

Hearing Rules & Procedures

Freestone Appraisal
Review Board



Adopted

January 6, 2009

ARB Protest Rules & Procedures

To ensure uniformity and fairness to all taxpayers, the Freestone Appraisal Review Board has adopted the following rules and procedures in accordance with Section 41.66 of the Property Tax Code.

Taxpayer Protest Filing Deadlines

The deadline for filing a protest with the Appraisal Review Board is May 31 or 30 days after the date the Notice of Appraised Value is mailed, whichever is later. Property Tax Code Section 41.44(a)(1) An unsigned protest form will not be considered a protest and will not be scheduled for a hearing.

Protests filed after the filing deadline but prior to record approval will be presented to the board to determine if sufficient cause for late filing is found. If sufficient cause is found, a late protest hearing is scheduled. Property Tax Code Section 41.44(b)

Mail contacts are treated as protests if after the informal meeting with the appraiser the property owner requests a protest hearing.

When a Notice of Change in Appraisal Records is mailed, the deadline for filing a protest is 30 days after the date the Notice of Change is mailed. PTC Section 41.44(a)(2)

All other protests filed after approval and certification of the appraisal records will be scheduled for hearings in accordance with Section 41.41 of the Property Tax Code. All protests of this type must be filed before the tax delinquency date of February 1.

Taxing Unit Challenges

A taxing unit may file a Challenge Petition in accordance with Section 41.03 of the Property Tax Code. The challenge must be filed before June 1 or within 15 days after the date the appraisal records are submitted to the ARB, whichever is later. PTC Section 41.04

The challenge petition is treated in the same manner as a property owner protest. A cause number is assigned and a cause folder is prepared containing a copy of the challenge petition, the hearings record, and all correspondence relating to the challenge.

A Notice of Challenge Hearing is sent at least 10 days prior to the date of the hearing to the presiding officer of the governing body of the taxing entity initiating the challenge. Notification must also be sent with at least 10 days notice to the presiding officer of the governmental body of the other taxing entities that tax the property involved in the challenge. PTC Section 41.06

A hearing on the challenge is handled in the same manner as a hearing on a property owner protest with the exception that any taxing entity that has property that may be affected by the challenge may also appear to offer evidence or argument. PTC Section 41.05

The ARB shall make a determination on the challenge hearing in the same manner as a protest and make written determination. PTC Section 41.07

Protest of Failure to Give Notice (41.411 Protest)

A property owner is entitled to file a protest on the basis that the District failed to deliver any notice to which the property owner is required to receive.

A hearing is scheduled on the protest as outlined below and the ARB must determine if failure to provide or deliver a notice occurred. If it is determined that proper notification was not made, the Board immediately proceeds with a hearing on the value protest. If the ARB determines that the District did not fail in its notification requirements, the protest is denied.

A protest of failure to give notice must be filed by a property owner prior to the date the taxes on the property to which the notice applies become delinquent.

Once a property owner files a 41.411 protest, a letter of explanation is mailed detailing the procedures for the hearing and the tax payment requirements.

A property owner is notified of the hearing on the 41.411 protest in the same manner as all other protests. The only exception being that in place of the Notice of Protest Hearing, the property owner is mailed a Notice of 41.411 Protest Hearing.

A property owner who files a protest under the provisions of this section must comply with the payment requirements of Section 42.08 of the Property Tax Code or forfeits the right to a final determination of the protest.

All hearings on 41.411 protests are held after the delinquency date.

If the Board grants a 41.411 protest, the property owner may then address the valuation issue. Both the 41.411 protest and the value protest are handled under the same cause number.

Scheduling of Taxpayer Protest Hearings and Taxing Unit Challenges

A unique identifying cause number is assigned to each protest received by the ARB. All protests filed by the same property owner are grouped together under the same cause number.

The Appraisal Review Board typically schedules meