in law and property appraisal.³⁵

The ARB presiding officer has responsibility for ensuring that hearings are conducted properly and procedures are followed. A secretary should send required notices, ensure that meetings are posted and keep official minutes or tapes of ARB proceedings. While the law only requires the selection of a presiding officer and a secretary, the ARB may determine that other officers are needed in order to conduct its business. If so, the officers should be designated in ARB rules or procedures.

The ARB may meet at any time at the call of the presiding officer or as provided by ARB rules or procedures. The ARB must meet to examine the appraisal records within 10 days after the date the chief appraiser submits appraisal records to it.³⁶

³³ Tax Code §5.041(g)

³⁴ Government Code §§551.005 and 552.012

³⁵ Tax Code §6.42(a)

³⁶ Tax Code §6.42(b)



Chapter 2

ARB General Operations

By April 1, or as soon thereafter as practicable, if the property is a single-family residence that qualifies for a residence homestead exemption, or by May 1, or as soon thereafter as practicable, in connection with any other property, the chief appraiser must deliver a clear and understandable written notice to a property owner of the appraised value of the property owner's property.³⁷ This notice is required if any of the following applies:

- the appraised value of the property is greater than it was in the preceding year;
- the appraised value of the property is greater than the value rendered by the property owner; or
- the property was not on the appraisal roll in the preceding year.

The law also requires the chief appraiser to publish notice of the manner in which a protest before the ARB may be brought by a property owner. The notice must describe how to initiate a protest and must set out the deadlines for filing a protest. It must also explain the manner in which an order of the ARB may be appealed (**Exhibit 6**).

The notice must appear in a one-quarter-page ad in a newspaper having general circulation in the county for which the appraisal district is established. The notice may not be published in the part of the paper in which legal notices and classified advertisements appear.³⁸

While the property owner has up to 15 days to prepare for a hearing, the property owner may waive this right and ask to meet with the ARB sooner.³⁹

Customer service

A taxpayer's protest hearing is the ARB's most important opportunity for promoting good public relations. Property owners may base their opinions of the property tax system in general, and the ARB in particular, on their experience at the hearing. Fair and impartial hearings are required, and the ARB should make every effort to ensure that it conducts the hearings in such a manner. The ARB should conduct its business professionally and consider how the public perceives it. It should make every effort to make the hearings welcoming.

Hearing location and procedures

Generally, ARB hearings must be conducted at the appraisal office because of budgetary and administration issues. The ARB may consider conducting some hearings at other locations for the convenience of property owners.

The ARB is required to adopt protest and challenge hearing procedures.⁴⁰ The ARB may also adopt procedures or rules of order for its meetings, or it may use *Robert's Rules of Order*, *Uniform Code of Parliamentary Procedures* or other recognized sets of procedures.

The Tax Code directs that hearing procedures "to the greatest extent practicable shall be informal." Except for a few instances, the law does not specify procedures. Instead, the ARB may decide how it wishes to conduct its business. Hearing procedures are legally required, and well-designed procedures will help the board do its work.

The law requires certain ARB hearing practices. The ARB must give each party the right to offer evidence, examine and cross-examine witnesses and present arguments on protest

³⁷ Tax Code §25.19

³⁸ Tax Code §41.70

³⁹ Tax Code §41.46(a)

⁴⁰ Tax Code §41.66(a)

EXHIBIT 6

Notice of Manner to Protest Before the ARB



Property Tax Protest and Appeal Procedures

The law gives property owners the right to protest actions concerning their property tax appraisals. You may follow these appeal procedures if you have a concern about:

- the market or appraised value of your property
- the unequal appraisal of your property
- the inclusion of your property on the appraisal roll
- any exemptions that may apply to you
- the qualification for an agricultural or timber appraisal
- the taxable status of your property
- the local governments which should be taxing your property
- the ownership of property
- the change of use of land receiving special appraisal
- any action taken by the chief appraiser, appraisal district or appraisal review board that applies to and adversely affects you.

Informal Review

(Insert description of appraisal district's informal review process, if any, then give name and telephone number of person taxpayer should contact.)

Review by the Appraisal Review Board

If you can't resolve your problem informally with the county appraisal district (CAD) staff, you may have your case heard by the appraisal review board (ARB).

The ARB is an independent board of citizens that reviews problems with appraisals or other concerns listed above. It has the power to order the CAD to make the necessary changes to solve problems. If you file a written request for an ARB hearing (called a notice of protest) before the deadline, the ARB will set your case for a hearing. You'll receive written notice of the time, date and place of the hearing. If necessary, you may request a hearing in the evening or on a Saturday or Sunday. Prior to your hearing, you may ask to review the evidence the CAD plans to introduce at the hearing to establish any matter at issue. The law provides that before a hearing on a protest or immediately after the hearing begins, you or your agent and the CAD shall each provide the other with a copy of any written material intended to be offered or submitted to the ARB at the hearing. To the greatest extent practicable, the hearing will be informal. You or a designated agent may appear in person to present evidence or you may send notarized evidence for the ARB to review at your hearing. The CAD representative will present evidence about your case. You may cross-examine the CAD representative. The ARB will make its decision based on the evidence presented. In most cases, the CAD has the burden of establishing the property's value by a preponderance of the evidence presented.

In certain protests where the owner has submitted an independent appraisal before the hearing, the chief appraiser has the burden of proving the property's value by clear and convincing evidence. You can get a copy of a protest form from the appraisal district office at

(insert address).

Note: You shouldn't try to contact ARB members outside of the hearing. The law requires ARB members to sign an affidavit saying that they haven't talked about your case before the ARB hears it.

Review by the District Court or an Arbitrator or SOAH

After it decides your case, the ARB must send you a copy of its order by certified mail. If you're not satisfied with the decision, you have the right to appeal. If you choose to go to court, you must start the process by filing a petition within 60 days of the date you receive the ARB's order. In certain cases, as an alternative to filing an appeal in district court, you may file, not later than the 45th day after you receive notice of the ARB order, a request for binding arbitration with the county appraisal district. In certain cases originating in certain counties, as an alternative to filing an appeal in district court, you may appeal to the State Office of Administrative Hearings (SOAH). An appeal to SOAH is initiated by, not later than the 30th day after you receive notice of the ARB's order, filing with the chief appraiser of the county appraisal district a notice of appeal. Appeals to District Court, Binding Arbitration, or SOAH all require payment of certain fees or deposits.

Tax Payment

You must pay either the amount of taxes due on the portion of the taxable value not in dispute or the amount of taxes due on the property under the order from which the appeal is taken.

More Information

You can get more information by contacting your appraisal district at

(insert appraisal district name, address, telephone number).

You can also get a pamphlet describing how to prepare a protest from the appraisal district or from the State Comptroller's Property Tax Assistance Division at P.O. Box 13528, Austin, Texas 78711-3528.

Deadline for Filing Protests with the ARB*

Usual Deadline

On or before May 31 (or 30 days after a notice of appraised value was mailed to you, whichever is later).

Late protests are allowed if you miss the usual deadline for good cause. Good cause is some reason beyond your control, like a medical emergency. The ARB decides whether you have good cause.

Late protests are due the day before the ARB approves records for the year. Contact your appraisal district for more information.

Special Deadlines

For change of use (the appraisal district informed you that you are losing agricultural appraisal because you changed the use of your land), the deadline is not later than the 30th day after the notice of the determination was mailed to you.

For ARB changes (the ARB has informed you of a change that increases your tax liability and the change didn't result from a protest you filed), the deadline is not later than the 30th day after the notice of the determination was mailed to you.

(You may insert deadline for protests concerning omitted property if doing so would avoid taxpayer confusion.)

If you believe the appraisal district or ARB should have sent you a notice and did not, you may file a protest until the day before taxes become delinquent (usually February 1) or no later than the 125th day after the date you claim you received a tax bill from one or more of the taxing units that tax your property. The ARB decides whether it will hear your case based on evidence about whether a required notice was mailed to you.

* The deadline is postponed to the next business day if it falls on a weekend or holiday.

subjects. The ARB's procedures should reflect these and other hearing rights of property owners.⁴¹

The ARB must adopt a procedure that provides for protest hearings during evening hours or on a Saturday or Sunday.⁴² The ARB's procedures should inform property owners of these times.

The law requires the ARB to maintain certain records of its hearings. The procedures should consider what is required and how to best maintain records that meet these requirements.

The procedures must be made available to the public. The ARB must post written ARB hearing procedures in a prominent place in each room in which it holds hearings. In addition, the ARB must provide its hearing procedures to a protesting property owner.⁴³

ARB members should review their current written procedures, preferably at the first meeting after Jan. 1, when terms of office for new members begin. A group review helps ensure that all members understand the rules and provides a forum for discussion. If the size of an ARB has changed from the prior year, with either fewer or more members, the ARB will need to review its hearing procedures to see if the decrease or increase in its size will affect any current procedure. Additionally, the ARB should make it a practice to review its procedures at its first meeting to make certain they incorporate any changes the Legislature may have made that impact ARB operations and property owner remedies.

Scheduling

The ARB, through the clerical staff assigned to it, should assign a case number to each protest and challenge. A numbering system helps keep track of all records and evidence. The ARB then places the protests or challenges on a hearing schedule. The schedule states the date and time of each hearing, the nature of each protest or challenge, a property description and other information. The ARB may not schedule a hearing on a property value before a property owner has filed a protest.

If more than one protest is filed relating to the same property, the ARB must schedule a single hearing on all timely filed protests that relate to the property. The ARB must also schedule joint hearings for all owners of a property owned in fractional or undivided interest. These include mineral properties. Similarly, the ARB should consider consolidated hearings for protests involving an inventory of residential real property.⁴⁴

Time limits

The ARB procedures may include a provision limiting each protest hearing to a reasonable time that allows for full presentation of the taxpayer's evidence, cross-examination and arguments. This helps ensure that protests and challenges are completed in a timely manner. Any limit should be reasonable and flexible.

The hearing procedures may give the presiding officer the authority to extend the hearing. Property owners are entitled to a reasonable amount of time to present relevant evidence and argument. What is reasonable depends on the circumstances of each protest. A protest about a residential property usually requires less presentation time than a complex protest involving a large industrial property, for example.

Support staff and legal counsel

The appraisal office may provide clerical assistance to the ARB, including assisting the board with the scheduling and arranging of hearings.⁴⁵ The ARB has no legal authority to hire its own administrative staff and must rely on the appraisal district for staffing.

The ARB may employ legal counsel as provided by the appraisal district budget, or the ARB may use the services of the county attorney.⁴⁶ The county attorney for the county in which the appraisal district is established may provide legal services to the ARB notwithstanding that the county attorney or an assistant to the county attorney represents or has represented the appraisal district or a taxing unit that participates in the appraisal district in any matter.⁴⁷ The appraisal district may specify in its budget whether the ARB is required to use the county attorney or employ a private attorney. If the budget authorizes the ARB to employ legal counsel, the budget must provide for

⁴¹ Tax Code §41.66(b)

⁴² Tax Code §41.71

⁴³ Tax Code §41.66(a)

⁴⁴ Tax Code §41.45(a)

⁴⁵ Tax Code §6.43(f)

⁴⁶ Tax Code §6.43(a)

⁴⁷ Tax Code §6.43(c)

reasonable compensation to be paid to the attorney serving as legal counsel to the ARB. The appraisal district, however, cannot require the board to employ a specific attorney.⁴⁸

An attorney or law firm is prohibited from serving as the ARB's attorney, if within the prior year, either have represented a property owner who owns property in the appraisal district, a taxing unit that participates in the appraisal district or the appraisal district in certain matters specified in statute.⁴⁹ The attorney is also prohibited from acting as an advocate in a hearing or proceeding conducted by the board. The attorney may however, provide advice to the board during a hearing and is required to disclose to the board all relevant legal authority in the controlling jurisdiction that is known to the attorney and not disclosed by the parties. The attorney is also required to disclose a material fact that may assist the board in making an informed decision regardless whether that fact is adverse to a party.⁵⁰

Open Meetings Act and Public Information Act

The Office of the Attorney General (OAG) interprets the open meetings and public information laws. None of the following information should be interpreted as legal advice from the Comptroller's office. ARBs should seek legal advice from their attorneys or county attorneys regarding compliance with these laws. For more information about the Open Meetings Act and the Public Information Act, an ARB member may call the OAG's Open Government Section at (512) 478-6736 or (800) 252-5476, or visit the OAG's Web site at www.oag.state.tx.us/open/requestors.shtml.

The Open Meetings Act requires a governmental body to hold its meetings where anyone may attend. The Open Meetings Act applies any time a quorum of the ARB members meet. Members may attend social occasions and seminars without violating the law provided they do not discuss their ARB business. An ARB member would be in violation of the Open Meetings Act if he or she circulated a note concerning the protest among the other ARB members without an open discussion. The same prohibition applies to texting or use of other social media in a meeting.⁵¹ Violation of the Open Meetings Act is a misdemeanor.

The Open Meetings Act also allows individuals to photograph or make audio or video recordings of all or any part of open meetings. The ARB may impose reasonable restrictions, such as requiring video cameras to be placed at a certain location so they do not physically interfere with the proceedings.

The law requires posting information about meetings in advance. The ARB must announce a meeting to the public at least 72 hours before the meeting takes place. The written announcement must state the time, date, place and subject of the meeting. The Open Meetings Act should be consulted regarding the places for posting notices of public meetings.

The ARB must list the meeting's subjects with enough detail that a person reading it would know what would be talked about or decided at the meeting. The notice may require more detail if the subject is one of great public interest. A court can void an ARB decision if the subject was not properly listed in the open meetings notice.

Generally, a quorum of members cannot meet and discuss or conduct business in a closed or executive session. Exceptions to this rule include: meetings with the ARB's attorney to discuss pending litigation and meetings to discuss personnel matters if the ARB has a staff. If the ARB wants to have a closed or executive session, it should consult its attorney concerning what is permissible and how to do so.

The Tax Code prohibits the ARB from holding a closed protest hearing. All protest hearings must be open to the public. The Tax Code also prohibits the ARB from receiving or considering evidence concerning a protest outside of the protest hearing.⁵²

The Public Information Act, formerly known as the Open Records Act, gives the public the right to see records and documents of government agencies. Property tax records are public records and must be available for inspection or copying upon request unless the law clearly makes the record confidential. The following four main classes of property tax records are confidential according to law:

- renditions, attachments to renditions and property reports such as reports of decreased value, special inventory declaration and monthly statements;

⁴⁸ Tax Code §6.43(e)

⁴⁹ Tax Code §6.43(b)

⁵⁰ Tax Code §6.43(d)

⁵¹ 51 Tex. Att'y Gen. Op. No. JC-307 (2000)

⁵² Tax Code §§41.66(d) and 41.66(e)

- sales information that a person discloses to the appraisal district under a promise that the information will be kept confidential;
- applications for land to be designated for agricultural use; and
- income and expense information filed with an appraisal office.⁵³

Records that are normally confidential can be disclosed under the following conditions:

- when a court or administrative body lawfully subpoenas the information;
- to the person who gave the information;
- to a PTAD staff person authorized in writing by the Comptroller to receive the information;
- in a judicial or administrative hearing when the person who filed the information or the owner of the property is a party;
- for statistical purposes in a form that does not identify a specific property or owner;
- to the extent the information is needed for inclusion in a public document or record that the appraisal district must maintain;
- to a taxing unit or its legal representative for the collection of delinquent taxes on the property;
- to an employee or agent of a taxing unit reviewing district operations; or
- to an employee or agent of a school district preparing a property value study protest.⁵⁴

Unauthorized disclosure of confidential information may be a Class B misdemeanor. Failure to disclose information legally open to the public may also be a Class B misdemeanor under certain circumstances.

ARB records

The ARB should keep good records of proceedings. It should establish procedures to ensure that the evidence presented is identified, the procedural requirements of law are met and other information is maintained.

Information maintained by the ARB may be used in litigation. As an example, if the owner was required to file a notice

of his or her appeal and did not file within the deadline, the owner has not met legal requirements for the district court to hear the case. Additionally, statements made by a witness at the protest may be used to challenge the witness's honesty or credibility if statements change at trial. At a minimum, Comptroller Rule 9.803 requires the ARB to keep the following records of the hearing:

- the names of the ARB members present and the date of the proceeding;
- the name of the chief appraiser or his designee present at the proceeding;
- the names of all other people appearing at the proceeding on behalf of the appraisal district;
- the name and residence address of the property owner or the challenging taxing unit, as applicable;
- 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;
- a description of the property subject to protest or challenge;
- the notice of protest, challenge petition, or other document that gave rise to the proceedings and any written motions submitted to the board;
- all affidavits signed by the ARB members in accordance with Tax Code §41.66(f)-(g);
- an audio recording of testimony presented during the proceeding or a written summary of testimony if no audio recording is made;
- all documents or physical evidence, including affidavits admitted as evidence;
- the name and residence address of every witness and a statement that the witness testified under oath;
- any formal motions made and the ARB's ruling on the motions;
- all written requests for subpoenas, copies of subpoenas issued, all responses to subpoenas, and records indicating compliance with Tax Code §41.61;
- all records pertaining to service and enforcement pursuant to Tax Code §41.62;
- all records pertaining to compensation for subpoenaed witnesses and records indicating compliance with Tax Code §41.63;
- the final order the ARB issued;

⁵³ Tax Code §22.27(a)

⁵⁴ Tax Code §22.27(b)

-
- the date of any final order and the date the notice is placed in the mail; and
 - all notices pertaining to the protest or challenge received by the board pursuant to Tax Code §42.06.

Conflicts of interest

ARB members must comply with all conflict of interest laws. The Local Government Code requires ARB members to abstain in any case in which they or one of their close relatives has a substantial interest.⁵⁵ Under this law, one must not only abstain in such a case, but must also file an affidavit stating the person's interest. The Tax Code bars ARB members from taking part in any taxpayer protest in which they or one of their close relatives has an interest.⁵⁶ The ARB member cannot participate in the protest hearing or determination and must recuse him or herself from the proceeding.

Substantial interest is defined as the following interest:

- in a business, if one owns 10 percent or more of its voting stock or shares, or owns either 10 percent or more or \$15,000 or more of its fair market value or received more than 10 percent of one's gross income from it in the previous year; or
- in real property, if one owns \$2,500 or more of the fair market value of the property, whether title is legal or equitable.

Such ownership by a person related to an ARB member in the first degree by blood or marriage also constitutes a substantial interest. The law says that service on the board of directors of private, nonprofit corporations for no compensation or other benefit is legal.⁵⁷ This does not mean that it is not a conflict of interest if an ARB member votes on a hearing concerning the nonprofit.

When an ARB member determines he or she has a substantial interest, the ARB member must abstain from joining in any discussions or votes on the issue. An affidavit made under oath must be filed with the ARB's secretary that states the nature and extent of the interest. The affidavit must be filed before the ARB takes any votes on the matter (**Exhibit 7**).

The Tax Code bars an ARB member from participating in a taxpayer protest in which an ARB member or certain relatives of a member has an interest, even if the interest is too small to be considered a substantial interest under provisions of the Local Government Code. One may have an interest in the outcome of a protest for many reasons. If there could be the appearance of favoritism or a conflict of interest, even if the ARB member does not believe he or she would actually be influenced, the Comptroller's office recommends that the ARB member should not participate in the hearing. The public must perceive the ARB as a fair and impartial body where no person, business or property is favored over another.

ARB members should take great care to avoid conflicts of interest or the appearance of improper actions. Keep in mind that a member of an ARB "may not participate in the determination of a taxpayer protest in which he is interested."⁵⁸

If a court finds a violation of the law, it may nullify the ARB decision. A violation of Local Government Code Chapter 171 could result in the commission of a Class A misdemeanor.

⁵⁵ Local Government Code Chapter 171

⁵⁶ Tax Code §41.69

⁵⁷ Local Government Code §171.009

⁵⁸ Tax Code §41.69

EXHIBIT 7
Conflict of Interest Affidavit



Conflict of Interest Affidavit

Property Tax
Form 50-229

State of Texas

County of _____

Before me, the undersigned authority, on this day personally appeared _____, who being by me duly sworn, on oath deposed and said:

My name is _____. I am a member of the Appraisal Review Board for the _____ County Appraisal District. I own substantial interest in _____.

The nature and extent of this substantial interest is as follows: (initial all that apply)

_____ I own 10% or more of the voting stock or shares of the above-referenced business entity.

_____ I own 10% or more or \$15,000 or more of the fair market value of the above-referenced business entity.

_____ Funds I received from the above-referenced business entity exceed 10% of my gross income for the previous year.

_____ I have an interest in the above-referenced real property and the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

_____ I am related in the first degree by consanguinity or affinity to a person who has a substantial interest in above referenced business or real property.

**sign
here** ➡

Date _____

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

**sign
here** ➡

Notary Public, State of Texas

Commission expires _____

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax

50-229 • 10-11/3



Chapter 3

Resolving Disputes and Approving Appraisal Records

ARBs consider taxpayer protests in a short period of time. The ARB should begin its work by May 15 and is required by statute to substantially complete its work by July 20. The board of directors of an appraisal district in a county with a population of at least 1 million may, by resolution, extend the deadline to Aug. 30. During this time, ARB members hear and make determinations on taxpayer protests and taxing unit challenges.

The ARB's review process generally involves the following six steps:

- Step 1. Chief appraiser submits the appraisal records to the ARB;
- Step 2. ARB hears and determines taxing unit challenges;
- Step 3. ARB hears and determines taxpayer protests;
- Step 4. ARB issues orders determining protests or challenges and sends these to the chief appraiser and to parties;
- Step 5. ARB approves the appraisal records; and
- Step 6. Chief appraiser certifies an appraisal roll to each taxing unit.

Step 1 – Chief appraiser submits records to the ARB

The chief appraiser begins the review process by formally transferring the appraisal records to the ARB by May 15.⁵⁹ The chief appraiser may submit all records at once or may submit them in groups. The chief appraiser submits a sworn statement with the appraisal records. An example of such a statement may be found in the following exhibit (**Exhibit 8**).⁶⁰

⁵⁹ Tax Code §25.22

⁶⁰ Tax Code §25.22

EXHIBIT 8

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

Source: Texas Comptroller of Public Accounts.

Step 2 – ARB hears taxing unit challenges

The ARB hears any taxing unit's formal objections to the records. The Tax Code calls a taxing unit hearing a challenge. The taxpayer's hearing is called a protest.

Taxing unit challenges are limited. Taxing units cannot dispute the appraised value placed on a particular property for review; but, they may challenge the following:

- the level of appraisal of any category of property or geographical area in the district (but not the appraised value of a single parcel of property);
- exclusion of property from the appraisal records for the unit or the district;
- a grant in whole or in part of a partial exemption;
- a determination that land qualifies for special appraisals; and
- failure to identify a taxing unit in which a property is taxable.⁶¹

⁶¹ Tax Code §41.03

EXHIBIT 9
Petition Challenging Appraisal Records



Petition Challenging Appraisal Records

Property Tax
Form 50-215

Case No. _____

This petition is brought before the Appraisal Review Board of _____
County, Texas to challenge the appraisal records for tax year _____. Taxing unit _____
Address _____

Taxing unit challenges the following with respect to the property, category of property or geographical area described below:

- ☐ the level of appraisals of any category of property in the district or in any geographical area in the district, but not the appraised value of a single taxpayer's property;
- ☐ an exclusion of property from the appraisal records;
- ☐ a grant in whole or in part of a partial exemption;
- ☐ a determination that land qualifies for appraisal as provided by Subchapter C, D, E, or H, Chapter 23 Property Tax Code; or
- ☐ failure to identify the taxing unit as one in which a particular property is taxable.

Describe the property, category of property or geographical area involved in this challenge.

Briefly explain why the challenge is necessary.

Name Title Taxing Unit Name
sign here ➡ _____

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax
50-215 • 11-11/4

Appraisal level challenges can have a significant impact on the appraisal roll. If improper appraisal methods have affected a group of similar properties or a particular area, the taxing unit may challenge the appraisal district's overall appraisal level of that group or area.

For example, a taxing unit may believe that the chief appraiser has appraised single-family residences in the appraisal district below market value. In a challenge hearing, the unit attempts to prove it by presenting relevant evidence. If a taxing unit's evidence shows a group of properties is undervalued, the ARB should direct the chief appraiser to reappraise the property within the category or within the specified territory. The ARB can also direct the chief appraiser to make corrections to the appraisal records that are necessary to make them conform to the requirements of law.⁶²

Taxing units must file challenges before June 1 or within 15 days after the chief appraiser submits the appraisal records, whichever is later.⁶³ **Exhibit 9** is an example of a challenge petition.

The ARB must notify the taxing unit in writing of the date, time and place of its challenge hearing. The ARB sends the notice by first-class mail at least 10 days before the hearing date. The ARB's secretary also must deliver notice of the date, time and place for the challenge hearing to each taxing unit in which the property involved in the challenge is or may be taxable.⁶⁴ Each taxing unit may attend to offer evidence or argument.⁶⁵

When the challenge includes property involving taxable leasehold or other type of interest in property owned by the state or a taxing unit, the state or unit also receives notice of the ARB hearing. The state or taxing unit may appear at the ARB hearing to offer evidence and arguments.⁶⁶ If an ARB correction increases a property owner's tax liability, the affected owner must be sent a correction order and given 30 days from the date of mailing to file a protest and request a hearing.⁶⁷

Step 3 – ARB hears property owner protests

The usual last day for filing a protest is May 31. Although the Tax Code sets a deadline of April 30 for a single-family residence that qualifies for a residence homestead exemption, the deadline may be extended to May 31 if the protest is filed before the ARB has approved the appraisal records.⁶⁸ Other exceptions to the normal deadline are discussed later in this section.

Who may file

Normally, the person who owned the property Jan. 1 or the person's agent files a protest.⁶⁹ A taxpayer who acquires property between Jan. 1 and the protest deadline may file a protest in the place of the owner on Jan. 1. A taxpayer who acquires property while a protest is pending may apply to the ARB to continue the protest in the place of the owner who filed the protest.⁷⁰ A person who claims an interest in the property may file a protest even if the person is not shown as the owner on the appraisal district records. Both previous and current property owners can file. The ARB should hold a joint hearing for both.

The Tax Code allows a lessee who is contractually obligated to reimburse the lessor (property owner) for property taxes to protest to the ARB the appraised value of the leased property. The lessee may protest only if the lessor does not protest; the protest is limited to a single protest by either the property owner or the lessee. The lessee's right to protest exists for leased personal or real property. The lessee assumes all rights to receive notices from the ARB relating to the protest because the lessee is considered the property owner for the protest. The person bringing a protest under these provisions of law is considered the owner of the property for purposes of the protest.⁷¹

Filing deadlines

The usual deadlines for filing protests are April 30 and May 31, as previously stated.⁷² The filing deadline, however, is postponed until the next business day if the deadline falls on a Saturday, Sunday or a legal state or national holiday.⁷³

⁶² Tax Code §41.07

⁶³ Tax Code §41.04

⁶⁴ Tax Code §41.06

⁶⁵ Tax Code §41.05

⁶⁶ Tax Code §41.06(c)

⁶⁷ Tax Code §§41.11 and 41.44

⁶⁸ Tax Code §§41.44(a)(1) and 41.44(b-1)

⁶⁹ Tax Code §§41.41 and 1.111

⁷⁰ Tax Code §41.412

⁷¹ Tax Code §41.413

⁷² Tax Code §41.44

⁷³ Tax Code §1.06

The usual deadline may be postponed in a number of cases. If the appraisal district mails a notice of appraised value after the delivery deadline of April 1 for residence homesteads and May 1 for other properties, the deadline is 30 days from the mailing date.⁷⁴ The deadline to protest a change of use determination for agricultural land or a protest of determination of refund for heavy equipment dealers is 30 days after notice is delivered to the property owner.⁷⁵

A property owner who misses the original deadline for good cause may still file a protest. The deadline in this case is the day before the ARB approves the appraisal records.⁷⁶ In such a case, the property owner receives a two-step hearing. First, the ARB decides whether the property owner had good cause for missing the deadline. Second, if the ARB determines the owner had good cause, the ARB hears the protest. A good cause is usually something not within the taxpayer's control. ARB policies should address the issue of what constitutes good cause.

The deadline to protest changes the ARB makes to the appraisal records under Tax Code Chapter 25 is within 30 days of the date notice of the ARB change is delivered to the owner.⁷⁷

The deadline for filing a protest may be contested if the property owner claims the appraisal district or ARB did not mail a required notice. To perfect such a protest, a property owner must pay before the delinquency date, the amount of taxes due on the portion of the taxable value of the property that is the subject of the protest and that is not in dispute, or forfeit his or her right to a final determination of the protest. The ARB is authorized to excuse this payment requirement if the property owner files an oath of inability to pay the taxes.⁷⁸

If a lessee is contractually obligated to reimburse the owner for property taxes, the lessor is required to send to the lessee a copy of the property's notice of appraised value. However, failure to do so does not affect the protest deadline for the property in question.⁷⁹

The law also allows property owners working offshore or on full-time active military duty out of the country on the date of the deadline to file a late protest. The owner or his or her agent must file the protest before taxes on the property become delinquent. A person working offshore would have to be continuously employed in the Gulf of Mexico for a period of at least 20 days during which the protest deadline passed. The owner may provide evidence of their offshore employment by furnishing the ARB a letter from their employer or supervisor or, if the owner is self-employed, a sworn affidavit. For active duty military personnel, the property owner must provide a valid military identification card and a deployment order.⁸⁰

Forfeiture of remedy for nonpayment of taxes

A property owner may lose the right to a final determination of a protest claiming the ARB did not mail a required notice if certain taxes are not paid. The Tax Code provides that the pendency of this protest does not affect the delinquency date for the taxes on the protested property. However, the delinquency date applies only to the amount of taxes required to be paid. The delinquency date is postponed to the 125th day after the date one or more taxing units first delivered written notices of the taxes due. If the property owner pays the taxes not in dispute, the delinquency date for any additional amount of taxes due on the property is due on receipt of the supplemental tax bill under Tax Code Sections 42.42 (b) and (c).

A property owner who pays an amount of taxes greater than required does not forfeit the right to a final determination of protest by making the payment. If the protest filed under these provisions is timely, the taxes paid are considered paid under protest, even if paid before the motion is filed.⁸¹

Notice of protest

A property owner's written notice of protest may take any form, but must be in writing and show at least the following three elements: the property owner's identification; the property's that is the subject of the protest; and an indication of the owner's dissatisfaction with some determination by the appraisal district.⁸²

A notice of protest is not untimely or insufficient based on a finding of incorrect ownership if the notice identifies the

⁷⁴ Tax Code §25.19(a)

⁷⁵ Tax Code §§41.44(a)(4) and 41.44(a)(5)

⁷⁶ Tax Code §41.44(b)

⁷⁷ Tax Code §41.44(a)(3)

⁷⁸ Tax Code §41.411 and §41.4115

⁷⁹ Tax Code §41.413(d)

⁸⁰ Tax Code §41.44(c-1)-(c-2)

⁸¹ Tax Code §41.4115

⁸² Tax Code §41.44(d)

property owner for the tax year at issue or uses a misnomer of a person or who is:

- an owner of the property at any time during the tax year;
- the person shown on the appraisal records as the owner of the property, if that person filed the protest;
- a lessee authorized to file a protest; or
- an affiliate of or entity related to a person described above.⁸³

The Comptroller's office has adopted a model notice of protest form that ARBs and appraisal districts must make easily accessible to the public and deliver to an owner who requests the form. The Comptroller's model form (**Exhibit 10**) permits the property owner to request a copy of the ARB's hearing procedures.

Property owners who live in a county with a population of more than 500,000 and are protesting the determination of the appraised value or an unequal appraisal of a home designated as a residential homestead may file their protests electronically. An electronic notice of protest must include a statement that the protest is brought under Tax Code Sections 41.41(a)(1) or 41.41(a)(2); statement of the property owner's good faith estimate of the value of the property; and an e-mail address that the appraisal district may use to communicate electronically with the property owner in connection with the protest. The appraisal district is required to maintain the e-mail address in confidence.⁸⁴ Electronic filing is available for all counties that maintain an Internet website that is accessible to the public.

Notice of hearing

The ARB must provide a protesting property owner, authorized person,⁸⁵ or agent⁸⁶ with written notice of the time, date and place of the protest hearing and of the property owner's entitlement to a postponement of the hearing (**Exhibit 11**). The ARB must deliver the notice by first-class mail at least 15 days before the scheduled hearing date. Electronic notices may be provided in certain situations.⁸⁷ A property owner, however, may waive in writing his or her right to the hearing notice.⁸⁸ Additionally, the chief appraiser is entitled to

advance notice of the hearing, but the law does not specify how far in advance.⁸⁹

The Comptroller's publication *Property Taxpayer Remedies*, ARB hearing procedures and notification about the availability of information described below may be delivered at the same time that the ARB provides the notice of hearing. If the notice of hearing is delivered on time, the materials and information mentioned below will be delivered one day ahead of schedule. One mailing thus ensures compliance with both laws.

When the protest hearing concerns property involving taxable leasehold or other type of interest in property owned by the state or a taxing unit, the state or unit also receives notice of the ARB hearing. The state or taxing unit may appear at the ARB hearing to offer evidence and arguments.⁹⁰

Delivery of certain information to protesting party

The chief appraiser must deliver certain materials and information to a property owner initiating a protest or to an agent representing the owner if requested by the agent at least 14 days before a protest hearing. They are:

- a copy of the Comptroller's office publication *Property Taxpayer Remedies* to the property owner or to the owner's agent (on agent request);
- a copy of the ARB's hearing procedures; and
- notification that the owner has a right to inspect and copy the data, schedules, formulas and any other information the chief appraiser plans to introduce at the hearing to establish any matter at issue.⁹¹

By notifying the property owner that the owner or the owner's agent may inspect and obtain a copy of the data, schedules, formulas and other information, a right to the delivery of a copy of the material 14 days before a protest hearing is not created. This information may be requested by a protesting party and must be made available at least 14 days before the scheduled or postponed hearing. If it is not available, as contrasted to not delivered, the information may not be used as evidence in the hearing.⁹² A taxpayer filing a protest online

⁸³ Tax Code §41.44(e)

⁸⁴ Tax Code §41.415

⁸⁵ Tax Code §1.111(j)

⁸⁶ Tax Code §1.111(a)

⁸⁷ Tax Code §1.085

⁸⁸ Tax Code §41.46(a)

⁸⁹ Tax Code §41.46(b)

⁹⁰ Tax Code §41.46(c)

⁹¹ Tax Code §41.461(a)

⁹² Tax Code §41.67(d)

EXHIBIT 10
Notice of Protest



Property Appraisal – Notice of Protest

Property Tax
Form 50-132

Appraisal District's Name

Phone (area code and number)

Address

INSTRUCTIONS: If you want the appraisal review board to hear and decide your case, you must file a written notice of protest with the appraisal review board (ARB) for the appraisal district that took the action you want to protest. If you are leasing the property, you are subject to the limitations set forth in Texas Tax Code, section 41.413.

FILING DEADLINES: The usual deadline for filing your notice (having it postmarked if you mail it) is midnight, May 31.

A different deadline will apply to you if:

- your notice of appraised value was delivered to you after May 2;
- your protest concerns a change in the use of agricultural, open-space or timber land;
- the appraisal district or the ARB was required by law to send you notice about a property and did not; or
- the ARB made a change to the appraisal records that adversely affects you and you received notice of the change;
- in certain limited circumstances, you had good cause for missing the May 31 protest filing deadline.

Contact the appraisal review board for your specific protest filing deadline.

POSTPONEMENT OF HEARING: You are entitled to one postponement of the hearing on your protest without showing cause if you have not designated an agent to represent you at the hearing and you request the postponement with the appraisal review board before the date of the hearing. You are also entitled to postpone your hearing if you or your agent show good cause for the postponement. "Good cause" is defined in Texas Tax Code, section 41.45(e-2) as a "reason that includes an error or mistake that: (1) was not intentional or the result of conscious indifference; and (2) will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling."

ASSISTANCE: The Comptroller (including the Property Tax Assistance Division) may not advise a property owner, a property owner's agent, an appraisal district, or an appraisal review board on a matter that the comptroller knows is the subject of a protest to the appraisal review board.

STEP 1: Owner's or lessee's name and address.

Owner's or Lessee's First Name and Initial

Last Name

Owner's or Lessee's Current Mailing Address (number and street)

City, State, ZIP Code

Phone (area code and number)

STEP 2: Describe property under protest.

Give Street Address and City if Different from Above, or Legal Description if No Street Address

Appraisal District Account Number (if known)

Mobile Homes (give make, model and identification number)

STEP 3: Check reasons for your protest.

Failure to check a box may result in your inability to protest an issue. If you check "value is over market value," you are indicating that the appraised value is excessive and your property would not sell for the amount determined by the appraisal district. If you check "value is unequal as compared to other properties," you are indicating that your property is not appraised at the same level as a representative sample of comparable properties, appropriately adjusted for condition, size, location, and other factors. Your property may be appraised at its market value, but be unequally appraised. An appraisal review board may adjust your value to equalize it with other comparable properties. Please check all boxes that apply in order to preserve your rights so that the appraisal review board may consider your protest according to law.

- | | |
|--|--|
| <input type="checkbox"/> Value is over market value. | <input type="checkbox"/> Change in use of land appraised as ag-use, open-space or timber land. |
| <input type="checkbox"/> Value is unequal compared with other properties. | <input type="checkbox"/> Ag-use, open-space or other special appraisal was denied, modified or cancelled. |
| <input type="checkbox"/> Property should not be taxed in _____.
(name of taxing unit) | <input type="checkbox"/> Owner's name is incorrect. |
| <input type="checkbox"/> Failure to send required notice. _____.
(type) | <input type="checkbox"/> Property description is incorrect. |
| <input type="checkbox"/> Exemption was denied, modified or cancelled. | <input type="checkbox"/> Property should not be taxed in this appraisal district or in one or more taxing units. |
| | <input type="checkbox"/> Other: _____ |

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax
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EXHIBIT 10 (CONTINUED)
Notice of Protest (page 2)



Property Appraisal – Notice of Protest

STEP 4: Give facts that may help resolve your case *(continue on additional page if needed).*

What do you think your property's value is? *(Optional)* \$ _____

STEP 5: Check to receive ARB hearing procedures.

I want the ARB to send me a copy of its hearing procedures. ☐ Yes ☐ No*

** If your protest goes to a hearing, you will automatically receive a copy of the ARB's hearing procedures.*

STEP 6: Sign here.

**sign
here** ➡

Signature _____

Date _____

For more information, visit our website: www.window.state.tx.us/taxinfo/proptax

EXHIBIT 11
Notice of Protest Hearing



Notice of Protest Hearing

Property Tax
Form 50-216

Notice of Protest Hearing for Tax Year _____

Appraisal Review Board for the _____ Appraisal District.

Case Number _____

Account Number _____

Name of Property Owner _____

Property Address _____

Property Description: _____

Dear Property Owner:

You filed a notice of protest on the above referenced account and we have scheduled you for a hearing. The date, time, and place of your hearing are as follows:

Date: _____

Time: _____

Place: _____

NOTE: On request made to the appraisal review board before the date of the hearing, a property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing is entitled to one postponement of the hearing to a later date without showing cause. In addition and without limitation as to the number of postponements, the board shall postpone the hearing to a later date if good cause is shown by the property owner or the owner's agent or if the chief appraiser consents to the postponement. The hearing may not be postponed to a date less than five or more than 30 days unless agreed to by the chief appraiser and the appraisal review board chairman or his representative.

It is important that you appear for your hearing at the date and time scheduled. Failure to appear may result in the dismissal of your protest and may jeopardize other rights to which you may otherwise be entitled.

If you do not want to attend the hearing, the law allows you to submit your evidence in the form of a sworn affidavit. The property owner must attest to the affidavit before a Notary Public or an officer authorized to administer oaths. The affidavit must arrive at the ARB's office prior to the date and time of the hearing.

You may also have a representative or agent appear for you. This person must have written authorization to represent you. The authorization form must be signed by you and must be filed with the appraisal district at or before the hearing on the motion or protest.

For your hearing, you should bring written evidence and/or documentation of value to support your protest. You or your agent may inspect and may obtain a copy of the data, schedules, formulas, and all other information the chief appraiser plans to introduce at the hearing. If you have further questions or if you require accommodations due to disability, please contact: _____.

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax
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is also entitled to receive electronically comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the board.⁹³

The Public Information Act excludes certain real property sales data given to appraisal districts from public disclosure.⁹⁴ This fact does not affect the availability of evidence to be provided to a protesting property owner. A property owner has a right to obtain copies of sales and other data the chief appraiser used to establish the owner's appraised or market value.⁹⁵ A property owner or the owner's designated agent is entitled to inspect and copy the appraisal records relating to property of the property owner, together with supporting data, schedules, and any other material or information that is obtained or used in making appraisals for the appraisal records related to that property. Except for the purpose of appraising residential property or vacant land, confidential information obtained under Tax Code §22.27 or used in making appraisals for property (other than residential or vacant land) may not be inspected.⁹⁶

The owner or agent may also ask for and receive a copy of each item of information the chief appraiser took into consideration but does not plan to introduce at the protest hearing. In addition, the protesting party may ask for and receive from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the ARB at the owner's protest. Once the property owner or agent has this information it remains confidential and cannot be disclosed or used except at the protest hearing.⁹⁷

The chief appraiser may not charge more than \$15 for copies of material related to a residential property protest. The charge for materials related to one non-residential property is limited to \$25.⁹⁸ If the charge is less than these limits, the appraisal district must only charge the amount permitted by the Public Information Act.⁹⁹

The ARB's protest procedures must also be delivered to a protesting property owner upon request. The ARB must ensure that this information is provided. The requested ARB

hearing procedures must be delivered at least 10 days before the scheduled hearing. The law requires that the notice of protest have a space for the property owner to accept or decline delivery of the procedures.¹⁰⁰

Appraisal records

Property owners and their agents are entitled to inspect and copy appraisal records relating to their property, along with supporting data, schedules and other information, including confidential information if the property is residential or vacant land. They also have the right to inspect and copy appraisal firm information used or considered in the owner's appraisal at the offices of an appraisal firm under contract with the appraisal district to appraise property. The appraisal firm must make the information available for inspection and copying not later than the 15th day after delivery of a written request to inspect the information.¹⁰¹

If denied the information, the owner or agent may take the denial to the ARB for a special hearing. Failure by the appraisal firm to provide the requested information may result in an ARB decision not to approve the appraisal records relating to the property until the requested information is made available.¹⁰²

Waiver of protest

Many appraisal districts encourage a property owner to meet with an appraisal district staff member to try to resolve the dispute before the formal hearing. Residence homestead owners may reach a settlement with the appraisal district by electronic exchange of data,¹⁰³ if the appraisal district maintains an Internet website that is accessible to the public.

If the property owner and appraisal district reach a settlement agreement to the owner's protest at the informal meeting or by electronic exchange, both parties may sign a settlement and waiver of protest form (**Exhibit 12**).

By signing this form, the property owner agrees on a settlement with the appraisal district and drops the protest on the matter. If the owner's agent signs the form, the agreement between the agent and the appraisal district is final. The ARB

⁹³ Tax Code §41.415(b)(2)

⁹⁴ Government Code §552.149(a)

⁹⁵ Government Code §552.149(b)

⁹⁶ Tax Code §25.195

⁹⁷ Government Code §552.149(b)

⁹⁸ Tax Code § 41.461 (b)

⁹⁹ Government Code §552.261

¹⁰⁰ Tax Code §41.66(a)

¹⁰¹ Tax Code §§25.195 and 22.27

¹⁰² Tax Code §25.195(e)

¹⁰³ Tax Code §41.415

may not review or reject agreements between an owner and the appraisal district.

If the property owner rejects a settlement offer made in person or electronically, the ARB must hear and determine the property owner's protest, provided the owner filed a timely notice of protest.

Grounds for protest

The Tax Code permits a property owner to protest any of the following issues:

- appraisal that exceeds the appraised or market value of the property;
- unequal appraisal;
- inclusion of the property on the appraisal records;
- denial in whole or in part of a partial exemption;
- determination that the property does not qualify for special appraisal;
- identification of the taxing units in which the property is taxable;
- determination of the property's ownership;
- determination that the use of agricultural or timber land has changed; or
- any other action of the appraisal district, chief appraiser or ARB that applies to and adversely affects the property owner.¹⁰⁴

Property owner representation

A property owner may have a property tax consultant (also known as an agent) present the protest, provided that the owner, a property manager or other person who has legal authority to act for the property owner in naming tax agents authorizes the agent's appointment in writing in a form prescribed by the Comptroller's office. The agent cannot sign the form on behalf of the owner. The property owner must use Comptroller Forms 50-162 or 50-241 for designating an agent (**Exhibits 13 and 14**).¹⁰⁵

Form 50-162 addresses designating an agent for property other than a single-family residence in which the owner resides. The second form — Form 50-241 — is for designating an agent for a single-family residence and states in bold-face type that a taxpayer may wish to contact the appraisal office or taxing units for free information or forms. Use of

the form is required unless the property owner filed a valid designation before Jan. 1, 1990. The ARB may not require a property owner to designate an agent in any other manner. An owner does not have to file a form for an attorney, mortgage lender, an owner's employee or a person who simply acts as a courier.

If the property owner filed a valid agent appointment form, the agent must use Form 50-163 to update the appraisal district's agent records for that property owner. It must include all the requested information and the agent must attach a copy of the previously filed agent appointment form (**Exhibit 15**).

An individual exempt from registration as a property tax consultant who is not supervised, directed or compensated by a person who is required to register as a consultant and who files a protest with the ARB on behalf of the property owner may represent the owner at a protest hearing and is entitled to receive all ARB notices.¹⁰⁶ A statement must be filed with the protest indicating the individual's authorization.

Granting a hearing

The ARB determines whether or not it will hear a protest. The ARB decides if the protest notice is timely filed and the notice has the necessary elements that make up a protest. Carefully determining whether the property owner is entitled to a hearing protects the owner's right to protest. Also, the ARB may find itself defending a lawsuit if it denies a hearing to which a property owner was entitled.

A property owner who is denied a hearing has the right to bring suit directly to district court. The owner may sue directly by filing a petition or an application to force the ARB to provide the hearing. If the court finds that the owner was wrongfully denied a hearing, it will order the ARB to hold the hearing. In addition, the court may award the property owner court costs and attorney's fees.¹⁰⁷

A property owner with pooled or unitized mineral interests may file protests with the ARBs of more than one appraisal district. The ARB for the county where the production site is located must hear and decide on the protest before any other ARB in the other appraisal district(s) may hold a hearing on a protest filed with that ARB. If there are two or more production sites for the pooled or unitized mineral interests, the

¹⁰⁴ Tax Code §41.41(a)

¹⁰⁵ Comptroller Rule 9.3044

¹⁰⁶ Tax Code §1.111(j)

¹⁰⁷ Tax Code §41.45(f)

EXHIBIT 12
Settlement and Waiver of Protest



Settlement and Waiver of Protest

Property Tax
Form 50-218

To the Appraisal Review Board for _____ County

Case no.: _____ Date filed: _____

Property owner: _____ Description of property: _____

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SETTLEMENT AND WAIVER OF PROTEST

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

Describe actions to be taken: _____

Property owner

**sign
here** ➡

Appraisal District Representative

**sign
here** ➡

Agent's signature if on behalf of property owner

**sign
here** ➡

Date

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our Web site:
www.window.state.tx.us/taxinfo/proptax

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ARB in the county where at least two-thirds of the area of the mineral interest is located hears and decides the protest before the other ARB(s).¹⁰⁸

Step 4 – ARB orders changes resulting from hearings

The ARB may rule on a protest at the conclusion of the protest hearing or may postpone the decision to a later date. If the ARB divides into panels to hear separate cases, a hearings panel cannot make a final decision. An ARB's decision is *not final* until a majority of the entire ARB approves the panel's recommendation.

The ARB's procedures should address how the ARB will handle panel recommendations. The procedures should include if and how the ARB will handle requests by property owners or the chief appraiser to offer new or additional evidence, to rehear a taxpayer's protest before the full ARB or to limit issues to those presented to the panel.

Another panel hearing will be conducted if the full ARB rejects a panel's decision. The second panel must be composed of ARB members who did not hear the first protest hearing. If three members are not available to make up a new panel, the full ARB may determine the protest. The ARB must notify the taxpayer of the new hearing in the same manner provided for a regular ARB hearing.¹⁰⁹

If the ARB postpones a decision, it must tell the parties when it will make the final decision. Any postponed decisions must be in open sessions.

The ARB's final orders come in two forms: an order determining a protest and an order determining a challenge. These are written orders issued to the chief appraiser, signed by the ARB chair and specifying the ARB's disposition of the protest or challenge. The ARB also issues notices of these orders. The ARB must state in its order the value shown on the appraisal records submitted by the chief appraiser and the value as finally determined if the protest before the ARB is about the appraised value of the owner's property.¹¹⁰ Although it isn't clear whether this requirement applies to decisions of unequal appraisal or a motion to correct, the best practice

would be to include both values. The ARB records should indicate a conclusion to each issue protested by the property owner. **Exhibit 16** shows an example of an order determining a protest; this example is not mandatory. It is important, however, that orders state specifically the issues being determined, such as excessive valuation or unequal appraisal.

Step 5 – ARB approves appraisal records

The ARB should approve appraisal records by July 20. The board of directors of an appraisal district in a county with a population of at least 1 million may, by resolution, extend the deadline to Aug. 30.¹¹¹

Taxing units may sue the ARB or chief appraiser in district court for failure to meet the deadlines. If the court finds the deadline was missed for a good reason, it must set a new deadline. If the court finds there was not a good reason, the deadline becomes 10 days from the date the court signs the judgment. The court may enforce its deadlines by holding parties in contempt, or may make any other order necessary to ensure compliance.¹¹²

It may be impossible or impractical to approve the appraisal records by the July 20 deadline. The ARB must substantially complete all protest hearings before approving the appraisal records. If the sum of appraised values of property on which taxpayers have filed protests, but have not received determinations is more than 5 percent of the total appraised value of other properties in the appraisal district, the ARB cannot approve the appraisal records.¹¹³

To help achieve 95 percent completion of the appraisal records, the ARB may wish to hear protests first on properties with larger appraised values before it hears protests on properties with lower appraised values.

The board of directors of an appraisal district in a county with a population of at least 1 million may change the threshold percentage from 95 percent to 90 percent.¹¹⁴ In other words, the value involved in pending protests at the time of appraisal record approval may not be more than 10 percent of

¹⁰⁸ Tax Code §41.455

¹⁰⁹ Tax Code §41.45(d)

¹¹⁰ Tax Code § 41.47 (c)

¹¹¹ Tax Code §41.12

¹¹² Tax Code §43.04

¹¹³ Tax Code §41.12

¹¹⁴ Tax Code §41.42(c)

the appraised value of properties that are not under protest in the appraisal district.

If the ARB believes it will not complete its review by July 20, or Aug. 30 in the larger counties, it should notify the chief appraiser and the taxing units of the earliest estimated date for completion and explain the reasons for the delay. However, the ARB should make every effort to meet the July 20 or Aug. 30 deadlines.

Step 6 – Chief appraiser certifies appraisal roll to each taxing unit

The appraisal records, as the ARB changes and approves them, constitute the appraisal roll for the appraisal district. July 25 is the deadline for the chief appraiser to prepare and certify each taxing unit's appraisal roll to its tax assessor.¹¹⁵

When protests are still pending after certification, the chief appraiser gives each taxing unit a list of pending protests with the unit's certified appraisal roll.

The list must show each property and give two values for each – the value proposed by the appraisal district and the value claimed by the property owner. The chief appraiser must estimate a probable value for the property if the owner does not indicate a value in the protest. The taxing unit uses the lower of the two values in calculating its effective and rollback tax rates.¹¹⁶

A taxing unit cannot levy a tax on a property under protest until the ARB approves a final value for that property. The Tax Code contains procedures for adding approved supplemental records to appraisal and tax rolls.¹¹⁷

¹¹⁵ Tax Code §26.01(a)

¹¹⁶ Tax Code §26.01(c)

¹¹⁷ Tax Code §§25.23, 25.25 and 26.15

EXHIBIT 13
Appointment of Agent for Property Taxes



Appointment of Agent for Property Taxes

Property Tax
Form 50-162

Date received (appraisal district use only)

Appraisal district name

Appraisal district phone (area code and number)

Address

INSTRUCTIONS

You can use this form:

- To name a tax agent to represent you on property tax matters;
- To direct that tax notices be mailed to a person you name.

Read the instructions carefully. This form will be in effect until you file another form with the appraisal district that revokes it or until you file a form that names a different agent.

STEP 1: Owner's name and address

Owner's name

Present mailing address (number and street)

City, town or post office, state, ZIP code

Phone (area code and number)

STEP 2: Describe the property

- ☐ All property listed for this owner at the above address
- ☐ The following property (give account number or legal description)

(continue on attached page if needed)

STEP 3: Specify the agent's authority for property tax matters (skip to step 6 if you want to change tax notice mailing)

- ☐ General power to represent me in property tax matters concerning this property
- ☐ Specified powers: the agent has only the powers checked below
- ☐ file notices of protest and present protests before the appraisal review board
 - ☐ receive confidential information
 - ☐ negotiate and resolve disputed tax matters
 - ☐ other action (specify) _____

STEP 4: Name the agent for property tax matters

Agent's name

Present mailing address (number and street)

City, town or post office, state, ZIP code

Phone (area code and number)

STEP 5: Date the agent's authority ends

If you do not fill in a date, the agent's authority will continue indefinitely. You must file a statement revoking this form or designate a new agent to end the agent's authority.

Date

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our Web site:
www.window.state.tx.us/taxinfo/proptax

50-162 • 08-09/6

EXHIBIT 13 (CONTINUED)
Appointment of Agent for Property Taxes (page 2)



Appointment of Agent for Property Tax

Complete steps 6-9 if you want tax notices mailed to an agent.

SKIP TO STEP 10 IF YOU DON'T WANT TO CHANGE TAX NOTICE MAILING.

STEP 6: Check if you want property tax notices delivered to an agent

- ☐ I want my agent to receive all my property tax notices and other communication for this property, including appraisal notices, appraisal review board orders and hearing notices, tax bills and collection notices.
- ☐ I want my agent to receive only the following:
- ☐ All communications from the chief appraiser.
 - ☐ All orders, notices and other communications from the ARB.
 - ☐ All tax bills and notices from all taxing entities served by the appraisal district.

NOTE: These notices can affect your legal rights. The affected offices are not required by law to send you duplicate copies.

STEP 7: Describe the property for which property tax notices will be delivered

- ☐ The following property (give account number or legal description)

(continue on attached page if needed)

- ☐ My agent will provide a list

NOTE: the designation of an agent to receive communication only applies to properties you expressly identify and only affects notices generated after the date you file the list identifying the property with the appraisal district.

STEP 8: Name the person who will get the notices

Name of person or firm

Present mailing address (number and street)

City, town or post office, state, ZIP code

Phone (area code and number)

STEP 9: Date the change of delivery ends

If you do not fill in a date, tax notices will continue to be mailed to your agent indefinitely. You must file a statement revoking this form or designate a new agent to end the agent's authority.

Date

STEP 10: Sign the form

**sign
here** ➡

Owner, property manager, or person authorized to act on behalf of the owner.

Date the designation took effect

This form must be signed by the property owner; a property manager authorized to designate agents for the owner; or another person authorized to act on behalf of the owner other than the person being designated as agent on this form. A property manager or other person should attach a copy of the document authorizing the person to designate agents or act on behalf of the owner.

If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

For more information, visit our Web site: www.window.state.tx.us/taxinfo/proptax

EXHIBIT 14

Appointment of Agent for Single-Family Residential Property Tax Matters

Appointment of Agent for Single-Family Residential Property Tax Matters

Property Tax
Form 50-241

Date received (appraisal district use only)

Appraisal district name

Appraisal district phone (area code and number)

Address

INSTRUCTIONS

In some cases, you may want to contact your appraisal district or other local taxing units for free information and/or forms concerning your case before designating an agent.

You can use this form:

- To name a tax agent to represent you on property tax matters involving single-family residential property;
- To direct that tax notices involving single-family residential property be mailed to a person you name.

Read the instructions carefully. This form will be in effect until you file another form with the appraisal district that revokes it or until you file a form that names a different agent.

STEP 1: Owner's name and address

Owner's name

Present mailing address (number and street)

City, town or post office, state, ZIP code

Phone (area code and number)

STEP 2: Describe the property

- ☐ All property listed for this owner at the above address
- ☐ If not all property listed above, give account number or legal description of property (continue on attached pages if needed):

STEP 3: Specify the agent's authority for property tax matters (skip to step 6 if you want to change tax notice mailing)

- ☐ General power to represent me in property tax matters concerning the single-family residential property
- ☐ Specified powers: the agent has only the powers checked below:
- ☐ File applications for exemptions.
 - ☐ File notices of protest and present protests before the appraisal review board.
 - ☐ Receive confidential information.
 - ☐ Negotiate and resolve disputed tax matters.
 - ☐ Other action (specify).

STEP 4: Name the agent for property tax matters

Agent's name

Present mailing address (number and street)

City, town or post office, state, ZIP code

Phone (area code and number)

STEP 5: Date the agent's authority ends

If you do not fill in a date, the agent's authority will continue indefinitely. You must file a statement revoking this form or designate a new agent to end the agent's authority.

Date

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our Web site:
www.window.state.tx.us/taxinfo/proptax

50-241 • 8-09/2

EXHIBIT 14 (CONTINUED)

Appointment of Agent for Single-Family Residential Property Tax Matters (page 2)

Appointment of Agent for Single-Family Residential Property Tax Matters

Complete steps 6-9 if you want tax notices mailed to an agent.

SKIP TO STEP 10 IF YOU DON'T WANT TO CHANGE TAX NOTICE MAILING.

STEP 6: Check if you want property tax notices delivered to an agent

- ☐ I want my agent to receive all my property tax notices and other communications for this single-family residential property, including appraisal notices, appraisal review board orders and hearing notices, tax bills and collection notices.
- ☐ I want my agent to receive only the following:
- ☐ All communications from the chief appraiser.
 - ☐ All orders, notices and other communications from the appraisal review board.
 - ☐ All tax bills and notices from all taxing units served by the appraisal district.

NOTE: These notices can affect your legal rights. The affected offices are not required by law to send you duplicate copies.

STEP 7: Describe the property for which property tax notices will be delivered

- ☐ Give account number or legal description of the single-family residential property (*continue on attached pages if needed*):

- ☐ My agent will provide a list

NOTE: The designation of an agent to receive communications only applies to single-family residential properties you expressly identify and only affects notices generated after the date you file the list identifying the property with the appraisal district.

STEP 8: Name the person who will get the notices

Name of person or firm

Present mailing address (*number and street*)

City, town or post office, state, ZIP code

Phone (*area code and number*)

STEP 9: Date the change of delivery ends

If you do not fill in a date, tax notices will continue to be mailed to your agent indefinitely. You must file a statement revoking this form or designate a new agent to end the agent's authority.

Date

STEP 10: Sign the form

**sign
here** ➡

Owner, property manager, or person authorized to act on behalf of the owner.


Date the designation took effect

This form must be signed by the property owner; a property manager authorized to designate agents for the owner; or another person authorized to act on behalf of the owner other than the person being designated as agent on this form. A property manager or other person should attach a copy of the document authorizing the person to designate agents or act on behalf of the owner.

If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

For more information, visit our Web site: www.window.state.tx.us/taxinfo/proptax

EXHIBIT 15
Account update for Agent-Represented Property

 Comptroller of Public Accounts
FORM 50-163 (Rev. 11-07/2)

ACCOUNT UPDATE FOR AGENT-REPRESENTED PROPERTY

Instructions

If you previously filed a valid agent appointment form for a specific property owner, you must use this form to update the appraisal district's agent records for that property owner. Please provide all requested information and attach a copy of the previously filed agent appointment form. Your authority to represent accounts to be added will be as defined in the agent appointment form. If your authority level has been changed by the property owner, you must file a new agent appointment form using State Comptroller's Form 1.111. File this form with *(appraisal district name and address for filing form)*.

Step 1: Owner's name and address	Owner's name	
	CURRENT mailing address (number and street)	
	City, town or post office, state, ZIP code	Phone (area code and number)
Step 2: Agent's name and address	Agent's name	CAD agent code
	Current mailing address (number and street)	
	City, town or post office, state, ZIP code	Phone (area code and number)
Step 3: To add or delete accounts check box (attach addi- tional pages if needed).	Account number	<input type="checkbox"/> Add account <input type="checkbox"/> Delete account
	Description	
	Account number	<input type="checkbox"/> Add account <input type="checkbox"/> Delete account
	Description	
	Account number	<input type="checkbox"/> Add account <input type="checkbox"/> Delete account
	Description	
	Account number	<input type="checkbox"/> Add account <input type="checkbox"/> Delete account
	Description	
	Account number	<input type="checkbox"/> Add account <input type="checkbox"/> Delete account
	Description	
	Account number	<input type="checkbox"/> Add account <input type="checkbox"/> Delete account
	Description	
Step 4: Sign and date the form and attach a copy of the agent appointment form.	I am the authorized agent of the property owner named herein and request the appraisal district to update its records as specified.	
	Signature sign here ➡	Date
	Typed or printed name of agent	

EXHIBIT 16
Example of ARB Final Orders
(Order Determining Protest or Order of Dismissal)



Order Determining Protest or Order of Dismissal

Property Tax
Form 50-221

Appraisal Review Board

Property Account No: _____

_____ County, Texas

Property Legal Description: _____

Case No. _____

Owner's Name: _____

ORDER DETERMINING PROTEST OR ORDER OF DISMISSAL

On _____, _____, the Appraisal Review Board of _____ County, Texas, heard the protest of _____ concerning the appraisal records for tax year _____.

The Board delivered proper notice of the date, time, and place of the hearing. The property owner or agent and the chief appraiser of the appraisal district were given the opportunity to testify and to present evidence. After considering the evidence and arguments presented at the hearing, the Board has determined that the protest concerned the following action(s) permitted by Section 41.41(a), Tax Code:

- ☐ excessive appraised or market value,
- ☐ unequal appraisal,
- ☐ inclusion of the property on the appraisal records,
- ☐ denial in whole or in part of a partial exemption,
- ☐ determination that land does not qualify for appraisal according to Subchapters C, D, E, or H, Chapter 23, or
- ☐ any other matter permitted by Section 41.41(a).

Based on the evidence, the Board makes the following determination(s) as indicated by a ☒ mark and hereby issues the following as its ORDER DETERMINING PROTEST OR ORDER OF DISMISSAL:

- ☐ The appraisal review board lacks jurisdiction to determine the protest and hereby dismisses the protest.
 - ☐ The property's appraised value is excessive, and the appraisal records should be changed to \$ _____ from the CAD value* of \$ _____.*
 - ☐ The property's market value is excessive, and the appraisal records should be changed to \$ _____ from the CAD value* of \$ _____.*
 - ☐ The appraised or market value of the subject property is not excessive and the appraisal records should not be changed or should be increased. The appraised value is \$ _____, and the market value is \$ _____.
 - ☐ The subject property was unequally appraised, and the appraisal records should be adjusted to reflect a value of \$ _____.*
 - ☐ The subject property was not unequally appraised, and the appraisal records should not be changed.
 - ☐ The subject property qualified for the exemption for which application was made, and the appraisal records should be changed accordingly.
 - ☐ The subject property qualified for special appraisal, and the appraisal records should be changed to reflect an appraised value of \$ _____.
 - ☐ The property owner's protest concerning other matters permitted by Section 41.41(a) is upheld, and the appraisal records should be changed to reflect the following change(s): _____.
 - ☐ The property owner's protest concerning other matters permitted by Section 41.41(a) is denied, and the appraisal records should not be changed.
- If changes to the appraisal records are ordered due to a determination of excessive appraised or market value and also a determination of unequal appraisal, the lower of the two determinations shall be shown in the appraisal records.

**sign
here** ➔

Chair, Appraisal Review Board

Date

* as shown in the appraisal records submitted to the board by the chief appraiser under Section 25.22 or 25.23.

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax

50-221 • 11-11/10

EXHIBIT 16 (CONTINUED)
**Example of ARB Final Orders
(Notice of Final Order)**



Notice of Final Order

Property Tax
Form 50-222

Appraisal Review Board

for _____ County

To: _____

Property Account No. _____

Case No. _____

Property Legal Description: _____

Owner's Name _____

A PROPERTY OWNER HAS A RIGHT TO APPEAL IN DISTRICT COURT AN APPRAISAL REVIEW BOARD ORDER DETERMINING A PROTEST AS PROVIDED BY SUBCHAPTER C OF CHAPTER 41, TEXAS TAX CODE. TO APPEAL SUCH AN ORDER TO DISTRICT COURT, A PARTY MUST FILE A PETITION FOR REVIEW WITH THE DISTRICT COURT WITHIN 60 DAYS AFTER THE PARTY RECEIVES NOTICE THAT A FINAL ORDER HAS BEEN ENTERED FROM WHICH AN APPEAL MAY BE HAD OR AT ANY TIME AFTER THE HEARING BUT BEFORE THE 60-DAY DEADLINE. A PROPERTY OWNER ALSO HAS A RIGHT TO APPEAL IN DISTRICT COURT A DETERMINATION OF AN APPRAISAL REVIEW BOARD ON A MOTION FILED UNDER SECTION 25.25, TEXAS TAX CODE. THE LAW PROVIDES THAT TO FILE SUIT TO COMPEL AN APPRAISAL REVIEW BOARD TO ORDER A CHANGE IN THE APPRAISAL ROLL UNDER SECTION 25.25, A PARTY MUST FILE SUIT WITHIN 60 DAYS AFTER THE PARTY RECEIVES NOTICE OF THE APPRAISAL REVIEW BOARD'S DETERMINATION OF A MOTION UNDER SECTION 25.25 OR A DETERMINATION THAT THE PROPERTY OWNER HAS FAILED TO COMPLY WITH THE PRE-PAYMENT REQUIREMENTS. FAILURE TO TIMELY FILE A PETITION BARS AN APPEAL TO DISTRICT COURT.

A PARTY OTHER THAN A PROPERTY OWNER, IN ORDER TO EXERCISE THE PARTY'S RIGHT TO APPEAL AN ORDER OF AN APPRAISAL REVIEW BOARD, MUST FILE A WRITTEN NOTICE OF APPEAL WITHIN 15 DAYS AFTER THE DATE THE PARTY RECEIVES THIS NOTICE OR, IN THE CASE OF A TAXING UNIT, WITHIN 15 DAYS AFTER THE DATE THE TAXING UNIT RECEIVES NOTICE PURSUANT TO SECTION 41.07, TEXAS TAX CODE.

For more information regarding appeal to district court, you should consult Texas Tax Code, Chapter 42 and the clerk of the court. If you need legal advice, you should consult an attorney.

As an alternative to filing an appeal to district court, a property owner may appeal through binding arbitration an appraisal review board order determining a protest filed under Section 41.41(a)(1) of the Texas Tax Code concerning the appraised or market value of property if:

- (1) the property qualifies as the owner's residence homestead under Section 11.13 of the Texas Tax Code; or
- (2) the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less.

To appeal an appraisal review board order through binding arbitration, a property owner must file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order:

- (1) a completed request for binding arbitration, a copy of which is enclosed with this notice; and
- (2) an arbitration deposit made payable to the comptroller in the applicable amount provided under Chapter 41A of the Texas Tax Code.

For more information regarding appeal through binding arbitration, you should consult Texas Tax Code, Chapter 41A and related Comptroller rules. If you need legal advice, you should consult an attorney.

As an alternative to filing an appeal to district court, certain property owners may appeal to the State Office of Administrative Hearings (SOAH) an appraisal review board order determining a protest concerning the appraised or market value of property brought under Section 41.41(a)(1) or (2) of the Texas Tax Code if the appraised or market value, as applicable, of the property that was the subject of the protest, as determined by the appraisal review board order, is more than \$1 million.

Appeals to SOAH are currently subject to limitations of a pilot program for the following counties for a four-year period beginning with the ad valorem tax year that begins January 1, 2010: Bexar, Cameron, El Paso, Harris, Tarrant, and Travis. Beginning with the ad valorem tax year of January 1, 2012, for a two-year period, Collin, Denton, Fort Bend, Montgomery, and Nueces counties are part of the pilot program. To appeal an appraisal review board order to SOAH, a property owner must file with the chief appraiser of the appraisal district not later than the 30th day after the date the property owner receives notice of the order:

- (1) a completed notice of appeal to SOAH, a copy of which is enclosed with this notice; and
- (2) not later than the 90th day after the date the property owner receives the notice of order a deposit of \$1,500 made payable to SOAH must be filed with the appraisal district.

For more information regarding appeal to SOAH, you should consult Texas Government Code, Chapter 2003 and related SOAH rules. If you need legal advice, you should consult an attorney.

It is important to note that the pendency of an appeal, whether to district court, through binding arbitration, or to the State Office of Administrative Hearings, does not affect the delinquency date for the taxes on the property subject to the appeal. For more specific information, consult the applicable statutes and rules.

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our Web site:
www.window.state.tx.us/taxinfo/proptax

50-222 • 8-11/10

EXHIBIT 16 (CONTINUED)
Example of ARB Final Orders
(Notice of Issuance of ARB Order to Taxing Units)



Notice of Issuance of ARB Order to Taxing Unit

Property Tax
Form 50-223

Appraisal Review Board
for the
_____ **County Appraisal District**

Notice of Issuance of Order

TO: (name of presiding officer of taxing unit) _____
(address of taxing unit) _____

Case No. _____

Date _____
Re: (legal description of property) _____

Dear _____:

The _____ County Appraisal Review Board has issued an order in your challenge on the above-described property.

A copy of this order is enclosed for your inspection. Please contact _____ at the _____
County Appraisal District office, _____ (contact telephone number) _____ if you have any questions concerning this matter.

Sincerely

Secretary
Appraisal Review Board

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax
50-223 • 11-11/3

EXHIBIT 16 (CONTINUED)
**Example of ARB Final Orders
(Order to Correct Appraisal Records)**



Order to Correct Appraisal Records

Property Tax
Form 50-224

Appraisal Review Board

_____ County, Texas

Case No. _____

ORDER TO CORRECT APPRAISAL RECORDS

On _____, _____, the Appraisal Review Board of _____ County, Texas, with a quorum present, determined that the following appraisal record be changed, based on a taxing unit challenge or chief appraiser motion:

(describe problem to be corrected)

It is therefore ORDERED that the matter be referred to the chief appraiser for correction. The chief appraiser shall correct the appraisal record by:

(list action to be taken)

It is further ORDERED that a copy of this order and notice of the change in the record be delivered to [name of affected property owner(s)] at least 15 days before the board approves the appraisal records.

Chair, Appraisal Review Board

Signed on _____, _____

**sign
here** ➡

(If the appraisal records are changed and the above order results in an increase of the tax liability of the property owner, the secretary of the board must deliver written notice of the change to the property owner not later than the 15th day before the date the appraisal review board approves the appraisal records provided by Sec. 41.12, Property Tax Code. See also Sec. 41.44, Property Tax Code.)

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax

50-224 • 11-11/4



Chapter 4

Conducting Hearings

A simple majority of ARB members constitutes a quorum that must be present to conduct business. Hearings must be conducted according to ARB procedures. ARB members must act professionally and ethically as discussed earlier in this manual.

ARB ex parte contacts and affidavit

An ARB member must be very careful to maintain an unbiased approach to each property under protest. An ARB member may not communicate with another person about a protest, including evidence, argument, facts or any merits of the case except during the hearing on the protest. An ARB member is also prohibited from communicating with another person concerning a property that is the subject of the protest, except when the property is discussed in another protest or used before the ARB as a comparison or sample property in another protest or proceeding.¹¹⁸

The affidavit form prescribed by the Comptroller's office states that the member has not communicated about the property under protest in the ways discussed above (**Exhibit 17**). If the member cannot sign the form, he or she cannot participate in the hearing. The removed member may not hear, discuss or vote on the protest. The appointing authority can temporarily replace an ARB member who must be removed from a protest hearing.¹¹⁹

An ARB member who communicates with the chief appraiser or an appraisal district employee or a board of director member concerning a taxpayer protest outside of the hearing may be penalized. The chief appraiser, appraisal district employee, a board of director member, a property tax consultant, or an attorney is also subject to a penalty if they communicate with an ARB member with the intent to influence

an ARB decision. Both offenses are punishable as a Class A misdemeanor.¹²⁰

The same penalty, however, does not apply if an ARB member talks to a property owner outside of a hearing. However, the ARB member cannot sign the sworn affidavit and cannot participate in that property owner's hearing.

The ex parte prohibition does not apply to discussions between the ARB and its attorney, or with the chief appraiser or another employee of an appraisal district or a board of director member and a member of the ARB if the communications are limited to and involve the following:

- a hearing on a protest or other proceeding before the ARB;
- a social conversation;
- administrative, clerical or logistical matters related to the scheduling and operation of hearings;
- processing of documents, the issuance of orders, notices or subpoenas;
- necessary and appropriate conversation to enable the board of directors to determine whether to appoint, re-appoint, or remove a person from the ARB; or
- operation of the ARB.¹²¹

Appearance at the protest hearing

As a matter of procedure, the ARB chair calls the cases in the order scheduled and makes certain each party takes an oath promising the accuracy of the party's testimony. All testimony must be given under oath.¹²²

Most property owners will represent themselves at the protest hearing. Some property owners, however, may designate a

¹¹⁸ Tax Code §41.66(f)

¹¹⁹ Tax Code §41.66(g)

¹²⁰ Tax Code §6.411

¹²¹ Tax Code §6.411(c) and (c-1)

¹²² Tax Code §41.67(a)

lessee or agent to present the protest and perform other required actions.¹²³ An attorney may represent a client without filing an agent designation, as can most mortgage lenders and authorized corporate employees. Other agents should not be recognized by the ARB unless a properly executed form is filed at or before the hearing on the motion or protest. If the ARB designates a time and place for appearance before a hearing, an agent authorization is considered to be timely if a copy of the authorization is filed at the time and place designated.¹²⁴ Agent appointments must be filed with the appraisal district before an ARB can take any action.

The ARB should examine the form to ensure the owner or someone authorized by the owner signs the form and that it is not signed by the agent on the owner's behalf and to determine whether the agent is authorized to receive all ARB communications. An appraisal district located in a county with a population of 500,000 or more is required to implement a system that allows the designation of a property tax agent to be signed and filed electronically. An agent who files the designation form electronically, on written request by the chief appraiser, is required to provide to the chief appraiser the electronic signature of the person who signed the form, the date the person signs the form, and the Internet Protocol address of the computer the person used to complete the form. Additionally, a person is prohibited from making a false entry in, or false alterations of, signed designation of agent forms.¹²⁵

An individual exempt from registration as a property tax consultant, who is not supervised, directed, or compensated by a person required to register as a tax consultant and who files a protest with the ARB on behalf of the property owner is entitled to receive all notices from the appraisal district ARB regarding the property subject to the protest until the authority is revoked by the property owner. If this individual is not designated by the property owner to receive notices, tax bills, orders, and other communications, he or she is required to file a statement with the protest that includes:

- the individual's name and address;
- a statement that the individual is acting on behalf of the property owner; and
- a statement of the basis for the individual's exemption from registration.¹²⁶

¹²³ Tax Code §1.111 and §41.66(c)

¹²⁴ Tax Code §1.111(i)

¹²⁵ Tax Code §1.111

¹²⁶ Tax Code §1.111(j)

The law requires a person who provides property tax consulting services for compensation to be certified and registered with the state.¹²⁷ If a consultant who is not registered as required by law appears before the ARB, the ARB should seek legal advice on how to decide the best method to report non-compliance with the registration act. For more information about the licensing act, an ARB member can call the Texas Department of Licensing and Regulation at (512) 463-6599 or (800) 803-9202, or visit their website at www.license.state.tx.us.

A property owner may choose not to attend an ARB hearing and appear by affidavit. In this case the owner must file a notarized affidavit before the ARB hears the protest. The chief appraiser has a right to study and copy the affidavit.¹²⁸ The property owner may use Comptroller-prescribed Form 50-283, but is not required to use this form.

The owner may submit a notarized letter that includes the owner's name, a property description and evidence or argument. A statement specifying the chief appraiser, appraisal district or ARB's determination from which the owner seeks relief constitutes a sufficient argument.

An ARB should consult with its attorney to determine what to do if the property owner does not appear. It should develop procedures on how it will respond in such a case.

Hearing procedures

Most property owners are not represented by attorneys in ARB hearings. The law requires that ARB hearings be as informal as possible.¹²⁹ Nonetheless, the ARB must follow its written hearing procedures. Property owners are entitled to expect that the hearings will be conducted as described in the procedures. The procedures should be complete and include matters addressed in this manual.

Evidence

Either before or immediately after the hearing begins, the protesting party and the chief appraiser must provide each other with copies of any written materials that will be submitted to the ARB as evidence during the hearing.¹³⁰ As the

¹²⁷ Occupations Code §1152.002

¹²⁸ Tax Code §41.45(b)

¹²⁹ Tax Code §41.66(b)

¹³⁰ Tax Code §41.45(h)

EXHIBIT 17
Affidavit for Protest Hearing



AFFIDAVIT FOR PROTEST HEARING

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

STATE OF TEXAS
COUNTY OF _____

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

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

Signature

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

Notary Public in and for the
State of Texas

My Commission expires:

ARB listens to the evidence, members should keep in mind the evidence presented by both sides and the fact that the appraisal district has the burden of proof regarding protests related to appraised value or market value, as well as unequal appraisal.¹³¹ Generally, the appraisal district must prove by a preponderance of the evidence that its value is correct.

The law prohibits the ARB from considering any evidence unless the evidence is presented at the protest hearing. If the property owner requests the information the appraisal district intends to introduce at the hearing, the appraisal district must make it available at least 14 days before the hearing in order to be used as evidence at a hearing.¹³²

The protesting party does not necessarily have 14 days to *study* the records made available by the appraisal district. However, if the owner could not gain *access* to the appraisal district's evidence 14 days before the hearing, the ARB must exclude the unavailable evidence. For example, suppose the appraisal district makes the evidence available 14 days prior to the hearing, but the property owner does not appear at the appraisal district until two days before the hearing to inspect the evidence. The evidence is admissible at the regularly scheduled protest hearing even though the owner may not have had time to study the records. On the other hand, if the owner appears 14 days before the hearing to inspect the evidence and some of it is not made available, then the appraisal district cannot use that evidence at the hearing. The property owner may choose not to inspect the evidence during the 14 days before the hearing.

The ARB is required to postpone a hearing if the property owner requests additional time to prepare for the hearing and establishes that the chief appraiser failed to provide requested evidence. The ARB is not required to postpone a hearing more than one time.¹³³ The ARB is not required to postpone a hearing if requested by the appraisal district, however, its hearing procedures may permit the practice.

Few issues are more contentious and difficult than evidence, its presentation and its weight. The appraisal district has the duty to provide available information that it plans to use at a hearing as requested by a property owner. The ARB should adopt clear procedures about its consideration of this information, rebuttal

testimony and taxpayer evidence. In addition, the ARB should seek legal advice concerning this complicated issue.

Evidence may be documents, testimony, electronic presentations, or physical objects. Documents include any papers, affidavits, drawings or photographs that may be relevant to the protest. Testimony is any oral statement from a witness. Electronic presentations may include PowerPoint presentations or proprietary software. Physical objects may include samples of the building materials used or the soil found on a property. Comptroller Rule 9.803 requires the ARB to maintain all evidence presented at the hearing. The rule says a recording or a written summary of testimony may be used. The ARB should consider all types of evidence and the rule while developing their hearing procedures.

Presentation of evidence

ARB procedures should establish the order of presenting evidence. Even though the appraisal district generally has the burden of proof, property owners may prefer to start with the presentation of their evidence and argument and can do so by agreement of the appraisal district or in accordance with ARB procedures. The ARB should allow rebuttal testimony and the parties are entitled to cross-examine each other and examine any witnesses.¹³⁴ Values from prior years or the decisions of previous ARBs do not bind the current ARB as each year and property must be considered individually.

Testimony and evidence may address the following:

- property's legal description and location;
- type of property and its use;
- property's appraised value and the way it was appraised;
- description of any improvements to the land and their age, condition and appraised value;
- methods used to appraise improvements;
- total value for each type of property considered;
- information on sales of comparable properties in the neighborhood or elsewhere in the area;
- information about other appraisal methods considered;
- appraisal ratios and median appraisal levels of comparable properties, appropriately adjusted;
- reasons for denying exemption or special appraisal; and
- reasons for the decision by the chief appraiser concerning other matters under protest or challenge.

¹³¹ Tax Code §41.43

¹³² Tax Code §41.67(d)

¹³³ Tax Code §41.66(h)

¹³⁴ Tax Code §41.66(b)

If property owners are required to submit documentary evidence in paper copy, the appraisal district must also do so. If computer-generated evidence is presented at an ARB hearing by an appraisal district, property owners must be allowed the same opportunity if evidence from both parties is capable of being maintained as a public record.

Relevant evidence

Evidence is information that helps the ARB decide what is factual. Evidence may include data, schedules, formulas and other information. It may include appraiser and owner opinions of value. The ARB should consider only relevant evidence, which is information that has particular meaning in the hearing in which it is introduced. The ARB should disregard any irrelevant evidence.

For example, a homeowner may introduce information such as recent sales of comparable properties to demonstrate a home value is too high. This is relevant evidence. Other examples of relevant evidence might include photographs showing the condition of the property, survey reports of the property size or a records of deed restrictions on the use of the property.

A complaint that taxes are too high because a certain taxing unit's governing body spends money carelessly is irrelevant. The ARB should disregard it because it does not pertain to the subject of the protest.

Burden of proof

In a protest on appraised or market value or unequal appraisal, the law states that the appraisal district has the burden of establishing the property's value by preponderance of the evidence or, in certain protests, by clear and convincing evidence presented at the hearing.¹³⁵ The property owner has the burden of proof concerning protests on all other matters (except appraised or market value or unequal appraisal). Appraised values are not presumed to be correct in protest hearings. If the appraisal district fails to meet the burden of proof, the ARB must determine the protest in the property owner's favor.

In a protest of unequal appraisal, the ARB must determine a protest in favor of the protesting party unless the appraisal district establishes one of the following:

- 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 appraisal district;
- 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
- the property's appraised value is equal to or less than the median appraised value of a reasonable number of comparable properties appropriately adjusted.¹³⁶

The unequal appraisal provision deals with a property owner not necessarily claiming that his or her value is incorrect, but that comparable properties are not appraised similarly, after adjusting for differences such as size, location, condition and other relevant factors. Unequal appraisal protests require considerable attention to requirements of law in the calculation of median level of appraisal.

In a protest on a property with a market or appraised value of \$1 million or less, the appraisal district has the burden of establishing the value of the property by clear and convincing evidence, as opposed to the weight or preponderance of the evidence, when the following evidence is present:

- the property owner or agent delivers an appraisal report to the chief appraiser at least 14 days before the hearing;
- the appraisal was performed within 180 days of the hearing date;
- the appraiser is certified under Occupations Code Chapter 1103;
- the appraisal is attested before an officer authorized to administer oaths; and
- the appraisal includes the certified appraiser's name and address, the property description and statements that the appraised or market value, as applicable, was as of Jan. 1, was determined using appraisal methods authorized by Tax Code Chapter 23, and that the appraisal was performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP).¹³⁷

¹³⁵ Tax Code §41.43(a) and (a-1)

¹³⁶ Tax Code §41.43(b)

¹³⁷ Tax Code §41.43(a-1)-(a-2)

If a required rendition – a property report or information requested by the chief appraiser – is not delivered prior to the date of an ARB hearing, the property owner has the burden to prove the property's value to the ARB rather than the appraisal district.¹³⁸ When the property owner has the burden of proof under this circumstance and fails to provide sufficient evidence that convinces the ARB that the value should be adjusted, the ARB should determine the protest in favor of the appraisal district.¹³⁹

ARBs must also consider the issue of substantial evidence when a protest is brought concerning certain value increases. The chief appraiser is prohibited from increasing the appraised value of property in the year following a final determination of value resulting from a protest before the ARB, a lawsuit or binding arbitration, unless the increase is reasonably supported by substantial evidence.¹⁴⁰ The substantial evidence "must be based on all of the reliable and probative evidence in the record considered as a whole." If an ARB or a court makes a determination of value based on unequal appraisal claims, this substantial evidence requirement may be met by presenting evidence showing that the inequality has been corrected with regard to the properties that were considered to be comparable in determining the value of the subject property. The burden of proof is on the chief appraiser to support an increase in the appraised value of property under these circumstances.

Witnesses

Witnesses should have personal knowledge about the facts of the protest or should provide opinions concerning appraisal issues. Persons designated as experts should have credentials and/or specialized knowledge of the subject property in order to give opinions of value. Property owners are considered eligible to provide opinions of value as experts.

Appraisals often require a high degree of specialized knowledge and training. Both sides may present the testimony of expert appraisers, both about value and about methods of appraisal. Often these are matters of opinion based on specialized knowledge rather than firsthand observation of the facts.

The ARB should ask about the experts' qualifications and experience and be sure it understands the facts on which the

experts base their opinions. Admissible expert testimony may concern appraisal theory and methodology and opinions on theory.

Above all, the ARB should ask expert witnesses whether they have any reservations about or qualifications to their opinions. The ARB can believe all, some or none of an expert's testimony.

Hearsay testimony

Firsthand observation and expert testimony will have the witness testifying, "I saw it," "I measured it" and "I did it." When the witness says, "I heard it from someone else," the testimony is hearsay. Hearsay is secondhand testimony. For example, in a protest over denial of a residence homestead exemption, the chief appraiser testifies, "The property owner's neighbor told me the owner does not live in the house." The statement is hearsay. Ideally, the neighbor should be at the hearing and under oath to substantiate the statement.

There may be cases where common sense tells you to consider hearsay testimony. The fact that the evidence is hearsay may affect the weight the ARB gives it.

Appraiser testimony and evidence

Since an appraisal often requires special knowledge and skills, appraisers are usually key witnesses in ARB hearings. Remember that such testimony is informed opinion, not necessarily verifiable fact. The ARB should ask about the witness's qualifications, and it should have access to the data used in the appraisal. Ultimately, the ARB must consider all relevant testimony and documentary evidence and give weight to the most credible information to arrive at an opinion.

Appraisals by chief appraiser and relatives

The Tax Code places a special restriction on appraisals made by the chief appraiser in a private capacity on behalf of a taxpayer or taxing unit. The ARB may not consider such an appraisal as evidence in a protest or challenge.

Similarly, if a relative within the second degree of the chief appraiser makes an appraisal, the ARB may not consider that appraisal as evidence.¹⁴¹ Both of the above restrictions only apply to the appraisal district that employs the chief appraiser. A chief appraiser or his relative may provide evidence in ARB hearings in other appraisal districts.

¹³⁸ Tax Code §22.07(c)

¹³⁹ Tax Code §41.43(d)

¹⁴⁰ Tax Code §23.01(e)

¹⁴¹ Tax Code §6.035(d)

Documentary evidence

Documents and papers are important items of evidence before the ARB. A party must submit the original of a document unless the ARB determines that it is not readily available.¹⁴²

If a copy of a document is used, any party has the right to compare the copy with the original. Documents submitted in evidence become a permanent part of the hearing record. As a result, copies of the required originals should be accepted into the record.

Official notice

As a general rule, the ARB must make its decision only on the evidence brought by the parties. However, the ARB may also consider certain kinds of basic facts that neither side presents as evidence. This is called “taking official notice” of a fact.¹⁴³

The ARB, like a judge, may take official notice of any fact that is reasonably certain, either because it is generally known in the community or capable of being easily confirmed by sources whose accuracy cannot reasonably be questioned. For example, an ARB may take official notice that a house is located near a landfill, a fact which may affect its property value. If it takes official notice of a fact, the ARB must inform both parties and give them an opportunity to argue against this action.

Subpoenas and records

The ARB and the parties involved in a hearing should gather all evidence relevant to the case. The property owner or a challenging taxing unit has a right to know the basis of the appraisal district’s determinations. Similarly, the appraisal district has a right to know relevant facts in the taxpayer’s possession.

To ensure these rights, the Tax Code gives the ARB the following powers to:

- subpoena witnesses, books, records or other documents;¹⁴⁴
- inspect the records or other materials of the appraisal office that are not made confidential under the Tax Code;¹⁴⁵ and

- request the Comptroller to assist in determining the accuracy of appraisals or to provide other professional assistance, in certain cases.¹⁴⁶

The ARB may subpoena witnesses, books, records or other documents only after holding a hearing to determine whether good cause for issuing the subpoena exists. A subpoena for books, records or other documents may only be issued if a property is under protest and may be issued only to a party to the protest.¹⁴⁷ The ARB may not subpoena books, records or documents that belong to persons other than the property owner or the appraisal district involved in the protest.

The ARB may inspect the records or other materials of the appraisal office that are not made confidential under the Tax Code. On demand of the ARB, the chief appraiser must produce the materials as soon as practicable.¹⁴⁸ There are numerous provisions creating confidential status and the related grounds for releasing the information. The ARB should consult its attorney when questions about the need for a subpoena arise.

An ARB may not issue a subpoena unless it holds a hearing to determine that good cause exists for issuing the subpoena. The ARB must establish a procedure for a good cause hearing for issuing a subpoena. The procedures must require the ARB to deliver written notice not later than the fifth day before the date of the hearing to the party to be subpoenaed.¹⁴⁹ The party has the right to be heard at the hearing.

Weighing evidence

The ARB must consider the evidence presented by the property owner and the appraisal district. The evidence can be testamentary, physical, electronic or documentary. The most convincing evidence should support the ARB’s determination of value or other appraisal matter. The ARB cannot develop its own valuation or consider matters not presented to it as evidence at the hearing. The ARB cannot testify for either party, develop its own calculations, create appraisals or develop theories not part of the hearing record.

Sample hearing script

Exhibit 18 provides a sample script that the presiding officer may use for guidance in conducting a protest hearing. Please

¹⁴² Tax Code §41.67(b)

¹⁴³ Tax Code §41.67(c)

¹⁴⁴ Tax Code §41.61

¹⁴⁵ Tax Code §41.64

¹⁴⁶ Tax Code §§41.65 and 5.041(f)

¹⁴⁷ Tax Code §41.61

¹⁴⁸ Tax Code §41.64

¹⁴⁹ Tax Code §41.61

keep in mind that this is a generic sample to provide presiding officers an idea as to how a hearing may unfold. This sample assumes that a property owner is appearing in person and not represented by an agent or filing a response via affidavit. Different types of protests will require different approaches. The script is not intended to address all situations and should not be considered to be mandatory.

Postponement of hearings

Under certain circumstances, the ARB may postpone a protest hearing. A property owner who has not designated an agent under Tax Code Section 1.111 is entitled to one postponement without showing cause. In addition, a property owner or his or her agent is entitled to an unlimited number of postponements if they show good cause for the postponement or if the chief appraiser consents to the postponement. Good cause means a reason that includes an error or mistake that was not intentional or the result of conscious indifference and that will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling.¹⁵⁰ If these conditions are met, the ARB chair or his or her representative must postpone the hearing for five to 30 days. The chief appraiser and the property owner may agree to a shorter or longer postponement. A property owner may request a postponement in writing, including by fax or e-mail, by telephone or in person to the full ARB, a panel of the ARB or the chair of the ARB.¹⁵¹

A property owner or the property owner's designated agent who fails to appear at a hearing is entitled to a new hearing if he or she writes to the ARB, not later than the fourth day after the date the hearing occurred, a statement showing good cause for the failure to appear and requesting a new hearing.¹⁵²

The presiding officer or his or her representative may take action on a postponement without the necessity of action by the full ARB if the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB. The ARB is not required to send the property owner additional written notice when a postponement is granted.¹⁵³

In addition, the ARB must postpone an ARB hearing if either the property owner or owner's agent is scheduled for an ARB hearing in another appraisal district on the same date. To qualify for the postponement, the owner or agent must show that the postmark on the other ARB's hearing notice is earlier than the postmark on the hearing notice delivered by the ARB in which the postponement is requested.¹⁵⁴

¹⁵⁰ Tax Code §41.45(e-2)

¹⁵¹ Tax Code §41.45(e)

¹⁵² Tax Code §41.45(e-1)

¹⁵³ Tax Code §41.45(e)

¹⁵⁴ Tax Code §41.45(g)

EXHIBIT 18
Example of Hearing Script

Good morning (afternoon),

My name is (name of ARB presiding officer) and I am the presiding officer of the (County Name) Appraisal Review Board and will direct this hearing. Let me introduce the other members of the board (panel).

[Proceed to introduce the remaining members on the board or panel, as the case may be.]

We are here today to consider the protest filed by (name of property owner indicated on the Notice of Protest form) regarding property located at (provide property description from the Notice of Protest form), which bears the appraisal district property number of (provide number from Notice of Protest form). According to the Notice of Protest filed by (Mr. or Ms.) (name property owner) we will consider the following reason(s) for the protest: (read reason(s) from Notice of Protest form). Before we proceed, I would like to make sure we are indeed on the correct protest.

[Directing yourself to the protester, ask the following.]

Are you (name of protester on the form)? Is this the property you wish this board (panel) to consider? You have indicated that your property was over appraised (or whatever is indicated on the Notice of Protest). Is that the only issue that you wish to protest? If not, what else do you claim is incorrect?

[Addressing yourself to the appraisal district representative, ask the following.]

Who is here representing the appraisal district?

[Have the representative identify him or herself.]

Okay. (Name of appraisal district representative) is this the correct appraisal record number for this property?

Since it appears we are all at the right place, let me take this opportunity to explain the process we are about to undertake in considering this matter. First, the board (panel) is made up of private citizens and resident taxpayers of (name of county). Our interest is the same as the property owner and the appraisal district; we all want to ensure that all property in (name of county) county is fairly and equally appraised. We are an independent body; we are not beholden to the property owner or the appraisal district. We will hear evidence from both parties and we will consider all the evidence without preconceived ideas on the value of the property. We are prohibited, under criminal penalties, from discussing this case with anyone prior to this hearing. Let me ask my fellow board (panel) members whether they are prepared to proceed with an open mind?

[Wait for response.]

At this time, let me also ask members of the panel to fill out, sign and return to me the affidavit regarding ex parte communications. If anyone is unable to sign this affidavit because he or she has discussed this case with the protester, the appraisal district or anyone else prior to this hearing you must recuse yourself from this hearing.

[If someone admits discussing this case prior to the hearing ask the person to recuse him or herself. Postpone the hearing if a substitute needs to be named to the board or panel.]

The Chief Appraiser and the property owner are required to exchange any written material they intend to introduce as evidence. Please exchange that material now.

[Wait while the two parties exchange evidence or state that they have no written evidence to exchange. The law does allow this exchange before the hearing begins, so the parties may state that this has already been done.]

The last thing we would like to do before we begin hearing the evidence is to swear the witnesses in. Would everyone who is going to testify in this proceeding please stand and raise your right hand. Do each of you solemnly swear or affirm that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?

[Wait while each person answers. If anyone does not wish to swear or affirm this oath, they may not testify. All testimony is required to be under oath.]

EXHIBIT 18 (CONTINUED)
Example of Hearing Script

We will start with the appraisal district representative providing a brief description of the property, including the value being protested. Then we will hear testimony from the property owner first and then the appraisal district. Please limit your testimony to information that is relevant to the protest. Relevant evidence includes any information that in a logical way relates to the principal facts of the protest. If I believe either party is wandering off the central focus of the protest, I will stop you and ask that you stick to the points under protest. We do not want to deny anyone the opportunity to make his or her case, but we are limited in time and we want to stick to the issues indicated in the Notice of Protest form. We must be fair, not only to this protester, but to all protests still waiting to come before us. The burden of proof in this proceeding is with the appraisal district, which must show by the preponderance of the evidence that its value is correct.

[This does not apply if the property owner introduces a certified appraisal that meets the Property Tax Code requirements. If the protest involves the property owner's failure to file a rendition or property report in response to the chief appraiser's request, the burden of proof shifts to the property owner.]

Preponderance of evidence means the greater weight of the evidence. It does not mean more evidence, but better evidence. It is our job to rule in favor of the protester if the appraisal district does not present better evidence. If the appraisal district does, in fact, support its appraised value with sufficient evidence, then we must find in its favor. After the appraisal district presents its evidence, the property owner may ask for clarifications or rebut any evidence (he or she) feels was incorrect. The appraisal district will have the same opportunity. Once all the evidence is presented, we will make our decision. Does anyone have any questions before we start?

[Address any questions.]

Okay, let's begin. (Mr. or Ms. Property owner) please tell us and show us why we should resolve this protest in your favor? And, please tell us what you believe is the correct value of your property.

[After the property owner finishes his or her presentation proceed to the appraisal district.]

(Mr. or Ms. Appraisal District representative) please tell us and show us why you believe your value is correct. (Mr. or Ms. Property owner) do you have questions or do you want to respond to any information the appraisal district presented?

[Allow the property owner to ask questions and present rebuttal evidence.]

(Mr. or Ms. Appraisal District representative) do you have any other information?

[Allow the appraisal district to ask questions and present rebuttal evidence.]

The evidentiary part of the hearing is closed and the ARB will consider the evidence and will arrive at a decision.

[At this point, based on the procedures the ARB has adopted for the conduct of hearings, the ARB must vote on a motion concerning its decision. ARB members should not exchange notes.]

After consideration of all the evidence, the board (panel) believes the appraised value for the property under protest is (Announce the value.) You have additional remedies if you disagree with this decision. A copy of the "Remedies" pamphlet published by the Comptroller's office is available for our consideration.

Thank you.

Source: Texas Comptroller of Public Accounts.



Chapter 5

Types of Property Owner Protests

Over-appraisal

Most protests concern market value. The law forbids appraising a property at more than its market or appraised value. The law defines market value as follows:

...the price at which a property would transfer for cash or its equivalent under prevailing market conditions if:

- (A) exposed for sale in the open market with a reasonable time for the seller to find a purchaser;
- (B) both the seller and purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and
- (C) both the seller and purchaser seek to maximize their gains and neither is in a position to take advantage of the other.¹⁵⁵

All taxable property must be appraised at its market value unless the law provides for a different value.¹⁵⁶ Productivity value is the most common type of value different from market value. Property qualified for agricultural or timber appraisal is taxed on its productivity value rather than its market value. Productivity valuation is an appraised value, as are other special appraisals.¹⁵⁷ The Tax Code provides the following:

The market value of property shall be determined by the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of the property using mass appraisal standards, the mass appraisal standards must comply with the Uniform Standards of Professional Appraisal Practice. The same or similar appraisal methods and techniques shall be used in appraising the same or similar kinds

of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value, and all available evidence that is specific to the value of the property shall be taken into account in determining the property's value.¹⁵⁸

The information that follows provides a brief description of market value concepts.

Mass appraisal

Appraisal districts must estimate the value of thousands of properties. They neither have the time nor money to repeat the full appraisal process for each individual property. Instead, they use mass appraisal standards. Copies of USPAP are available from The Appraisal Foundation at www.appraisalfoundation.org.

In a mass appraisal, the appraisal district first collects detailed descriptions of each taxable property in the appraisal district. It then classifies properties according to a variety of factors, such as size, use and construction type. Using data from recent property sales, the appraisal district appraises the value of typical properties in each classification. Using modifiers to adjust for minor differences such as age or location, the appraisal district uses the typical property values to appraise all the properties in the classification. Computers often make the process more efficient. Mass appraisal techniques estimate market values of properties.

Cost approach

When using the cost method of appraisal, the appraisers do the following:

- use cost data obtained from generally accepted sources;
- adjust appropriately for physical, functional or economic obsolescence;

¹⁵⁵ Tax Code §1.04(7)

¹⁵⁶ Tax Code §23.01

¹⁵⁷ Tax Code Chapter 23

¹⁵⁸ Tax Code §23.01(b)

- make available to the public on request, for a reasonable charge, cost data developed and used by the chief appraiser on properties within a property category;
- state clearly the reason for any variation between generally accepted cost data and locally produced cost data, if the data vary by more than 10 percent; and
- make available to a property owner on request all applicable market data that demonstrates the difference between an improvement's replacement cost and the improvement's depreciated value.¹⁵⁹

Income approach

When using the income method of appraisal, the appraisers will do the following:

- analyze comparable rental data available to the chief appraiser or the potential earnings capacity of the property, or both, to estimate the gross income potential of the property;
- analyze comparable operating expense data available to the chief appraiser to estimate the operating expenses of the property;
- analyze comparable data available to the chief appraiser to estimate rates of capitalization or rates of discount; and
- base projections of future rent or income potential and expenses on reasonably clear and appropriate evidence.¹⁶⁰

Market approach

When using the market data comparison method of appraisal, appraisers use comparable sales and adjust the comparable sales to the subject property. A sale is not considered to be comparable unless it occurred within 24 months of the date for which value is determined.

If enough comparable properties did not sell in this period, however, other sales may be considered to constitute a reasonable sample. Sales prices must be appropriately adjusted for time differences. Whether a property is comparable to the subject property must be determined based on similarities regarding location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy and the

existence of easements, deed restrictions or other legal burdens affecting market.¹⁶¹

Special appraisals

The Tax Code also requires specific appraisal methods or the use of certain information or procedures in valuing certain types of property, including the following:

- land qualifying for agricultural, timber or wildlife management appraisal;¹⁶²
- deed-restricted land qualifying for recreational, park and scenic land or as public access airport property;¹⁶³
- inventories;¹⁶⁴
- taxable leaseholds;¹⁶⁵
- dealer's motor vehicle inventory;¹⁶⁶
- dealer's vessel, outboard motor and trailer inventory;¹⁶⁷
- dealer's heavy equipment inventory;¹⁶⁸
- retailer's manufactured housing inventory;¹⁶⁹
- intangible assets, such as stock, of insurance companies and savings and loan associations;¹⁷⁰
- non-producing mineral interests;¹⁷¹ and
- property owned and used by members of a nonprofit homeowners' association.¹⁷²

Value limitations or other provisions

The Tax Code also requires limiting values on certain properties or addressing the following special situations:

- Appraisers must consider the effect of government restrictions on the appraised value of private property, including a restriction to preserve wildlife habitat, to which the owner has not consented.¹⁷³
- Appraisers must adjust for property rented or leased to a low-income individual or a family meeting the income-eligibility standard established by a governmental entity; the appraiser must account for that use and

¹⁵⁹ Tax Code §23.011

¹⁶⁰ Tax Code §23.012

¹⁶¹ Tax Code §23.013

¹⁶² Tax Code Chapter 23, subchapters C, D, E and H

¹⁶³ Tax Code Chapter 23, subchapters F and G

¹⁶⁴ Tax Code §23.12

¹⁶⁵ Tax Code §23.13

¹⁶⁶ Tax Code §23.121

¹⁶⁷ Tax Code §23.124

¹⁶⁸ Tax Code §23.1241

¹⁶⁹ Tax Code §23.127

¹⁷⁰ Tax Code §§23.15 and 23.16

¹⁷¹ Tax Code §23.17

¹⁷² Tax Code §23.18

¹⁷³ Tax Code §23.22

for the limit on rent or lease payments in the property's appraisal.¹⁷⁴

- The law limits or caps the increase on appraisals of homestead properties. The appraised value of a residence homestead for a tax year is limited to the lesser of either its market value or the sum of the market value of any new improvements and 110 percent of the appraised value for the preceding year.¹⁷⁵

When appraising a residence homestead, the chief appraiser must include in the appraisal records the home's market value and limited appraised value. A limitation takes effect for a residence homestead on Jan. 1 of the tax year following the first tax year the owner qualifies that property for the residence homestead exemption. The limitation expires on Jan. 1 of the first tax year that neither the owner nor the owner's spouse or surviving spouse qualifies for the homestead exemption.

The limited homestead value may increase for any new improvement to the homestead. A new improvement, however, does not include ordinary maintenance of the existing structure, the grounds or another feature of the homestead. A new improvement also does not include a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by mold or water damage.

Unequal appraisal

To measure equality, the ARB considers appraisal ratios or median appraised values. To determine a property's appraisal ratio, you divide the appraisal roll value by the property's market value. Usually, sales or independent appraisals establish the market value. For example, if a property appraised by the appraisal district at \$95,000 recently sold for \$100,000, its appraisal level is \$95,000/\$100,000, or 0.95.

By computing the typical ratio for a sample of properties, appraisers can estimate the typical level of appraisal for a group of properties or for the appraisal district as a whole. Such a procedure is called a ratio study. Under Texas law, the median ratio of such a sample is used to estimate the overall level.¹⁷⁶ The median is determined by listing the ratios in numerical order and choosing the middle ratio. If the sample

has an even number of properties, the appraiser averages the two middle numbers.

To compute median appraised values, the appraiser chooses a reasonable number of comparable properties as a sample. The appraiser then adjusts their appraised values to reflect property size, condition and other individual characteristics. Finally, the appraiser lists the properties in value order and determines the median appraised value.

The appraisal district must establish that the property under protest was appraised equally. If the appraisal district does not prove equality and uniformity of appraisal, the protest must be determined in favor of the property owner. This is true even if the appraised or market value as determined by the appraisal district is correct. The legal standard is described in the *Burden of Proof* section discussed earlier in this manual.

Comptroller study

At least once every two years, the Comptroller's office publishes a ratio study of property appraisals for the *preceding year* in each appraisal district.¹⁷⁷ The primary purpose of the study is to help ensure the state distributes funds for public schools equitably. The secondary purpose of the study is to provide a measure of appraisal district performance. The study may be used as an indicator of overall appraisal performance for the prior year, but not as evidence concerning a specific property.

The study estimates median appraisal levels and coefficients of dispersion for the previous year, not the current tax year. The study uses statistical techniques including stratification and random sampling to compare the properties within certain categories, such as single-family residential property or commercial property.

The median appraisal level measures how close an appraisal district's typical appraisal is to market value. The median appraisal level is determined by comparing the appraised values to the market value. The median appraisal level is presented as a ratio to the market value. For example, if the median appraisal level is 85 percent of the market value, this ratio is .85/1 and is reported as .85. A median appraisal level of 105 percent would be reported as 1.05.

¹⁷⁴ Tax Code §§23.21 and 23.215

¹⁷⁵ Tax Code §23.23

¹⁷⁶ Tax Code §1.12

¹⁷⁷ Tax Code §5.10

The coefficient of dispersion (COD) is a statistical measure of appraisal uniformity, whether properties are being appraised at an equal percentage of market value. The COD is the average deviation from the median appraisal ratio. A lower number indicates that the ratios were clustered tightly around the median appraisal and more highly uniform. A higher number indicates more variation in the appraisal ratios.

For purposes of establishing the median level of appraisal **in a lawsuit** dealing with unequal appraisal, the appraisal district's median level of appraisal determined by the Comptroller's ratio study is admissible as evidence.¹⁷⁸ The law does not provide that the Comptroller's ratio study may be used in a protest hearing before the ARB. Even if the law did provide its use, the study would probably not be relevant since it is prepared for the prior year and may not apply to the tax year at issue in an ARB hearing. In any case, the ARB should weigh the evidence rather than determine its admissibility.

Taxable situs

The word situs means location. The law links the taxability of property to its location. If a taxing unit can legally levy a tax on property, that property has taxable situs in the unit.¹⁷⁹

A taxing unit may challenge appraisal records that omit property it can tax. Similarly, a property owner may protest that the property should not be on the appraisal roll, either for the district or for a particular taxing unit.¹⁸⁰

The discussion of certain issues related to situs that follows is not intended to be complete and comprehensive. The issues in this area are often complex and technical. The ARB should always consult its legal advisor when questions of legal interpretations arise.

To disprove any situs in the appraisal district, the property owner must show either that the property has taxable situs in some other appraisal district or that the property is not taxable in this state.¹⁸¹ Exceptions exist for certain portable drilling rigs located in Texas.¹⁸² If the property owner proves the property has situs in another appraisal district, the Tax

Code directs the chief appraiser to notify the chief appraiser of the other district of the fact.¹⁸³

Real property

Situs disputes rarely involve real property because it does not move. Real property includes land, improvements, mines, quarries, items fixed to land and interests in real property such as minerals in place.

A taxing unit can tax the real property in its boundaries on Jan. 1.¹⁸⁴ Boundary disputes or property description disagreements create the most common real property situs problems.

Personal property

Most situs problems involve movable personal property or tangible items that are not real property. Personal property that stays in one taxing unit during the year creates no problems. Situs problems usually involve property that crosses boundary lines during the year. The general rule is personal property has situs at its Jan. 1 location unless it was there only temporarily.¹⁸⁵ Movable property is taxable in the taxing unit when:

- it is located in that unit for more than a temporary period on Jan. 1;
- it is temporarily somewhere else on Jan. 1 but is normally located in the unit;
- it normally returns to that unit between uses elsewhere; Or
- the owner resides or maintains a principal place of business in the unit and the property has no other situs under any of the preceding circumstances.¹⁸⁶

Property crossing state boundary lines

Multi-state situs problems usually involve businesses that operate or move goods in more than one state. Goods and equipment gain taxable situs in Texas if they are present in the state for more than a temporary period. They also gain situs if continually used in Texas.

If they are temporarily outside the state on Jan. 1, but their owner resides here, they still have situs here.¹⁸⁷ Equipment

¹⁷⁸ Tax Code §42.26(c)

¹⁷⁹ Tax Code Chapter 21

¹⁸⁰ Tax Code §41.42

¹⁸¹ Tax Code §41.42

¹⁸² Tax Code §21.02(e)

¹⁸³ Tax Code §41.42

¹⁸⁴ Tax Code §21.01

¹⁸⁵ Tax Code §21.02

¹⁸⁶ Tax Code §21.02

¹⁸⁷ Tax Code §11.01

used in several states may be partially taxed in some or all of the states.¹⁸⁸

Multi-state equipment

A business that uses equipment in more than one state on a regular basis may qualify for allocation of property value. The chief appraiser reduces the property's value according to the percentage of time or mileage in this state compared with total use in all states that could tax the property.¹⁸⁹

Commercial interstate air carriers are allowed to designate the tax situs of their aircraft that land in Texas as either the carrier's principal office in Texas or the Texas airport from which the carrier has the highest number of departures.¹⁹⁰

Goods in interstate transit

Items that cross Texas in transit from one state to another do not become taxable in Texas. However, the transit must be unbroken.

If the property stops in Texas for some business purpose unrelated to safe and efficient transportation, it could become taxable in Texas.

Property crossing taxing unit lines

In most cases, property has situs in the taxing unit where it was located on Jan. 1. A property has only one taxable situs in Texas as there is no allocation of property value for property moving among Texas taxing units.

Taxation of business personal property used to produce income

The ARB may deal with issues concerning rendered property, such as business personal property. Tax Code Chapter 22 includes mandatory rendition requirements. A rendition identifies, describes and gives the location of taxable property on Jan. 1. Property owners must render annually to appraisal districts all tangible personal property used for the production of income in Texas.¹⁹¹ At their option, owners may render other types of property.¹⁹²

Rendition statements filed by property owners include the following:

- owner's name and address;
- general property description by type or category;
- if classified as inventory – description and general estimate of quantity and property's physical location or taxable situs; and
- owner's good faith estimate of the property's market value or, at the owner's option, historical cost when new and the year of the property's acquisition.¹⁹³

However, for property with an aggregate value of less than \$20,000, the owner's rendition is required to contain only the owner's name and address, general property description by type or category and the property's physical location or taxable situs.¹⁹⁴

Rendition forms may permit a property owner to furnish other information not specifically required. For example, a property owner who is not required to give an estimate of value may, at the owner's option, provide that opinion. Rendition forms allow the owner to check a box on the form indicating that the information in the previous year's rendition filed by the owner is still accurate.¹⁹⁵

The chief appraiser may request a statement from the owner of property valued at \$20,000 or more to explain how the owner arrived at the good faith estimate of market value for the subject property. The statement must summarize the following information to:

- identify the property, including physical and economic characteristics and source of information;
- specify the effective date of the value estimate; and
- explain the basis of the rendered value. If the business owner has 50 employees or less, the owner may base the estimate on depreciation schedules used for income tax purposes.

The property owner or owner's agent must deliver the statement in writing or electronically within 21 days of the chief appraiser's request. The statement is inadmissible in an

¹⁸⁸ Tax Code §21.03

¹⁸⁹ Comptroller Rule 9.4033

¹⁹⁰ Tax Code §21.05(d)

¹⁹¹ Tax Code §22.01(a)

¹⁹² Tax Code §22.01(c)

¹⁹³ Tax Code §22.01(a)

¹⁹⁴ Tax Code §22.01(f)

¹⁹⁵ Tax Code §22.01(l)

administrative or judicial proceeding, except to determine the following:

- compliance with the Tax Code;
- any effort at tax evasion; or
- the owner's protest before an ARB.

The statement is confidential and the chief appraiser may only disclose it as provided in the Tax Code.¹⁹⁶

The statutory deadline to file a rendition is April 15. A property owner may file a written request on or before April 15 to request an extension of that due date. The chief appraiser must extend that owner's deadline to May 15. The chief appraiser also may extend the May 15 deadline another 15 days if the property owner shows good cause in writing.¹⁹⁷

When a third party, such as an appraisal firm under contract with an appraisal district, appraises the property and the property owner provides substantially equivalent information to this third party, then the owner does not have to file the rendition with the appraisal district.¹⁹⁸ An owner of property regulated by the Public Utility Commission, Texas Railroad Commission, Surface Transportation Board or Federal Energy Regulatory Commission complies with rendition requirements by submitting a copy of the property's annual regulatory report and sufficient allocation information. The chief appraiser must make a written request first for that report and information.¹⁹⁹

Property owners do not have to render exempt property, such as a church's personal property or implements of husbandry used for farm, ranch and timber production.²⁰⁰ A person is not required to render personal property that is included in the appraisal of real property that takes into account the value of furniture, fixtures, and equipment in or on the real property.²⁰¹

The chief appraiser shall impose a penalty of 10 percent of the total amount of the taxes on a person who fails to timely file a rendition statement. The chief appraiser is no longer authorized to waive any penalty dealing with a rendition. The chief appraiser cannot waive the penalty for fraud or intent

to evade a tax. To receive a penalty waiver, the owner first must send the chief appraiser a written request for failure to timely file a rendition or property report and provide any appropriate supporting documentation before June 1 or within 30 days of being notified of the penalty. The chief appraiser must then determine whether or not to waive the penalty based on the information submitted and on the following factors as considered by the ARB:

- the property owner's compliance history;
- type, nature and taxability of the property involved;
- type of business involved;
- completeness of records;
- owner's reliance on appraisal district advice;
- changes in district policies affecting renditions; and
- any other relevant factor.

The chief appraiser may waive the penalty if the appraiser determines that the property owner exercised reasonable diligence to comply or has substantially complied with rendition requirements.²⁰² If the chief appraiser refuses to waive the penalty, the chief appraiser is required to deliver by first-class mail the notice of denial. The owner may protest that decision to the ARB. A chief appraiser and a property owner may enter into a settlement agreement on the matter being protested, if both parties agree there is a mistake.²⁰³

The procedures for protesting a denial of a waiver of penalty are governed by the taxpayer protest procedures. Furthermore, the property owner is entitled to appeal the ARB determination regarding a waiver of penalty to the court system as provided in Tax Code, Chapter 42.²⁰⁴

Exemptions

Property owners and taxing units may appeal the chief appraiser's exemption determinations. An individual property owner may not, however, challenge the grant of an exemption to another property owner. If the chief appraiser denies an exemption application the owner must render the property within 30 days of the exemption denial.²⁰⁵ Only a taxing unit may challenge before the ARB the exemption of property from

¹⁹⁶ Tax Code §22.07

¹⁹⁷ Tax Code §22.23

¹⁹⁸ Tax Code §22.01(i)

¹⁹⁹ Tax Code §22.01(h)

²⁰⁰ Tax Code §22.01(j)

²⁰¹ Tax Code §22.01(m)

²⁰² Tax Code §22.28 and §22.30

²⁰³ Tax Code §22.30 and §41.41(a)(9)

²⁰⁴ Tax Code §22.30(c)

²⁰⁵ Tax Code §22.02

the appraisal records.²⁰⁶ Property is taxable unless the owner shows that it meets all legal requirements for an exemption.

A partial exemption removes a percentage or a fixed dollar amount of a property's value from taxation. An absolute exemption excludes the entire property from taxation.

In most cases, the law requires the property owner to apply for the exemption. If a property owner fails to file a required application on time, the owner usually forfeits the right to the exemption and the ARB has no authority to grant it. Timely exemption applications ask for most of the information ARB members need to decide an exemption issue. Most exemption cases will depend on one or more of the following three issues: the owner's qualifications; the property's qualifications; or the property's use.

Owner's qualifications

Ownership requirements vary by exemption. Exemptions such as those for individuals or families (homestead or disabled veterans' exemptions) may require evidence of age, physical condition or disability, military service, family relationship or other factors.

With some exceptions, Jan. 1 is the date for determining qualifications for a specific exemption. Jan. 1 is the date for determining an owner's qualifications for general homestead exemptions. Property receiving exemptions for freeport, abatement, pollution control, historic or archeological site, solar- and wind-powered energy devices, offshore drilling rigs, water conservation initiatives and disabled veterans must qualify on Jan. 1.²⁰⁷

Homeowners who turn 65 or who become disabled during a tax year, however, will qualify immediately for the 65-and-older or disability exemption as if the homeowner qualified on Jan. 1 of the tax year.²⁰⁸ In addition, surviving spouses 55 or older may qualify for a 65-and-older exemption if their spouse dies in the year he or she turns 65.²⁰⁹

When the state, a political subdivision of the state and other qualifying organizations acquire property used for public purposes, the chief appraiser determines the property's exemption

qualifications as of the acquisition date.²¹⁰ Organizations qualifying for immediate exemption include cemeteries, charitable organizations, religious organizations, private schools, community housing development organizations, youth development associations, nonprofit water and wastewater supply corporations, veteran's organizations and other nonprofit organizations.²¹¹

The general deadline for filing an exemption application is before May 1.²¹² Charitable organizations improving property for low-income housing and community housing development associations must file the application for exemption within 30 days of acquiring the property.²¹³ Certain other organizations must file for exemption within one year of acquiring the property.²¹⁴

Exemptions for schools, charitable organizations, religious organizations, youth development organizations and water supply and wastewater service corporations require the property owner to have a charter or bylaws dedicating property to particular purposes.²¹⁵ Special charter provisions must provide for disposition of property upon dissolution.

Finally, the organization must operate as a nonprofit organization. In some instances, an organization's charter and bylaws may be adequate evidence. In others, evidence about the way the organization or business operates may be needed.

Property's qualifications and use

Many exemptions apply only to specific classes of property. The property owner must list all property subject to the exemption and demonstrate to the ARB that each property meets exemption requirements.

How and when the property owner uses the property is often critical in determining exemption cases. An important factor is whether a property's use is exclusive, primary or incidental. The ARB should consult with legal counsel in interpreting these matters.

Types of exemptions

Tax Code exemption requirements are extensive. ARB members should read applicable statutes carefully. The

²⁰⁶ Tax Code §41.03

²⁰⁷ Tax Code §11.42

²⁰⁸ Tax Code §11.42(c)

²⁰⁹ Tax Code §11.13(q)

²¹⁰ Tax Code §11.11

²¹¹ Tax Code §11.42

²¹² Tax Code §11.43(d)

²¹³ Tax Code §11.436(a)

²¹⁴ Tax Code §11.42(d)

²¹⁵ Tax Code §§11.21, 11.18, 11.20, 11.19 and 11.30

Comptroller's annotated Property Tax Code contains the text of the law and notes on significant court cases.

The following is a short summary of selected exemption provisions for public property, residence homesteads, charities and religious organizations. A chart listing other exemptions is found at the end of this section (**Exhibit 19**).

Public property exemption

To qualify for the public property exemption, the state of Texas or a political subdivision of the state must own the property. The property must be used for public purposes such as the health, comfort and welfare of the public.²¹⁶ State-owned property is taxable if it is rented to a private business that uses it for something inconsistent with the agency's duties. The property may not be used to provide housing to the public other than students or agency employees. However, if an educational institution uses the property primarily for instructional purposes and secondarily for residences, the property is exempt. Additionally, property held for the benefit of a state junior college, college or university is exempt under the same conditions.

Property of a higher education development foundation or an alumni association located on land owned by the state for the support, maintenance or benefit of a state institution of higher education is exempt provided that the foundation or organization meets the requirement.²¹⁷ The organization must also be organized exclusively to operate programs or perform activities for the benefit of institutions of higher education. Finally, the property must be used exclusively in those programs or activities.

An improvement is considered owned by the state and property used for public purposes if it is located on land owned by the Texas Department of Criminal Justice, leased and used by the department and subject to a lease-purchase agreement providing that legal title to the improvement will pass to the department at the end of the lease term.²¹⁸

Tangible personal property leased to the state or a political subdivision is exempt if the property is subject to a lease-purchase agreement providing that the state or political subdivision takes legal title to the property at the end of the lease

term. The exemption ends 30 days after the lease terminates if the state or political subdivision does not take title to the personal property.²¹⁹

Real and personal property owned by a nonprofit corporation engaged primarily in providing chilled water and steam to certain health-related facilities is exempt.²²⁰ The corporation's property would be considered as if owned by the state and used for health and education purposes. Certain facilities related to transportation leased to a private entity to provide transportation or for utility purposes are also exempt.²²¹

Residence homestead

Most residential exemption cases concern the owner's qualifications for the exemption; whether the exemption covers specific improvements or amounts of land; or whether the property is the principal residence of the owner.²²²

There are no specific qualifications for the general homestead exemption other than the owner has an ownership interest in the property and uses the property as the owner's principal residence. However, an applicant is required to state that the applicant does not claim an exemption on another residence homestead in or outside of Texas. The application must include the a copy of the applicant's driver's license or state identification card, and a vehicle registration receipt. If the applicant does not own a vehicle, the applicant must provide an affidavit to that effect and a copy of a utility bill for the property in the applicant's name. A chief appraiser is prohibited from allowing a homestead exemption unless the address on the identification provided corresponds to the address on the vehicle registration receipt or utility bill and the address of the property for which the exemption is claimed.

To qualify for the age 65-and-older exemptions, the owner must be age 65 or older and live in the house. If the 65-and-older homeowner dies, the surviving spouse may continue to receive the exemption if the surviving spouse is 55 or older at the time of death and lives in and owns the home.

A disabled person must meet the definition of "disabled" for the purpose of receiving disability insurance benefits under the Federal Old-Age, Survivors and Disability Insurance Act.

²¹⁶ Tax Code §11.11

²¹⁷ Tax Code §11.18(e) and (f)

²¹⁸ Tax Code §11.11(g)

²¹⁹ Tax Code §11.11(h)

²²⁰ Tax Code §11.11(i); Health and Safety Code §301.031

²²¹ Tax Code §11.11(j)

²²² Tax Code §11.13

A homeowner does not have to meet the definition of disabled or age 65 or older on Jan. 1 of the tax year, but may qualify as disabled or age 65 or older at any time during the tax year. The exemption applies to the entire tax year as if the person was disabled or age 65 on Jan. 1. If these applicants are not specifically identified on a deed or other recorded instrument, they must provide an affidavit or other compelling evidence of ownership.²²³

The trustor of a qualifying trust may qualify for the residence homestead exemption. A residence owned by an individual through an interest in a qualifying beneficial trust and occupied by such individual as a trustor may qualify. A beneficiary of a court-ordered trust may also qualify.

The Tax Code places a ceiling on school taxes for residence homesteads owned by persons who are age 65 and older or disabled.²²⁴ The tax ceiling continues for 55-or-older surviving spouses of age 65-and-older owners who die while qualified for the tax ceiling. These homeowners may also transfer the percent of tax paid, based on their ceiling, when they purchase another home and use it as their principal residence.

A county, city or junior college district can offer a tax limitation on homesteads of taxpayers disabled or age 65 or older.²²⁵ The taxing unit's governing body may adopt the limitation or citizens in the taxing unit by petition and election may adopt the limitation. Once adopted, the Tax Code provides for the tax ceiling for disabled and age 65-and-older homeowners and their right to transfer to another homestead in that taxing unit the same benefit of that tax ceiling. It also provides for surviving spouses 55 or older to retain the tax ceiling.

Normally the exemption applies to those portions of the house actually used as a residence, as opposed to business or other use. The homestead includes up to 20 acres of land and any improvements used for residential purposes.

The home must be the principal residence of the applicant. A qualified homeowner does not lose his or her homestead exemption if the homeowner does not establish a different principal residence, intends to return and occupy the residence and is temporarily absent for a period of less than two years. The law provides that homeowners in military service outside

the United States or in a facility providing services related to health, infirmity or aging may be away from the home longer than two years and still keep the homestead exemption.

Manufactured homes may qualify for homestead exemptions. For a manufactured home to qualify as a residential homestead, the owner must follow the detailed provisions concerning statements of location and ownership.

A property owner may also receive a homestead exemption for cooperative housing. Upon receiving an application from the co-op, the chief appraiser must separately appraise and list each individual stockholder's interest. Each stockholder whose interest is separately appraised may protest and appeal the appraisal like any other property owner.

If a qualified residential structure for which the owner receives an exemption is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption. The exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land is applicable if the owner does not establish a different principal residence for which the owner receives an exemption during that period and intends to return and occupy the structure as the owner's principal residence. To continue to receive the exemption, the owner must begin active construction of the replacement qualified residential structure or other physical preparation of the site on which the structure is to be located not later than one year after the owner ceases to occupy the former qualified residential structure as the owner's principal residence. The owner may not receive the exemption for that property under the circumstances described by this subsection for more than two years.

The site of a replacement qualified residential structure is considered under physical preparation if the owner has engaged in architectural or engineering work, soil testing, land clearing activities or site improvement work necessary for the construction of the structure or has conducted an environmental or land use study relating to the construction of the structure.²²⁶

Veterans exemptions

The law provides partial exemptions for any property owned by veterans who are disabled, spouses and survivors of

²²³ Tax Code §§11.42 and 26.112

²²⁴ Tax Code §11.26

²²⁵ Tax Code §11.261

²²⁶ Tax Code §11.135

deceased disabled veterans and spouses and survivors of military personnel who died on active duty.²²⁷ The amount of exemption is determined according to percentage of service-connected disability.

A disabled veteran who receives from the United States Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployment is entitled to an exemption from taxation of the total appraised value of the veteran's residence homestead. If these veterans qualify for the exemption after January 1 of a tax year, they receive an exemption for the applicable portion of that year immediately upon qualifying for the exemption.

The 100 percent disabled veteran exemption also applies to a surviving spouse. A surviving spouse is the person who is married to a disabled veteran at the time of the veteran's death. To be entitled to this exemption, the surviving spouse cannot remarry and the veteran's residence was the residence homestead of the surviving spouse when the veteran died and remains the residence homestead of the surviving spouse.

If the surviving spouse is eligible for the exemption and then qualifies a different property as a residence homestead, the surviving spouse is entitled to the same dollar amount of the former exemption that was last received at the former homestead. The surviving spouse cannot remarry to receive the subsequent exemption. The chief appraiser of the county in which the former residence was located must provide to the surviving spouse a written certificate so that the amount of the exemption on the subsequent qualified homestead can be determined.²²⁸

The chief appraiser is also required, under Tax Code Section 11.431 to accept and approve or deny an application for the surviving spouse after the deadline for filing has passed, if the application for the exemption is filed not later than one year after the delinquency date for the taxes on the homestead.

Property owned by a veterans' organization is exempt.²²⁹ Qualified veterans' organizations are defined as non-profit organizations composed primarily of members or former members of the armed forces of the United States or its allies and that are chartered or incorporated by the U.S. Congress.

Charitable organizations generally

Property owned by qualified charitable organizations is exempt.²³⁰ An organization must meet requirements regarding how it is organized, what it does and how it uses its property. The bylaws must limit the organization to charitable activities, must pledge the group's properties to charitable purposes and must prevent anyone from realizing a profit from the organization's activities. In some cases, particularly involving medical care facilities, children's homes and nursing homes, questions may involve whether the institution serves people who cannot pay for services as well as those who can.

The exemption applies to any property owned by the charitable organization. The property must be used exclusively by the organization or other equally qualified organizations. If part of the property is leased to or used by a nonqualified person or business, the other use must be limited to activities that benefit the people the organization serves.

The miscellaneous exemption also applies to partially complete improvements or for physical preparation. The exemption for incomplete improvements lasts for three years.

Community Land Trusts

Real and personal property owned by a community land trust for the purpose of providing affordable housing for low-income and moderate-income residents, promoting resident ownership of housing, keeping housing affordable for future residents, and capturing the value of public investment for long-term community benefit is exempt. The exemption must be adopted by the governing body of the taxing unit before July 1.

To receive the exemption, the trust must meet certain requirements of a charitable organization; own the land for the purpose of leasing it and selling or leasing housing units located on the land; and engage exclusively in the sale or lease of housing as provided for in the Local Government Code, Section 373B.002. The trust must also conduct an annual audit by an independent auditor and report the results of the audit to the local governing body and the chief appraiser. The property cannot be exempted after the third year on which the trust acquired the property unless the trust is offering to sell or lease or is leasing the property according to Section 373B, Local Government Code.²³¹

²²⁷ Tax Code §11.22

²²⁸ Tax Code §§11.131 and 11.42

²²⁹ Texas Constitution Art.8, §2

²³⁰ Tax Code §11.18

²³¹ Tax Code §11.1827 and Local Government Code §373B

Once the exemption is allowed, it does not have to be claimed in subsequent years unless the ownership changes or the person's qualifications for the exemption changes.²³²

Primarily charitable organizations

Real and personal property owned by organizations engaged primarily in performing charitable functions is exempt.²³³ Before applying for an exemption with the appraisal district, an organization must obtain from the Comptroller's office a determination letter stating the organization is engaged primarily in performing charitable functions. The chief appraiser must accept a Comptroller's office determination letter as conclusive evidence that the organization engages primarily in performing charitable functions and is eligible for exemption. The chief appraiser determines if the organization uses its property for its charitable purposes. An organization is required to obtain a new Comptroller's office determination letter every fifth year after the exemption is granted. To implement the determination process, the Comptroller's office has adopted rules and prescribed a form for applying for a determination letter.

The exemption also applies to partially complete improvements or for physical preparation. The exemption for incomplete improvements lasts only for three years.

Religious organizations

Places of religious worship and clergy residences owned by qualified religious groups are exempt.²³⁴ Religious organizations must be organized and operated primarily for religious worship or the spiritual welfare of individuals. The religious organization must meet requirements similar to those imposed on charitable and youth organizations. Generally, if an organization qualifies under this section, it may exempt property of the following types: actual places of religious worship, personal property used at the place of worship, residences for clergy and personal property used at the residences. A religious organization may use its assets in performing its functions or the functions of another religious organization.

Public property owned by the state or a taxing unit and leased to a religious organization may receive the religious organization exemption if the property is used as a place of regular religious worship and meets the other requirements of the Tax Code. The religious organization applies and takes other action relating to the exemption as if the organization owned the property.²³⁵

A property owned by a religious organization and leased for use as a school may be exempt as a school.²³⁶ A religious organization's land held for expanding or constructing a place of worship may be exempt, so long as the land produces no revenue during the holding period. The land exemption has a limit of six years for contiguous property and three years for non-contiguous property.

The exemption also applies to partially complete improvements or for physical preparation. The exemption for incomplete improvements lasts for three years.

Private schools

The school exemption applies to property used for school purposes.²³⁷ As with charitable and religious organizations, the school must use its assets in performing its function or the function of another educational organization. A property owned by a religious organization and leased for use as a school may be exempt as a school.

The exemption also applies to partially complete improvements or for physical preparation. The exemption for incomplete improvements lasts for three years.

Other Exemptions

Exhibit 19 summarizes other exemptions permitted by the Tax Code, Chapter 11.

²³² Tax Code §11.43

²³³ Tax Code §§11.184 and 11.20

²³⁴ Tax Code §11.20

²³⁵ Tax Code §11.20

²³⁶ Tax Code §§11.20(a)(7) and 11.21(d)

²³⁷ Tax Code §11.21

EXHIBIT 19
Other Exemption Summaries

Exemption	Tax Code Section	Description
Public property used to provide transitional housing for the indigent	§11.111	This section exempts property owned by the United States or a federal agency and used to provide transitional housing to the poor under a program operated by the U.S. Department of Housing and Urban Development. The property is exempted only by ordinance or order of the taxing units in which the property is located.
Federal exemptions	§11.12	Property exempt from ad valorem taxation by federal law is exempt from taxation.
Tangible personal property not used to produce income	§11.14	Generally, all tangible personal property, other than manufactured homes, that is not held or used for production of income is exempt from property taxes. However, the governing body of a taxing unit may, by official action, continue to tax property other than family supplies, household goods or personal effects. A structure that is substantially affixed to real estate and is used or occupied as a residential dwelling is taxable. However, effective Jan. 1, 2009, the term structure does not include trailer-type vehicles designed primarily for use as temporary living quarters in connection with recreational, camping, travel or seasonal use.
Income-producing tangible personal property and mineral interest property having value of less than \$500	§§11.145 and 11.146	Income-producing personal property and mineral interest property valued at less than \$500 is exempt. An owner's personal property used to produce income is aggregated to determine if the owner's total taxable value in each separate taxing unit is less than \$500 and, thus, exempt from taxation. The taxable value of a property owner's mineral interests is aggregated to determine if the taxable value within each taxing unit is less than \$500.
Family supplies	§11.15	A family is entitled to an exemption from taxation of its family supplies for home or farm use.
Farm products	§11.16	Livestock, poultry, agricultural products and some nursery products are exempt when they are still in the hands of the person who raised them. Nursery products are exempt only if they are still growing on Jan. 1. Livestock and poultry must be owned by the person who is paying for their care on Jan. 1. Farm products include standing timber or timber that has been harvested and on Jan. 1 is located on the real property on which it was produced and is under the ownership of the person who owned the timber when it was standing.
Implements of husbandry	§11.161	Machinery and equipment used for farming, ranching and timber production, regardless of primary design, is exempt.
Cemeteries	§11.17	Cemetery property is exempt. The property must be used exclusively for human burial. The property may not be held for profit.
Charity care and community benefits requirements for charitable hospital	§11.1801	To qualify as a charitable organization under §11.18(d)(1), a nonprofit hospital or hospital system must provide charity care and community benefits as follows: (1) at a level that is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system; (2) in an amount equal to at least 4 percent of the hospital's or hospital system's net patient revenue; (3) in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax; or (4) in a combined amount equal to at least 5 percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least 4 percent of net patient revenue.

EXHIBIT 19 (CONTINUED)
Other Exemption Summaries

Exemption	Tax Code Section	Description
Charitable organization improving property for low-income housing	§11.181	A charitable organization improving property for low-income housing is exempt if it meets the Tax Code requirements and uses volunteer labor to build or repair housing for sale, without profit, to a low-income individual or family. Each property may be exempt for a maximum of five years after the property's acquisition date. Property that received an exemption based on its ownership by an organization that constructs or rehabilitates property and uses the property to provide affordable, low-income housing and that was subsequently transferred by that organization to a charitable organization is not exempted after the fifth year it was transferred. If the organization sells the property to an individual or family that is not low income, the chief appraiser enters a penalty in the appraisal records and notifies the organization and the buyer. The penalty is equal to the taxes that would have been imposed in each year the property was exempt plus 12 percent interest.
Community housing development organizations for low-income housing	§§11.182, 11.1825 and 11.1826	Organizations improving or constructing property for low and moderate-income housing are exempt; these include organizations that had an exemption for low-income and moderate income housing in 2003 and community housing projects completed on or after Jan. 1, 2004. In all counties, the exemption amount for organizations selling single-family dwellings is 100 percent. The exemption amount for organizations renting dwellings is 50 percent; however, in counties with populations of 1.8 million or more, each taxing unit's governing body by official action must determine whether to permit the exemption and at what percent. In these larger counties, the property owner must submit a written request to the governing body. Property may not be exempted under §11.1825 for a tax year unless the organization owning or controlling the owner of the property has an audit prepared by an independent auditor covering the organization's most recent fiscal year. The audit must be conducted in accordance with generally accepted accounting principles. The chief appraiser is required to use the income method of appraisal for property under §11.1825.
Charitable associations providing assistance to ambulatory health care centers	§11.183	An organization that assists ambulatory health care centers is exempt if it is exempt from federal income tax; is funded by a grant under the Federal Public Health Service §330; and does not perform abortions or provide abortion services.
Colonia Model Subdivision Program	§11.185	<p>An organization is entitled to an exemption from taxation of unimproved real property it owns if it meets the requirements of a charitable organization provided by Sections 11.18(e) and (f); purchased the property or is developing the property with proceeds of a loan made by the Texas Department of Housing and Community Affairs under the colonia model subdivision program under Government Code Chapter 2306 Subchapter GG; and owns the property for the purpose of developing a model colonia subdivision.</p> <p>Property may not be exempted after the fifth anniversary of the date the organization acquires the property. An organization entitled to this exemption is also entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, or sale of property. To qualify for an exemption under this subsection, property must be used exclusively by the charitable organization, except that another individual or organization may use the property for activities incidental to the use by the charitable organization that benefit the beneficiaries of the charitable organization. The chief appraiser must determine the market value of property exempted and record the market value in the appraisal records.</p> <p>If the organization sells the property to a person other than a person described by Government Code §2306.786(b) (1), a penalty is imposed on the property equal to the amount of the taxes that would have been imposed on the property in each tax year that the property was exempted from taxation, plus annual 12 percent interest computed from the dates on which the taxes would have become due.</p>

EXHIBIT 19 (CONTINUED)
Other Exemption Summaries

Exemption	Tax Code Section	Description
Youth spiritual, mental and physical development associations	§11.19	<p>The property of youth development groups affiliated with a state or national organization is exempt. A youth development association may use its property in performing its functions or the functions of another youth development organization.</p> <p>The exemption also applies to partially complete improvements or for physical preparation. The exemption for incomplete improvements lasts only three years. Physical preparation is architectural or engineering work, soil testing, land-clearing activities, site improvement or beginning any environmental or land use study relating to constructing an improvement.</p>
Additional tax on sale of certain religious organization property	§11.201	<p>If land is sold or otherwise transferred to another person in a year in which the land receives an exemption under Tax Code §11.20(a)(6), an additional tax is imposed on the land. That tax is equal to the tax that would have been imposed on the land had the land been taxed for each of the five years preceding the year in which the sale or transfer occurs in which the land received an exemption under that subsection, plus annual 7 percent interest calculated from the dates on which the taxes would have become due.</p>
Nonprofit community business organization providing economic development services to local community	§11.231	<p>An association that qualifies as a nonprofit community business organization as provided by this section is entitled to an exemption from taxation of buildings and tangible personal property it owns and uses exclusively to perform its primary functions. The exemption also applies to real property owned by the organization consisting of an incomplete improvement that is under active construction or other physical preparation and is designed and intended to be used exclusively by qualified nonprofit community business organizations. It also applies to the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement.</p> <p>Use of exempt property by non-qualified nonprofit community business organizations does not result in the loss of an exemption if the use is incidental to use by qualified nonprofit community business organizations and limited to activities that benefit the beneficiaries of the nonprofit community business organizations that own or use the property.</p>
Historic or archeological sites	§11.24	<p>To qualify for the historic or archeological site exemption, a structure must be designated a historic building or archeological site and the taxing unit must vote to grant an exemption. The structure must be designated as a Recorded Texas Historic Landmark by the Texas Historical Commission or the taxing unit must designate it as historically significant and in need of tax relief. The taxing unit decides the amount of the exemption.</p>
Marine cargo containers used exclusively in international commerce	§11.25	<p>Marine cargo containers used exclusively in international commerce are exempt. A marine cargo container is a container used to transport goods by ship, readily handled without reloading to transfer from one mode of transport to another and used repeatedly. The definition also includes a container that is fully or partially enclosed, has an open top suitable for loading or consists of a flat rack suitable for securing goods onto the container. The exemption is limited to property owned by a citizen or entity of a foreign country and taxed in a foreign country.</p>
Goods exported from Texas	§11.251	<p>The Tax Code provides for a freeport exemption to implement Art. VIII, Sec. 1-j of the Texas Constitution. The freeport exemption applies to goods, wares, ores, merchandise and other tangible property, other than oil, gas and petroleum products (defined as liquid and gaseous materials immediately derived from refining petroleum or natural gas) and to aircraft or repair parts used by a certified air carrier. The freeport goods qualify if they leave Texas within 175 days of the date they are brought into or acquired in the state. However, for cotton stored in a warehouse to qualify for the freeport exemption, the warehouse operator may file a one-time application for the exemption. The 175-day time limit is presumed to have been met.</p>

EXHIBIT 19 (CONTINUED)
Other Exemption Summaries

Exemption	Tax Code Section	Description
Leased vehicles for personal use	§11.252	Motor vehicles (passenger cars or trucks with a shipping weight of not more than 9,000 pounds) leased for personal use are exempt. Personal use means more than 50 percent of its use, based on mileage, is for activities that do not involve the production of income. By rule, the Comptroller has established exemption application requirements and procedures to determine whether a vehicle qualifies. The lessee completes a Comptroller-adopted form certifying under oath that the vehicle is not primarily used for the production of income. The owner (lessor) maintains the lessee executed forms for inspection and copying by the appraisal district. The owner renders nonexempt vehicles for taxation and provides the chief appraiser with an additional list of all leased vehicles. The exemption applies only to vehicles subject to a lease entered into on or after Jan. 2, 2001. A city, by ordinance adopted before Jan. 1, 2002, may tax personal-use leased vehicles.
Tangible personal property in transit	§11.253	The Tax Code exempts goods in transit, described as goods acquired inside or outside the state, stored under a bailment contract by a public warehouse operator at one or more public warehouse facilities that are not in any way owned or controlled by the owner of the property who acquired or imported the property and then shipped to another location in or out of this state within 175 days. The goods do not include oil, gas or petroleum products or special inventories such as motor vehicles or boats in a dealer's retail inventory. To tax goods in transit, taxing units had to take official action by October 1, 2011.
Motor vehicle used for production of income and for personal activities	§11.254	One passenger car or light truck, if it is owned by an individual and used in the individual's business or profession and also used for personal activities, is exempt. The exemption does not apply to vehicles used to transport passengers for hire.
Solar- and wind-powered devices	§11.27	People who install a solar- or wind-powered device to produce energy are entitled to exempt the amount of value the device contributes to their property.
Offshore drilling rigs	§11.271	Offshore drilling rigs that are stored in a county bordering the Gulf of Mexico or a bay or other body of water immediately adjacent to the gulf are exempt. Drilling rigs are exempt only if they are stored for a purpose other than repair and are not used for drilling. They must be designed for offshore drilling.
Tax abatement	§11.28	The Tax Code allows cities, counties and other taxing units, except school districts, to designate redevelopment zones and grant tax abatement exemptions by agreement with property owners in those zones. A person who has entered into a valid agreement is entitled to an exemption according to the terms of the agreement. An application must be filed.
Intracoastal waterway dredge disposal site	§11.29	A property owner is entitled to an exemption from taxation of land that has been dedicated by recorded donated easement as a disposal site for depositing and discharging materials dredged from the main channel of the Gulf Intracoastal Waterway by the state or federal government. The exemption ends when the land ceases to be used as an active dredge material disposal site and is no longer dedicated for that purpose.
Nonprofit water supply or wastewater service corporations	§11.30	Property owned and reasonably necessary for a nonprofit water supply or wastewater service corporation's functions is exempt. The exemption also applies to partially complete improvements or for physical preparation. The exemption for incomplete improvements lasts for three years.

EXHIBIT 19 (CONTINUED)
Other Exemption Summaries

Exemption	Tax Code Section	Description
Pollution control	§11.31	Property acquired after Jan. 1, 1994 and used for pollution control may receive an exemption. The exemption applies to all or part of real and personal property used solely or partly as a facility, device or method to control air, water or land pollution. The exemption also applies to an extensive list of clean energy technologies that are used to control pollution. The Texas Commission on Environmental Quality (TCEQ) is authorized to adopt rules to create a list of facilities, devices or methods to control pollution that are eligible for exemption. Property not eligible for the exemption includes residential; park or scenic land; vehicles; property subject to a tax abatement agreement before Jan. 1, 1994; and property owned by a person or company that manufactures pollution control equipment or provides pollution control services. To qualify for a use determination, the person or company must apply to the TCEQ for a permit or permit exemption. TCEQ notifies the chief appraiser about the application and determines the proportion of the property that is used for pollution control. Then, TCEQ issues a determination letter to the applicant. The property owner includes the letter with the exemption application to the appraisal district. The chief appraiser must accept the letter's determination as conclusive evidence for the exemption.
Certain water Conservation initiatives	§11.32	Property designated by a taxing unit as property upon which approved initiatives have been implemented may be exempt. The taxing unit may exempt part or all of the value of property with approved water conservation, desalination or brush control initiatives. The taxing unit's governing body must designate approved initiatives by adopting an ordinance or other law.
Raw cocoa and green coffee held in Harris County	§11.33	This section exempts all raw cocoa and green coffee held in Harris County. The owner need not claim the exemption, once granted, in subsequent years unless requested by the chief appraiser.

Source: Texas Comptroller of Public Accounts.

Agricultural and timber appraisal

Land qualified as agricultural or timber land can be appraised on the basis of its productivity value – what typical land in its category can produce. It is also appraised at its market value, which is usually higher than the land's productivity value.²³⁸

Wildlife management use also qualifies property for productivity valuation. However, to qualify for wildlife management use, the property must be qualified for agricultural appraisal at the time the owner changes to wildlife management use.²³⁹ In certain circumstances, an exception exists for land used to protect federally endangered species under a federal permit.²⁴⁰ Such land qualifies for special use appraisal regardless of its use in prior years.

Agricultural use also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than five or more than 20 acres.

An owner may protest the chief appraiser's appraisal, including the market value and the productivity value. An owner may also protest to the ARB if the chief appraiser denies the application for any reason. In determining if property qualifies for wildlife management use valuation, the law requires the chief appraiser to use standard developed by the Texas Parks and Wildlife Department. If there is a protest of the chief appraiser's decision, the ARB is also required to use these standards.²⁴¹

Once allowed, applications are not required in subsequent years. However, the chief appraiser may require the property owner to reapply if the appraiser believes the land's eligibility has ended. The appraiser will send the property owner a notice that a new application is required, along with the application.

²³⁸ See generally Tax Code Chapter 23, Subchapters C, D and E

²³⁹ Tax Code §23.51(7)(A)

²⁴⁰ Tax Code §23.51(7)(B)

²⁴¹ Tax Code §23.521(d)

²⁴² The property owner is also required to notify the appraisal office in writing before May 1 after eligibility of the land ends or after a change in the category of agricultural use.²⁴³

The rollback tax, which is based on the difference in market and productivity values for the previous five years, is an additional penalty that applies when an owner of land qualified as “open-space land devoted to farm, ranch or wildlife management purposes on the basis of its productive capacity” changes the use of the land to a non-agricultural or non-timber use.²⁴⁴ An owner subject to the rollback tax may protest the chief appraiser’s determination that the use has changed.

Some changes to a nonagricultural use, however, do not trigger the rollback tax. Converting part of qualified agricultural land to the property owner’s residence homestead does not trigger the rollback tax.²⁴⁵ Qualified agricultural land obtained by a religious organization is not subject to the rollback tax if, within five years, the organization converts the land to an eligible religious use provided by Section 11.20.²⁴⁶ Also, there is no rollback tax for qualified land that is owned by a charitable organization under Section 11.18 for providing housing and related services to persons 62 years of age or older in a retirement community and exempt for that purpose within five years. A change of use from timber to use by religious organizations and certain cemeteries, as well as residential homestead use, also will not trigger the rollback tax.²⁴⁷

Qualified agricultural land transferred to the state or a political subdivision to be used for a public purpose is not subject to the rollback tax.²⁴⁸ In addition, the chief appraiser may not consider the period during which land is owned by the state in determining whether land has been diverted to a nonagricultural use for triggering a rollback tax.²⁴⁹

The rules for qualifying agricultural and timber land are explained in three Comptroller publications: *Manual for the Appraisal of Agricultural Land*, *Guidelines for Qualification of Agricultural Land in Wildlife Management Use* and *Guidelines for the Appraisal of Timber Lands*. These

publications also discuss in detail deadlines for applying for the appraisal. ARBs should be familiar with these rules because the chief appraiser is required to follow them in qualifying and appraising agricultural and timber land.

The Comptroller also publishes manuals explaining how to qualify for two other types of specially appraised properties: deed-restricted airport property and recreational park-scenic land.

Temporary production aircraft

The Tax Code provides a method for the appraisal of temporary production aircraft. The chief appraiser is required to determine the appraised value of a temporary production aircraft at 10 percent of the aircraft’s list price as of January 1. The list price is the value of the aircraft as listed in the most recent International Bureau of Aviation Aircraft Values Book.

A temporary production aircraft is an aircraft:

- that is a transport category aircraft as defined by federal aviation regulation;
- for which a Federal Aviation Administration special airworthiness certificate has been issued;
- that is operated under a Federal Aviation Administration special flight permit;
- that has a maximum takeoff weight of at least 145,000 pounds; and
- that is temporarily located in this state for purposes of manufacture or assembly.²⁵⁰

Dealer’s motor vehicle inventory

The Tax Code provides a method for the appraisal of motor vehicle inventory.²⁵¹ Owners of a motor vehicle inventory must file the Comptroller’s Dealer’s Motor Vehicle Inventory Declaration on or before Feb. 1 of each year with the chief appraiser. The declaration includes the market value of the dealer’s inventory for the current year, based on the prior year’s inventory sales divided by 12.

Excluded from this process are fleet sales, transactions between dealers and subsequent sales.²⁵² In addition, dealers are required to make monthly reports and prepayments based on

²⁴² Tax Code §23.54(e)

²⁴³ Tax Code §23.54(h)

²⁴⁴ Tax Code §23.55(o)

²⁴⁵ Tax Code §23.55(i)

²⁴⁶ Tax Code §23.55(l)

²⁴⁷ Tax Code §23.55(g)

²⁴⁸ Tax Code §23.55(f)

²⁴⁹ Tax Code §23.46(c)

²⁵⁰ Tax Code §23.1211

²⁵¹ Tax Code §23.121

²⁵² Tax Code §23.121(b)

sales.²⁵³ Property owners may protest to the ARB any action by the appraisal district that applies to and adversely affects the dealer.

Dealer's vessel, outboard motor and trailer inventory

The Tax Code provides a method for the appraisal of vessels, outboard motors and trailers inventory.²⁵⁴ A vessel does not include those more than 65 feet in length (excluding sheer) and canoes, kayaks, punts, rowboats, rubber rafts or other vessels less than 14 feet in length when paddled, poled, oared or windblown.

Owners of vessels, outboard motors and trailers inventory must file the Comptroller's Dealer's Vessel, Trailer and Outboard Motor Inventory Declaration on or before Feb. 1 of each year with the chief appraiser. The declaration includes the market value of the vessel, outboard motor and trailer inventory for the current year, based on the prior year's inventory sales divided by 12. Some inventory is not part of this process: fleet sales, transactions between dealers and subsequent sales. In addition, dealers are required to make monthly reports and prepayments based on sales.²⁵⁵

Dealer's heavy equipment inventory

The Tax Code affords a method for the appraisal of heavy equipment inventory. Heavy equipment is self-propelled, self-powered or pull-type equipment, including farm equipment or a diesel engine, that weighs at least 1,500 pounds and is intended for agricultural, construction, industrial, maritime, mining or forestry use.²⁵⁶

Dealers of heavy equipment must file the Comptroller's Dealer's Heavy Equipment Inventory Declaration with the chief appraiser on or before Feb. 1 of each year or not later than 30 days of starting a business, if the dealer was not in business on January 1. The declaration includes the market value of the heavy equipment inventory for the current year based on the prior year's inventory total annual sales divided by 12. The market value of heavy equipment inventory that is sold during the preceding tax year after being leased or rented for the portion of that same tax year is considered to be the sum

of the sales price of the item plus the total lease and rental payments received in the preceding year. The chief appraiser is required to estimate the value of heavy equipment inventory of an owner who was not a dealer on January 1 of the preceding year by extrapolating sales data, if any, generated in the preceding tax year.

Some heavy equipment inventory is excluded from this process: fleet transactions, transactions between dealers and subsequent sales. In addition, dealers are required to make monthly reports and prepayments based on sales, leases, and rentals.²⁵⁷ Property owners may protest to the ARB any action by the appraisal district that applies to and adversely affects the dealer.

Retail manufactured housing inventory

A method for the appraisal of manufactured housing inventory is also included in the Tax Code.²⁵⁸ Manufactured housing retailers must file the Comptroller's Retail Manufactured Housing Inventory Declaration on or before Feb. 1 of each year with the chief appraiser. The declaration includes the market value of the manufactured housing inventory for the current year based on the prior year's inventory sales divided by 12.

Manufactured housing inventory involved in transactions between retailers and subsequent sales is excluded from this process. In addition, dealers are required to make monthly reports and prepayments based on sales.²⁵⁹ Property owners may protest to the ARB any action by the appraisal district that applies to and adversely affects the retailer.

Sept. 1 Appraisal

A business owner may have his or her inventory appraised at its value on Sept. 1 of the previous year, four months before the normal Jan. 1 date.²⁶⁰ The owner must file a request before Aug. 1 of the previous year to qualify. Since inventories are valued according to the quantity of goods present on the appraisal date, a Sept. 1 appraisal can benefit a property owner who has lower inventory levels in September than in January. Sept. 1 inventory is not available to a business with an inventory subject to the motor vehicle; vessel, outboard motor and

²⁵³ Tax Code §23.122

²⁵⁴ Tax Code §23.124

²⁵⁵ Tax Code §23.125

²⁵⁶ Tax Code §23.1241

²⁵⁷ Tax Code § 23.1242

²⁵⁸ Tax Code §23.127

²⁵⁹ Tax Code §23.128

²⁶⁰ Tax Code §23.12

trailer; heavy equipment; or manufactured housing inventory appraisal described above.

Ownership issues

An affected person may protest the appraisal district's determination of a property's ownership. Jan. 1 is the date for determining ownership and tax liability for a tax year. The person who owns property on Jan. 1 is liable for the year's taxes.

Administrative policy regarding recording property transfers and ownership interests after Jan. 1 varies among appraisal districts. Some appraisal districts "freeze" the ownership records as of Jan. 1 and maintain a separate file of subsequent transfers for the next Jan. 1. Others continue to update ownership changes on the appraisal records until the ARB receives

them. The term "property owner" in Tax Code Chapters 41 and 42 may include the Jan. 1 owner, the new owner or both.

Other adverse actions

A chief appraiser may take other actions that adversely affect the property owner, such as canceling an exemption, back assessment or appraising a property or imposing a penalty for late agricultural or timber land appraisal application.

The property owner has a right to be notified of these actions and to protest them before the ARB. The chief appraiser must send notices modifying or denying an exemption or denying an application for special appraisal by certified mail.²⁶¹

²⁶¹ Tax Code §1.07(d)



Chapter 6

Duties after Records Approval

When the ARB approves the appraisal records for the year, the ARB fulfills most of its responsibilities to change the records. However, an ARB's duties do not end after it approves the appraisal records. It may need to address other matters throughout the tax year, including late-filed residence homestead exemptions, supplemental records, appraisal roll corrections, failure to deliver notice, cases of substantial error and joint motions on incorrect values.

Late-filed exemption applications

Property owners may file homestead exemption applications after the May 1 deadline for filing has passed.²⁶² Homeowners must apply for the exemption no later than one year after the delinquency date for the tax year. Property owners age 65 and older or disabled homeowners may file an application for this homestead exemption up to one year after the date the person turns 65 or becomes disabled.²⁶³ The chief appraiser approves, denies or modifies the exemption as appropriate and submits the proposed change to the records to the ARB.

The Tax Code also provides for late-filed exemption applications for manufactured home homesteads, religious organizations, schools, charitable organizations, low-income housing, cotton stored in warehouses, veteran's organizations, disabled veterans and surviving spouses of disabled veterans and freeport exemptions.²⁶⁴

After the ARB approves the appraisal records and the late filed homestead exemptions, the chief appraiser notifies the collector for each taxing unit in which the home is located. The collector then calculates the new lower tax and sends the property owner a refund or new bill as appropriate.

If the chief appraiser denies a late-filed homestead exemption application, the property owner may file a notice of protest and request an ARB hearing.

Supplemental records

The chief appraiser often prepares and submits supplemental records to the ARB after approval of the initial appraisal records. Supplemental records list property that the chief appraiser discovers was not included in the initial records submitted to the ARB. These records also include property that was omitted from the appraisal roll in an earlier year.

The ARB reviews and approves supplemental records by the same process used for the original appraisal records. However, the deadline for a property owner to protest is different. A property owner has 30 days after the chief appraiser submits the supplemental records to file a notice of protest. The ARB has 30 days after the property owner files the protest to hear and determine it or as soon after that date as possible.²⁶⁵ After completing its review the ARB adopts an order approving the supplemental records (**Exhibit 20**).

Corrections after approval

The ARB has authority to hear motions to correct appraisal rolls and to hear protests for failure of the appraisal district to provide notice to the property owner.²⁶⁶ The chief appraiser also has certain authority to correct errors in approved appraisal records.²⁶⁷ Correction procedures vary depending on the type of correction. The ARB may correct some errors up to five years after the year of the error and may correct other errors only if the property owner acts before the tax year's delinquency date. The filing deadlines and types of corrections are discussed below.

²⁶² Tax Code §11.431

²⁶³ Tax Code §11.43

²⁶⁴ Tax Code §§11.431 - 11.4391

²⁶⁵ Tax Code §25.23

²⁶⁶ Tax Code §§25.25 and 41.411

²⁶⁷ Tax Code §25.25(b)

EXHIBIT 20
Order Approving Supplemental Appraisal Records



Order Approving Supplemental Appraisal Records

Property Tax
Form 50-227

**Order Approving Supplemental Appraisal Records
for _____**

Appraisal Review Board

_____ County, Texas

On _____, _____, the Appraisal Review Board of _____ County, Texas met to approve supplemental appraisal records for tax year _____.

The board finds that the supplemental records, as corrected by the chief appraiser according to the orders of the board, should be approved and added to the appraisal roll for the district.

The board therefore APPROVES the supplemental appraisal records as corrected.

Signed on _____, _____

**sign
here** ➔

Chair, Appraisal Review Board

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax

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A person who acquires a property after Jan. 1 of the tax year in question has the same rights to file a motion to correct the property's record as the Jan. 1 owner had.²⁶⁸ The new owner must meet the same deadline for filing the motion. In addition, the new owner may continue any motion filed by the Jan. 1 owner.

Changes by the chief appraiser

The chief appraiser may change the appraisal roll at any time to correct a name or address, determination of ownership, a description of property, multiple appraisals of the property, a clerical error or other inaccuracy as prescribed by ARB rule that does not increase a person's tax liability.²⁶⁹ The chief appraiser does not need to consult with the ARB before ordering these changes. Written rules setting out the circumstances under which the chief appraiser may correct errors that affect a person's tax liability must be adopted by the ARB and possibly the appraisal district's board of directors. The law is ambiguous and the ARB should request legal advice about the rules.

Each quarter, the chief appraiser will submit a report to the ARB and appraisal district board of directors showing any changes to the appraisal rolls. The report must include the property owner's name, address, property description and type of clerical error or other inaccuracy that caused an error on the appraisal rolls.

The failure or refusal of a chief appraiser to make a clerical error change to an appraisal roll is not subject to an ARB action or a taxpayer lawsuit.

Changes by ARB

On the motion of the chief appraiser or a property owner, the ARB may order changes to the appraisal roll to correct clerical errors that affect a property owner's liability for a tax; multiple appraisals of a property in a single tax year; the inclusion of property that does not exist, either in the form described on the appraisal roll or at the location described on the appraisal roll; or an error in ownership. If the chief appraiser and property owner do not agree on a motion to correct the appraisal records within 15 days after the property owner files the motion, the property owner is entitled to a hearing on the motion if requested.²⁷⁰ The property owner is entitled to a hearing regardless of whether he or she protested the property value in a prior year. At least 15 days before the

hearing, the ARB must deliver a written notice with the date, time and place of the hearing to the property owner, chief appraiser and presiding officer of the governing body of each taxing unit in which the property is located. The ARB should conduct these hearings the same way it conducts regular protest hearings. A person forfeits the right to file a motion to correct the appraisal records if taxes are delinquent in a year for which the person seeks a correction.

Before delinquency date

On a motion by the chief appraiser or the property owner, the ARB may order changes to correct certain appraisal errors in the appraisal roll. The deadline for such a motion is before taxes on the property become delinquent.

On joint motion of the property owner and the chief appraiser, the ARB must correct an error that resulted in an incorrect appraised value for the owner's property. The deadline for filing this motion is before the taxes on the property become delinquent.

Finally, a taxpayer may file a protest after the normal protest deadline alleging failure of the ARB or the chief appraiser to provide or deliver a notice required by law. If the taxpayer can show that a notice was never delivered, the ARB must hear any protest the taxpayer wishes to bring on the property affected by the notice. The taxpayer must file before the delinquency date.

Types of corrections

One of the most common motions to correct is called a "25.25(c)" motion because of the Tax Code section involved. The following information describes the types of corrections: clerical errors, multiple appraisals, nonexistent property, and errors in ownership. Sample motions are found in **Exhibits 21A** and **21B**.

A clerical error is defined by law as an error caused by a mistake in writing, copying, transcribing, computer data entry or retrieval or a mathematical error that prevents the appraisal or tax roll from correctly showing what the chief appraiser, ARB or tax assessor said or did. A clerical error is not a mistake in reasoning or judgment in making a finding or determination. Corrections can be made in appraisal rolls for five prior years.²⁷¹

A multiple appraisal occurs when a property is listed in the appraisal records more than once for the same year. On the timely motion of the chief appraiser or of the property owner,

²⁶⁸ Tax Code §25.25

²⁶⁹ Tax Code §25.25(b)

²⁷⁰ Tax Code §25.25(e)

²⁷¹ Tax Code §25.25(c)(1)

the ARB may order a correction to the appraisal roll for a multiple appraisal. The five-year filing deadline applies. Taxes may not be delinquent for the years corrected.²⁷²

Non-existent property included on the appraisal roll is property that does not exist either in the form or at the location described on the appraisal roll. On the motion of the chief appraiser or the property owner, the ARB may correct, before the end of five years after Jan. 1 of the tax year, any errors involving non-existent property. Again, taxes may not be delinquent for the years corrected.²⁷³

An error in ownership is an error in which the property is shown as owned by a person who did not own the property on January 1 of that year. The correction to the appraisal roll regarding an error in ownership can be made for any of the five preceding years.²⁷⁴

One-third over-appraisal error

The chief appraiser or a property owner may file a motion to correct an appraisal error that results in a wrongly appraised value for the owner's property (**Exhibit 22**).²⁷⁵

If the chief appraiser and property owner do not agree on a motion to correct the appraisal records within 15 days after the property owner files the motion, the property owner is entitled to a hearing on the motion if requested.

The error may be corrected only if the appraised value exceeds the correct value by more than one-third. The ARB should determine the correct value. It may wish to include its calculation method for the one-third difference in its administrative procedures. By way of example, the ARB may include one of the following calculation methods in its procedures:

$(\text{Corrected Value} \times 1/3 \text{ or } 33.33\%) + (\text{Corrected Value}) =$
Threshold for Current Appraised Value

Or

$\text{Corrected Value}/75\% = \text{Threshold for Current Appraised Value}$

²⁷² Tax Code §25.25(c)(2)

²⁷³ Tax Code §25.25(c)(3)

²⁷⁴ Tax Code §25.25©(4)

²⁷⁵ Tax Code §25.25(d)

Legal advice should be sought regarding the calculation method that is ultimately used.

The correction motion must be brought before taxes on the property become delinquent. The ARB may correct the value if the property was not the subject of a protest or a written agreement. The ARB may not make a requested appraisal roll correction if the owner's property was the subject of an ARB hearing in which the owner appeared and offered evidence or argument and the ARB made a determination on the merits or the appraised value was the result of a written agreement between the owner or owner's agent and the appraisal district.

After a motion is filed and a hearing granted, the ARB must deliver a 15-day notice of the time, date and place of the hearing to the chief appraiser, the property owner and presiding officer of the governing body of each taxing unit in which the property is located (**Exhibit 24**).

Each party is entitled to present evidence and argument at the hearing and to receive written notice of the board's determination. The property owner or the chief appraiser may file a suit to compel the ARB to make a change required by law.

The property owner must pay a late-correction penalty if the ARB makes a change. The amount of the penalty is 10 percent of the taxes due on the new value. The 10 percent penalty must be paid to each taxing unit affected by the change.

Joint motion on incorrect value

The ARB – on a joint motion by the property owner and the chief appraiser – must correct an error that resulted in an incorrect appraised value for the owner's property.²⁷⁶ The deadline for filing this joint motion is before the delinquency date (**Exhibit 25**).

An agreement between the property owner or the owner's agent and the appraisal district is final. The ARB may not review or reject the agreement.²⁷⁷

Late protest based on failure to deliver notice

Certain notices are required by law. A non-exclusive list may be found in **Exhibit 26**. Failure to deliver one of these notices permits late protests to be considered by the ARB.

²⁷⁶ Tax Code §25.25(h)

²⁷⁷ Tax Code §1.111(e)

A property owner may file a late protest after the normal deadline, but before the delinquency date or no later than the 125th day after the date the property owner claims to have received the tax bill from one or more of the taxing units that tax the property, alleging that the appraisal district or the ARB has not delivered or provided a notice required by law.²⁷⁸ The owner is entitled to a hearing solely on whether one or more taxing units timely delivered the tax bill. If the ARB determines that no taxing unit timely delivered a tax bill, the ARB must determine when at least one taxing unit delivered written notice of the taxes. For the purposes of filing the protest and making a tax compliance payment, the delinquency date is postponed to the 125th day after that date.²⁷⁹

If at the hearing on whether the appraisal district delivered notice the ARB finds that the notice was required but was not delivered, it must hear any protest regarding the property that the property owner cares to present. As noted, the taxpayer must comply with tax payment requirements.

Delivery in this context means that the appraisal district mailed the notice correctly addressed to the property owner at the last address furnished by the property owner or delivered the notice by another method as permitted in the Tax Code. Delivery is presumed unless the property owner provides some evidence that he or she did not receive the notice.²⁸⁰ In that case, the burden shifts to the appraisal district to show that the notice was properly mailed to the last correct address in its possession.

If the appraisal district can show proper mailing, then the taxpayer is not entitled to have the protest heard under this provision. If the taxpayer claims no receipt and the appraisal district cannot show proper mailing, then the property owner has shown failure of delivery. If the ARB determines that this is the case, the ARB must then hear and determine any and all protests the property owner wishes to make regarding the property that was the subject of the notice.

Forfeiture of remedy for nonpayment of taxes

The pendency of a motion filed under Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. However, the delinquency date applies only to the amount of taxes required to be paid; meaning those

that are not in dispute. If the property owner pays the taxes not in dispute, the delinquency date for any additional amount of taxes due on the property is determined Section 42.42(c) and that additional amount is not delinquent before that date.²⁸¹

A property owner who files a motion under Section 25.25 is required, before the delinquency date, to pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion and that is not in dispute or forfeit the right to proceed to a final determination. The ARB may excuse the requirement based on an oath of inability to pay. On a motion of a party, the board is required to determine compliance with these provisions in the same manner and by the same procedure as provided by Section 41.4115(d) and may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.²⁸²

A property owner who pays an amount of taxes greater than required does not forfeit the right to a final determination of the motion by making the payment. If the property owner makes a timely motion under Section 25.25, taxes paid on the property are considered paid under protest, even if paid before the motion if filed.²⁸³

Tax payment during an appeal or request for binding arbitration

In most cases, the property owner must tender taxes as required by provisions of the Tax Code.²⁸⁴ The owner must pay the lesser of the amount of taxes not in dispute or the amount of taxes due on the property based on the approved value that is being appealed or binding arbitration is sought before the delinquency date.

On motion of a party to a district court appeal, the court holds a hearing to determine if the taxpayer complied with this requirement. The court may dismiss the pending action for failure to comply or may require full compliance if the owner has only substantially complied. The owner has 30 days from the court's decision to fully comply.

A district court may excuse a property owner from the required payment of taxes to taxing units in a district court

²⁷⁸ Tax Code §41.411

²⁷⁹ Tax Code §41.44(c-3)

²⁸⁰ Tax Code §1.07

²⁸¹ Tex. Tax Code §25.26(a)

²⁸² Tex. Tax Code §25.26(b) and (d)

²⁸³ Tex. Tax Code §25.26(c)

²⁸⁴ Tax Code §§42.08 and 41A.10

Property Tax
Form 50-770

____ County
Appraisal Review Board

Appraisal District Property Identification Number(s): _____

☐ clerical error that affects a property owner's liability for a tax imposed in tax year(s) _____;

☐ multiple appraisals of a property in tax year(s) _____;

☐ inclusion of property that does not exist in the form or at the location described in the appraisal roll for tax year(s) _____; or


☐ an error of ownership of a property for tax year(s) _____.

Date _____

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EXHIBIT 21B
Sample 25.25(c) Motions
(Property Owner's Motion for Correction of Appraisal Roll)



Property Owner's Motion for Correction of Appraisal Roll

Property Tax
Form 50-771

In the County of _____ County
State of Texas _____ Appraisal Review Board

Movant, _____, is owner of the following property:

Property description: _____

Property location: _____

Appraisal District Property Identification Number(s): _____

Movant brings this motion for a hearing to correct the appraisal roll regarding Movant's above-referenced property on the appraisal roll certified by this Appraisal Review Board on the _____ day of _____, _____.

This motion is to correct the following:

☐ clerical error that affects Movant's liability for a tax imposed in tax year(s) _____;

☐ multiple appraisals of a property in tax year(s) _____;

☐ inclusion of property that does not exist in the form or at the location described in the appraisal roll for tax year(s) _____; or

☐ an error of ownership of a property for tax year(s) _____.

Movant hereby certifies compliance with the provisions of Tax Code Section 25.26.

Movant states that the property described above is located within the _____ County Appraisal District and within the following taxing units:

Movant states the specific error(s) this motion seeks to correct is or are:

Movant makes this motion pursuant to Tax Code Section 25.25(c) and (e) and requests that the Appraisal Review Board schedule a hearing to determine whether to correct the error(s) identified above. Movant requests that the Appraisal Review Board send notice of the time, date and place fixed for the hearing, not later than 15 days before the scheduled hearing, to Movant, the chief appraiser and the presiding officer of the governing body of each taxing unit where the property is located.

Respectfully submitted,

**sign
here** ➡

Signature of Movant or Authorized Agent*

Date

* A property owner may designate an agent; however, the designation does not take effect with respect to an appraisal district or taxing unit until a copy of the designation form is filed with the appraisal district. The designation form is prescribed by the Comptroller and is available at the appraisal district and on the Comptroller's website at www.window.state.tx.us/taxinfo/proptax.

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax
50-771 • 05-12/4

EXHIBIT 21B (cont.)
Sample 25.25(c) Motions
(Property Owner's Motion for Correction of Appraisal Roll – page 2)



Property Owner's Motion for Correction of Appraisal Roll

Contact information:

Printed Name of Movant or Authorized Agent

Phone (area code and number)

Current Mailing Address (number and street)

City, State, Zip Code

A property owner may use this motion to correct, for any of the five preceding years: (1) clerical errors that affect a property owner's liability for a tax imposed in that tax year; (2) multiple appraisals of a property in that tax year; (3) inclusion of property that does not exist in the form or at the location described in the appraisal roll; or (4) an error of ownership. Pursuant to Tax Code Section 1.04(18), "Clerical Error" means an error: (A) that is or results from a mistake or failure in writing, copying, transcribing, entering or retrieving computer data, computing, or calculating; or (B) that prevents an appraisal roll or a tax roll from accurately reflecting a finding or determination made by the chief appraiser, the appraisal review board, or the assessor; however, 'clerical error' does not include an error that is or results from a mistake in judgment or reasoning in the making of the finding or determination."

For more information, visit our website: www.window.state.tx.us/taxinfo/proptax

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EXHIBIT 22
Motion for Hearing to Correct One-Third Over Appraisal Error



**Motion for Hearing to Correct One-Third
Over-Appraisal Error**

Property Tax
Form 50-230

In the County of _____
State of Texas

_____ County
Appraisal Review Board

MOTION TO CORRECT ONE-THIRD OVER-APPRAISAL ERROR

Movant _____, Chief Appraiser for the _____ County Appraisal District, or
_____, owner of property described as _____,
parcel number _____, brings this motion for a hearing to correct a one-third over-appraisal error regarding the described
property on the appraisal roll certified by this Appraisal Review Board on _____, _____.

Movant states that the property taxes due for the _____ tax year have not become delinquent, and the movant property owner has complied with the
provisions of Sec. 25.26 of the Texas Property Tax Code and has not forfeited the right to appeal for non-payment of taxes.

Movant states that the property described above is located within the _____ County Appraisal District. Further, movant states
that the property described above is located within the taxing units listed below.

Movant states the one-third over-appraisal error is as follows:

Movant makes this motion pursuant to Sec. 25.25(d) and (e), Tax Code, and requests that the Appraisal Review Board schedule a hearing to determine
whether to correct the error. Movant requests that the Appraisal Review Board send notice of the time, date and place fixed for the hearing, not later than 15
days before the scheduled hearing, to the presiding officer of the governing body of each taxing unit where the property is located.

Respectfully submitted,

**sign
here** ➡

Signature of Movant

Date

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information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

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www.window.state.tx.us/taxinfo/proptax
50-230 • 02-12/4

Motion for Hearing to Correct One-Third Over Appraisal Error (page 2)



Motion for Hearing to Correct One-Third Over-Appraisal Error

Contact information:

Printed Name of Movant or Authorized Agent

Phone (area code and number)

Current Mailing Address (number and street)

City, State, Zip Code

The property owner or chief appraiser may use this motion to correct an appraisal error that results in a value one-third over the appraised value.*

** A property owner may designate an agent; however, the designation does not take effect with respect to an appraisal district or taxing unit until a copy of the designation form is filed with the appraisal district.*

For more information, visit our website: www.window.state.tx.us/taxinfo/proptax

Page 2 • 50-230 • 02-12/4

EXHIBIT 23
Order Determining Motion to Correct Appraisal Roll



Order Determining Motion to Correct Appraisal Roll

Property Tax
Form 50-812

Appraisal Review Board of _____ County, Texas. Case Number: _____

Owner's Name: _____ Property Account Number: _____

Property Legal Description

On _____, _____, _____, the Appraisal Review Board of _____ County, Texas,

heard the motion of _____ concerning the appraisal records for tax year _____.

The Board delivered proper notice of the date, time, and place of the hearing. The property owner or agent and the chief appraiser of the appraisal district were given the opportunity to testify and to present evidence. After considering the evidence and arguments presented at the hearing, the Board has determined that the motion concerned the following action(s) permitted by Tax Code Section 25.25 to correct:

- ☐ A clerical error for tax year(s) _____
- ☐ Multiple appraisals for tax year(s) _____
- ☐ Inclusion of the property in the form or at the location shown on the appraisal roll for tax year(s) _____
- ☐ Ownership on Jan. 1 of tax year _____
- ☐ An appraisal error resulting in an appraised value that exceeds by one-third the correct appraised value for tax year _____
- ☐ An incorrect appraised value based on a joint motion from the property owner and the chief appraiser.

Based on the evidence, the Board makes the following determination(s) as indicated by a ☒ mark and hereby issues the following as its ORDER DETERMINING MOTION OR ORDER OF DISMISSAL:

- ☐ The appraisal review board lacks jurisdiction to determine the motion and hereby dismisses the motion.
- ☐ The appraisal roll has a clerical error that should be changed to reflect a value of:
\$ _____ from the CAD value of \$ _____ for tax year(s) _____.
- ☐ The appraisal roll has multiple appraisals and account number _____ should be removed from the appraisal roll for tax year(s) _____.
- ☐ The property subject to the motion did not exist in the form or at the location for tax year(s) _____ and should be removed from the appraisal roll(s).
- ☐ The appraisal roll will change the owner's name as of January 1 for tax year _____ from _____ to _____ (or unknown).
- ☐ The property has a substantial error that exceeds by one-third the correct value and the appraisal roll should be changed to
\$ _____ from the CAD value of \$ _____ for tax year _____.
- ☐ Based on a joint motion of the property owner and the chief appraiser, the appraised value shall be corrected to
\$ _____ from the CAD value of \$ _____ for tax year _____.
- ☐ The property owner's motion concerning other matters permitted by Tax Code Section 25.25 is upheld, and the appraisal records should be changed to reflect the following change(s):
- ☐ The property owner's motion concerning matters permitted by Tax Code Section 25.25 is denied, and the appraisal records should not be changed.

sign
here ➡

Chair, Appraisal Review Board

Date

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

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www.window.state.tx.us/taxinfo/proptax
50-812 • 02-12/1

EXHIBIT 24
Notice of Hearing



Notice of Hearing

Property Tax
Form 50-231

This form may be used as notification for a hearing scheduled by the Appraisal Review Board (ARB) to determine the merits of a motion to correct the appraisal roll under Section 25.25 (c) or (d) of the Property Tax Code.

If the chief appraiser and the property owner do not agree to a correction pursuant to §25.25 (c) or (d) of the Property Tax Code before the 15th day after the date the motion is filed, a party bringing a motion is entitled on request to a hearing on and a determination of the motion by the ARB. The board shall deliver written notice of the date, time and place of the hearing to the chief appraiser, the property owner, and the presiding officer of the governing body of each taxing unit in which the property is located not later than 15 days before the date of the hearing.

County of _____
State of Texas

NOTICE OF HEARING

The _____ County Appraisal Review Board has scheduled a hearing pursuant to §25.25

Property Tax Code to determine a correction on the appraisal roll for _____, _____, _____, at _____ .m.
(month) (day) (year) (time) (a.m./p.m.)

The hearing will be held at _____ .
(place)

This hearing concerns property described as follows:

(address)

parcel number _____.

**sign
here** ➡

County Appraisal Review Board

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website:
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50-231 • 11-11/6

EXHIBIT 25
Joint Motion to Correct Incorrect Appraisal Value



Joint Motion to Correct Incorrect Appraised Value

Property Tax
Form 50-249

In the County of _____
State of Texas

_____ County
Appraisal Review Board

MOTION TO CORRECT INCORRECT APPRAISED VALUE

Movants _____, Chief Appraiser for the _____ County Appraisal District, and _____, owner of property described as _____, parcel number _____, bring this joint motion to correct the value on the described property on the appraisal roll approved by this Appraisal Review Board on _____, _____, and certified to the taxing units on _____, _____.

Movants state that the property taxes due for the _____ tax year have not become delinquent, and the movant property owner has complied with the provisions of Sec. 25.26 of the Texas Property Tax Code and has not forfeited the right to appeal for non-payment of taxes.

Movants state that the property described above is located within the _____ County Appraisal District. Further, movants state that the property described above is located within the taxing units listed below:

Movants state the incorrect value is as follows:

Movants makes this motion pursuant to Sec. 25.25(h) – (j), Texas Property Tax Code, and request that the Appraisal Review Board correct the value.

Respectfully submitted,

**sign
here** ➡

Movant Property Owner

Date

**sign
here** ➡

Appraisal District Representative

Date

**sign
here** ➡

Agent's Signature if on Behalf of Property Owner

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

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50-249 • 09-11/3

appeal. The property owner must file an oath of inability to pay the taxes in question and argue that the payment constitutes an unreasonable restraint on the right to obtain access to the courts to contest the matter. The court sets a hearing and

determines reasonable terms or conditions for any relief from payment. The judge has the discretion to address the owner's needs to seek legal redress versus the taxing units' need for an adequate, reliable income stream.

EXHIBIT 26
Required Notices

Notice	Applicable Tax Code Section
Notice of new application for exemption	11.43(c)
Notice canceling exemption	11.43(h)
Notice of annual exemption application	11.44(a)
Notice of modification or denial of exemption	11.45(d)
Notice of decision on report of decreased value	22.03(c)
Notice of annual application for agricultural appraisal	23.43(e)
Notice of denial of agricultural appraisal	23.44(d)
Notice of new application for open-space land appraisal	23.54(e)
Notice of penalty for failure of property owner to notify chief appraiser that open-space land no longer qualifies for special appraisal	23.54(i)
Notice of denial of open-space land appraisal	23.57
Notice of change of use determination	23.46, 23.55, 23.76
Notice of new application for timberland appraisal	23.75(e)
Notice of new application for public access airport property appraisal	23.94(c)
Notice of penalty for failure of property owner to notify chief appraiser that timberland no longer qualifies for special appraisal	23.75(j)
Notice of denial for timberland appraisal	23.79(d)
Notice of new application for recreational, park and scenic land appraisal	23.84(c)
Notice of denial for recreational, park and scenic land appraisal	23.85(d)
Notice of penalty for violating deed restriction for recreational, park and scenic land appraisal	23.87(b)
Notice of denial of application for public access airport property appraisal	23.95(d)
Notice of penalty for violating deed restriction for public access airport property appraisal	23.97(b)
Notice of Appraised Value (as applicable)	25.19

Source: Texas Property Tax Code, 2011.



Chapter 7

Post-ARB Review

Review in state district court

Taxing units and property owners may appeal decisions of the ARB to district court.²⁸⁵ In addition, a property owner who appeals an ARB decision has a right to court approved, non-binding arbitration. Binding arbitration is required if the appraisal district joins in the motion or consents to the court-approved arbitration.²⁸⁶

A property owner may appeal an ARB order determining a protest, including an ARB determination that the property owner forfeited the right to a final determination under Tax Code Section 25.25, forfeiture of protest for failure to pay delinquent taxes and refund of prepayment of fleet transaction taxes.²⁸⁷ The chief appraiser may appeal an ARB order determining a taxpayer protest if he or she has the written approval of the appraisal district board of directors and the appraised or market value of the protested property is \$1 million or more.²⁸⁸ The chief appraiser may appeal an ARB order on property valued at less than \$1 million only when the board of directors has given written permission and the chief appraiser alleges the taxpayer or agent committed fraud or made material misrepresentations at the protest hearing.²⁸⁹ A taxing unit may appeal an ARB order determining a challenge.

A lessee – a person who is contractually obligated to reimburse the lessor (property owner) for property taxes – may appeal to district court an ARB order if the lessee protested the original property tax appraisal.²⁹⁰ The lessee is presumed to be the owner of the property for appeal purposes. The

chief appraiser must send any written notice concerning the appeal to both the lessee and lessor.

To appeal, a party other than a property owner must file written notice within 15 days after receiving the notice of an order that the ARB issued. Taxing units must file this notice with the chief appraiser. The chief appraiser must file the notice with the ARB.²⁹¹

If the chief appraiser or a taxing unit initiates an appeal, the ARB must deliver a copy of the notice to the property owner involved within 10 days after the chief appraiser or taxing unit files the notice.²⁹²

The party initiating the appeal then files a petition for review with the district court no more than 60 days after receiving the notice of the ARB's order. A petition filed after the time limit bars district court appeal. These lawsuits are brought against the appraisal district. A petition for review cannot be brought against the ARB. If a petition is brought against the ARB, the appraisal district's attorney may represent the ARB to only file an answer and obtain a dismissal of the suit.²⁹³

There are certain persons who may intervene in a property tax district court appeal. If the property that is subject of the appeal was also the subject of a protest hearing and the person:

- owned the property at the time during the tax year at issue;
- leased the property at any time during the tax year at issue and the person filed the protest that resulted in the issuance of the order under appeal; or

²⁸⁵ Tax Code Chapter 42

²⁸⁶ Tax Code §42.225

²⁸⁷ Tax Code §42.01

²⁸⁸ Tax Code §42.02(b)

²⁸⁹ Tax Code §42.02(c)

²⁹⁰ Tax Code §42.015

²⁹¹ Tax Code §42.06

²⁹² Tax Code §42.06

²⁹³ Tax Code §42.21

- is shown on the appraisal roll as the owner of the property or as a lessee authorized to file a protest and the person filed the protest that resulted in the issuance of the order under appeal.²⁹⁴

Binding arbitration

The Tax Code provides an alternative to filing an appeal in district court.²⁹⁵ A property owner has the right to appeal ARB decisions through binding arbitration outside of the judicial system. A property owner may seek binding arbitration of an ARB order determining a protest on real property if the property qualifies as the owner's residence homestead or the appraised or market value, as applicable, of other real or personal property as determined by the order is \$1 million or less.²⁹⁶

An ARB that delivers to a property owner an order determining a protest concerning a person's residence homestead or property that qualifies for binding arbitration must include with the order a notice of the property owner's right to binding arbitration and a copy of the form to request arbitration.²⁹⁷

Within 45 days of receiving the notice of determination from the ARB, the owner must file a request for binding arbitration with the appraisal district and include a \$500 deposit or \$250, if the property owner requests expedited arbitration. A property owner of contiguous land that has two or more ARB orders of determination only needs to pay a single arbitration deposit.²⁹⁸ The appraisal district will forward the deposit and application for arbitration to the Comptroller's office.²⁹⁹ The Comptroller's office will submit to the owner and the appraisal district a list of registered arbitrators who can hear the case so both parties can mutually choose an arbitrator. If the property owner and the appraisal district cannot agree on a particular arbitrator, the Comptroller's office will randomly select the arbitrator.³⁰⁰

If the arbitrator's value decision is closer to the value the property owner claims to be correct, then 90 percent of the deposit is returned to the property owner and the appraisal

district pays the arbitrator's fee. The Comptroller will retain 10 percent of the deposit to cover administrative costs. If the arbitrator's value decision is closer to the value the ARB decided on the order determining protest, then the arbitrator's fee is paid from the owner's deposit and any balance is refunded to the property owner.³⁰¹

Comptroller Rule 9.804 addresses the administration of this process and the form needed to *Request for Binding Arbitration* (**Exhibit 27**).

Appeal to State Office of Administrative Hearings (SOAH)

The 81st Legislature, Regular Session approved a pilot program in which property owners in selected counties may appeal an ARB decision to SOAH.³⁰² The program became effective on Jan. 1, 2010. The program will apply to no more than 3,000 appeals from the counties of Bexar, Cameron, El Paso, Harris, Tarrant and Travis and will run for a four-year period beginning with the 2010 tax year. The 82nd Legislature, Regular Session expanded the pilot program to include Collin, Denton, Fort Bend, Montgomery, and Nueces and will run for a two-year period beginning with the 2012 tax year. The ARB in a county in the pilot program must deliver a notice of issuance of an order pertaining to affected property and a copy of the order to the property owner which includes a notice of the property owner's rights and copy of the notice of appeal prescribed.

Under this program, a property owner may appeal to SOAH an ARB order determining a protest concerning the appraised or market value of property brought under Tax Code §41.41(a)(1) or (2) if the appraised or market value, as applicable, is more than \$1 million. The pilot program will be applicable to a determination of the appraised or market value made by an ARB in connection with real or personal property other than industrial property or minerals.

To appeal an ARB order to SOAH, a property owner must file with the chief appraiser of the appraisal district not later than the 30th day after the date the property owner receives notice of the order a completed notice of appeal to SOAH in the form prescribed and a \$1,500 filing fee payable to SOAH. The chief administrative law judge will prescribe the form of

²⁹⁴ Tax Code §42.016

²⁹⁵ Tax Code Chapter 41A

²⁹⁶ Tax Code §41A.01

²⁹⁷ Tax Code §41A.02

²⁹⁸ Tax Code §41A.03

²⁹⁹ Tax Code §41A.05

³⁰⁰ Tax Code §41A.07

³⁰¹ Tax Code §41A.05(b) and §41A.09


³⁰² Government Code Subchapter Z

notice of appeal. The form must require the property owner to provide a copy of the order of the ARB; a brief statement that explains the basis for the property owner's appeal of the order; and a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal.

As soon as practicable after receipt of a notice of appeal, the chief appraiser for the appraisal district must indicate, where appropriate, those entries in the records that are subject to the appeal; submit the notice of appeal and filing fee to SOAH; and request the appointment of a qualified administrative law judge to hear the appeal.

EXHIBIT 27
Request for Binding Arbitration

S U S A N	Request for Binding Arbitration TEXAS COMPTROLLER <i>of</i> PUBLIC ACCOUNTS
C O M B S	



Attention: Do not complete and send form without first carefully reading these instructions, Chapter 41A of the Texas Property Tax Code and Comptroller Rule 9.804.

Purpose of form: This form must be used to file a request for binding arbitration with an appraisal district concerning a dispute of an appraisal review board order of determination. As an alternative to filing an appeal to district court, a property owner is entitled to appeal through binding arbitration an appraisal review board order that only determines a protest concerning the appraised or market value of property if:

- (1) the property qualifies as the owner's residence homestead under Tax Code Section 11.13, or the appraised or market value of the property as determined by the appraisal review board order of determination is \$1 million or less; and
- (2) the protest was filed under Tax Code Section 41.41(a)(1).

When and what to file: A property owner or agent must file with the appraisal district not later than the 45th day after the date the property owner receives the appraisal review board order determining protest: (1) a completed request for binding arbitration on this form only; and (2) an arbitration deposit in the amount of \$500, or \$250 for expedited arbitration, made payable to the Texas Comptroller of Public Accounts, **by check issued and guaranteed by a banking institution (a cashier's or teller's check) or by money order only.** Personal checks, cash or other forms of payment will not be accepted. A deposit in the amount of \$500, or \$250 for expedited arbitration, is required for each request for arbitration. **Failure to remit the proper type of payment will result in the automatic rejection of the request(s) for binding arbitration by the appraisal district.**

Where to file: File this form and the appropriate deposit with the appraisal district. This form must be filed with the county appraisal district that appraised the property for which arbitration is requested. **Do not file the request with the Comptroller of Public Accounts.**

For assistance: If you have any questions about this application, contact the Texas Comptroller's office at (800) 252-9121 or (512) 305-9999, or by e-mail at ptad.arb@cpa.state.tx.us. Additional information can be found at www.window.state.tx.us/taxinfo/proptax/arbitration05/.

Other important information: Expenses incurred by the property owner in preparing for and attending the arbitration are the owner's responsibility. The arbitration deposit may only be used to pay for the cost of the arbitrator and the Comptroller's 10 percent administrative cost. All but the administration cost of the deposit will be refunded to the property owner if the arbitrator determines that the value is nearer to the property owner's opinion of value stated in the request for binding arbitration than the value as determined by the appraisal review board.

A property owner who fails to strictly comply with legal requirements waives the property owner's right to request binding arbitration. A property owner who appeals to district court an appraisal review board order determining a protest concerning appraised or market value waives the owner's right to request binding arbitration. An arbitrator shall dismiss any pending arbitration proceeding if the property owner's rights are waived.

The taxes on the property that are the subject of the arbitration must be paid timely. Failure to pay taxes before the delinquency date will result in the arbitration being dismissed with prejudice. A property owner, however, will receive a refund of all but 10 percent of the deposit, if the arbitration is dismissed under this circumstance.

Laws: The request for binding arbitration process is established by Tax Code Chapter 41A. Other relevant statutes are:

Americans with Disabilities Act: In compliance with the Americans with Disabilities Act, this document may be requested in alternative formats by calling (800) 252-9121.

Federal Privacy Act: Disclosure of your Social Security number is required and authorized under law, for the purpose of tax administration and identification of any individual affected by applicable law. 42 U.S.C. §405(c)(2)(C)(i); Texas Government Code §§403.011 and 403.078. Release of information on this form in response to a public information request will be governed by the Public Information Act, Chapter 552, Texas Government Code, and applicable federal law.

Public Information Act: Information on this form and its attachments are subject to disclosure under the Public Information Act, Section 552.147, Texas Government Code, excepts Social Security numbers from disclosure. If this form is requested as public information, your Social Security number will not be released.

You have certain rights under Chapters 552 and 559, Texas Government Code, to review, request and correct information we have on file about you. Contact us at the phone number listed on this form.

AP-219-1 (Rev.8-10/8)

EXHIBIT 27 (CONTINUED)
Request for Binding Arbitration



Specific Instructions

This form is designed for use by property owners or agents, appraisal districts and the Comptroller's office. Only complete the part of the form that applies to you.

Expedited Arbitration: For \$250, property owners may choose Expedited Arbitration. Expedited Arbitration limits the hearing to one hour of testimony from each party. If you choose Expedited Arbitration, you must agree to limit testimony to one hour.

Arbitrating Contiguous Properties: You may arbitrate more than one property for a single deposit, provided they are contiguous to one another. Please indicate if you choose to arbitrate contiguous property in box 18 and follow the directions before filling out the rest of the form.

Properties Valued at More Than \$1 Million: To arbitrate a property valued at more than \$1 million by the appraisal review board, the property must qualify as the property owner's residence homestead under Tax Code Section 11.13.

Any questions that you have about completing the form should be directed to the Comptroller's office. Please contact us by calling (800) 252-9121.

For Property Owners or Agents

Complete the form steps 1 through 24b. You must type or print in black ink so that the information can be scanned. All questions must be answered so that your request can be processed in a timely fashion. Agents must submit a written authorization signed by the property owner, on the form prescribed by the Comptroller (Form 50-791), that states the specific authority given to the agent for this request for binding arbitration. An agent's fiduciary form used for representation at the appraisal district or appraisal review board **will not be accepted**.

Any refund to an owner or agent is subject to the provisions of Texas Government Code, §403.055, and related statutory provisions and rules. Therefore, the Social Security number and/or Tax Identification Number of the individual to whom a refund payment is requested or authorized in the Request for Binding Arbitration is required.

For Contiguous Arbitration: You must fill out a separate copy of page 2 on each property to be arbitrated. Enter an individual value you believe is correct for each property to be arbitrated. The Comptroller's office will calculate the total value of all the properties that will be used to determine who pays the arbitrator's fee.

For Appraisal Districts

Complete the first line of the form marked "CAD" on page 1, filling in the deposit amount, your appraisal district number, the year and the number that your appraisal district is assigning this arbitration request.

Next, complete the portion of the form marked "For Appraisal District Use Only" on page 2. You must provide the value determined by the appraisal review board for the subject property and the Geographic Identification Number (GEO#) and Record Identification Number (R#). You must also provide a copy of the order determining protest from the appraisal review board. It is important that the order indicates the ARB certified appraised or market value of the subject property. Any other determination cannot be the subject of an arbitration proceeding.

Check the applicable boxes concerning the request for binding arbitration. By checking the boxes, you are certifying the validity of the inquiries; therefore, care must be taken in the responses. The chief appraiser or designated appraisal district employee must sign the form in order to finalize the certification required by law.

For Contiguous Arbitration: You must fill out a separate copy of page 2 on each property to be arbitrated. Enter in the individual ARB value for each property to be arbitrated. Submit an ARB order for each property. The Comptroller's office will calculate the total value of all the properties that will be used to determine who pays the arbitrator's fee.

Property Owner or Agent Checklist

- ☐ The property owner or agent has signed the request for arbitration.
- ☐ The request was filed with the appraisal district not later than the 45th day after the date the property owner received the appraisal review board order determining the protest.
- ☐ A deposit in the form of a check issued and guaranteed by a banking institution (such as a cashier's or teller's check) or by a money order is attached.
- ☐ If an agent is submitting the request, a written authorization (Form 50-791) signed by the property owner is attached, expressly authorizing the agent to sign and file the request.
- ☐ The request for arbitration concerns the appraised or market value of \$1 million or less for the property for which an appraisal review board order was issued, or qualifies as the owner's residence homestead under Tax Code Section 11.13.
- ☐ The appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property.
- ☐ All parts of the request for arbitration have been completed.
- ☐ Taxes are not delinquent at this time on the property that is the subject of this request for arbitration.
- ☐ The property that is the subject of this request for arbitration is not the subject of litigation for the tax year in question.
- ☐ **Please retain a copy of this form and the deposit for your records.**

EXHIBIT 27 (CONTINUED)
Request for Binding Arbitration



Request for Binding Arbitration

PRINT FORM

CLEAR FORM

• TYPE OR PRINT IN BLACK INK • Do NOT write in shaded areas.

Page 1

T-CODE		TP		DEPOSIT CODE		POSTMARK DATE		CAD		PAYMENT AMOUNT		ARBITRATION NUMBER (Appraisal District Only)	
9 9 1 0 0				0 6 8						. 0 0			
										CAD No.		Year	
												CAD Assigned No.	

PROPERTY OWNER INFORMATION - INDIVIDUAL

1. Owner's name (Last name, first name, middle initial, suffix (i.e., Jr., III, etc.))

Last name: _____ First name: _____ M.I.: _____ Suffix: _____

2. Owner's Social Security number*
*Your Social Security number is not subject to public disclosure according to Section 552.147, Tex. Govt. Code. _____ - _____ - _____

3. Taxpayer number for reporting any Texas tax OR Texas Identification Number if you now have or have ever had one. _____

PROPERTY OWNER INFORMATION - COMPANY -- Non company owners skip to Item 7 --

4. Corporation or partnership or estate name _____ Contact Name _____

5. Taxpayer number for reporting any Texas tax OR Texas Identification Number if you now have or have ever had one _____

6. Federal Employer Identification Number (FEIN) assigned by the Internal Revenue Service..... _____ - _____

CONTACT INFORMATION

7. Mailing address, city, state, ZIP code with extension
Street number, P.O. Box, or rural route and box number _____
City _____ State/province _____ ZIP code _____ County (or country, if outside the U.S.) _____

8. Physical location
Street number or rural route and box number _____
City _____ State/province _____ ZIP code _____ County (or country, if outside the U.S.) _____

9. Daytime phone (mandatory) and FAX number (optional)..... () - () () - ()

10. E-mail address*
*Your e-mail address is confidential according to Section 552.137, Tex. Govt. Code; however, by including the e-mail address on this form, you are affirmatively consenting to its release under the Public Information Act.

PROPERTY AGENT INFORMATION -- If you are not using an agent, skip to Item 18a --

11. Individual's name (Last name, first name, middle initial, suffix (i.e., Jr., III, etc.)) [Note: Agent must be an individual.]
Last name: _____ First name: _____ M.I.: _____ Suffix: _____

12. Agent's Social Security number*, Texas Identification Number or FEIN
*Your Social Security number is not subject to public disclosure according to Section 552.147, Tex. Govt. Code. The number provided must be assigned to the individual agent.
Social Security number: _____ - _____ - _____ Texas Identification Number: _____ FEIN: _____ - _____

13. Agent's mailing address, city, state, ZIP code with extension
Street number or rural route and box number _____
City _____ State/province _____ ZIP code _____ County (or country, if outside the U.S.) _____

14. Daytime phone (mandatory) and FAX number (optional)..... () - () () - ()

15. E-mail address*
*Your e-mail address is confidential according to Section 552.137, Tex. Govt. Code; however, by including the e-mail address on this form, you are affirmatively consenting to its release under the Public Information Act.

TO BE COMPLETED BY PROPERTY AGENT

16. If the owner will be represented by an agent, please indicate the applicable agent's designation required to represent an owner in binding arbitration:

☐ An attorney licensed by the state of Texas..... State Bar No. _____

☐ A real estate broker or salesperson licensed under Chapter 1101, Occupations Code..... License No. _____

☐ A real estate appraiser licensed or certified under Chapter 1103, Occupations Code..... License No. **TX** - _____ - _____

☐ A property tax consultant registered under Chapter 1152, Occupations Code..... Registration No. **P R O P T C** _____

☐ A certified public accountant licensed or certified under Chapter 901, Occupations Code..... License No. _____

17. If the owner has designated an agent, attach the written authorization to this form. (Party receiving refund will also receive all correspondence from Comptroller.)
Indicate if agent is given authority to receive a refund: ☐ Yes ☐ No

PROPERTY INFORMATION

18a. Are you requesting arbitration for contiguous properties? ☐ Yes ☐ No If "No," skip to Item 18b.

Important: If you are requesting arbitration for contiguous properties, you must make copies of Page 2 and fill out and submit a separate Page 2 for each property being appealed.

EXHIBIT 27 (CONTINUED)
Request for Binding Arbitration



Request for Binding Arbitration

• TYPE OR PRINT IN BLACK INK • Do NOT write in shaded areas.

Page 2

PROPERTY INFORMATION		
OWNER OR AGENT (CONT.)	18b. Address or location of the property requested for arbitration as shown on order of determination, and account number: <div></div>	
	19. Type of property being appealed: <input type="checkbox"/> Residential <input type="checkbox"/> Land <input type="checkbox"/> Commercial <input type="checkbox"/> Minerals <input type="checkbox"/> Agricultural <input type="checkbox"/> Business personal property	
	20. Primary county in which the property is located <div></div>	
	21. Value that owner believes is accurate market or appraised value (WHOLE DOLLARS ONLY): (For contiguous properties, enter in value for the individual property in line 18b. Do NOT enter per acre value.) \$ <div></div>	
	22. I would be willing to accept an arbitrator that would hear this case (Check all that apply. Note: Unless the appraisal district agrees to arbitration by submission of written documents, the arbitration will be conducted in person or by teleconference. An arbitrator may require that the arbitration be done in person.): A <input type="checkbox"/> By teleconference B <input type="checkbox"/> By written documents submitted by the property owner and appraisal district without a meeting	
	23. I am appealing the market or appraised value of my property for the following reasons (Check all that apply): A <input type="checkbox"/> The property could not sell for the amount of value shown on the appraisal roll. B <input type="checkbox"/> The property has hidden damages or flaws that were not considered in the appraised value. C <input type="checkbox"/> The methodology used by the appraisal district was inappropriate. D <input type="checkbox"/> Evidence presented to the appraisal review board was not fully considered. E <input type="checkbox"/> The appraisal district did not correctly calculate the value limitation for residence homesteads. F <input type="checkbox"/> The productivity value of the land or the special appraisal of the property allowed by law was not calculated correctly.	
	24a. <input type="checkbox"/> I hereby request Expedited Arbitration. I understand that I will be limited to 1 hour of testimony to present my case. I have attached a MONEY ORDER or CASHIER'S CHECK payable to the Texas Comptroller of Public Accounts for \$250.	
	24b. <input type="checkbox"/> I hereby request Arbitration. I have attached a MONEY ORDER or CASHIER'S CHECK payable to the Texas Comptroller of Public Accounts for \$500.	
	CHECK ONE:	
	This form and the required deposit must be hand delivered or mailed certified to the appraisal district for which the ARB order was issued. I understand that sending this request and deposit directly to the Comptroller will jeopardize my right to arbitrate.	
sign here <div></div> <div>Month Day Year</div> Owner or agent signature Date		
FOR APPRAISAL DISTRICT USE ONLY -- For contiguous properties, fill out each page for every contiguous property being appealed.		
TO BE COMPLETED BY APPRAISAL DISTRICT	25. Date of postmark or hand delivery of request to CAD <div>Month Day Year</div>	
	25a. Date ARB order received by owner <div>Month Day Year</div>	
	25b. Certified tracking number for ARB order <div></div>	
	26. Appraisal District Property Identification Number <div></div> AND <div></div> GEOGRAPHIC IDENTIFICATION NUMBER (GEO#) IF APPLICABLE RECORD IDENTIFICATION NUMBER (R#) IF APPLICABLE	
	27. Value determined by the Appraisal Review Board order (WHOLE DOLLARS ONLY): (For contiguous properties, enter in value for the individual property.) \$ <div></div>	
	28. Cashier's check or money order number of attached deposit..... <div></div>	
	29. <input type="checkbox"/> If an agent is submitting the request, a written authorization signed by the property owner is attached that expressly authorizes the agent to sign and file the request. (An attorney does not require authorization.)	
	30. The Appraisal District has examined the documentation and certifies that: <input type="checkbox"/> The property owner or agent has signed the request for arbitration. <input type="checkbox"/> The request was filed with the appraisal district not later than the 45th day after the date the property owner received the appraisal review board order determining the protest. <input type="checkbox"/> A deposit in the form of a check issued and guaranteed by a banking institution (such as a cashier's or teller's check) or by a money order is attached. <input type="checkbox"/> The property qualifies as the owner's residence homestead under Tax Code Section 11.13 or the appraised or market value of the property as determined by the appraisal review board order of determination is \$1 million or less. <input type="checkbox"/> The appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property. <input type="checkbox"/> All parts of the request for arbitration have been completed. <input type="checkbox"/> Taxes are not delinquent at this time on the property that is the subject of this request for arbitration. <input type="checkbox"/> The property that is the subject of this request for arbitration is not the subject of litigation for the tax year in question. <input type="checkbox"/> The properties that are subject to this request qualify for contiguous arbitration.	
	31. Fill out ARBITRATION NUMBER at the top of Page 1.	
	32. The appraisal district <input type="checkbox"/> DOES or <input type="checkbox"/> DOES NOT consent to arbitrate by submission of written documents.	
I further certify that the request for binding arbitration and deposit, along with a copy of the order determining protest, have been submitted to the Comptroller of Public Accounts on the date indicated below: sign here <div></div> <div>Month Day Year</div> Chief appraiser or CAD employee signature Date		
For assistance, contact the Texas Comptroller's office at (800) 252-9121 or (512) 305-9999, or by e-mail at ptad.arb@cpa.state.tx.us.		

For more information, visit our website:
www.window.state.tx.us/taxinfo/proptax

For additional copies write:
Texas Comptroller of Public Accounts
Property Tax Assistance Division
P.O. Box 13528
Austin, Texas 78711-3528

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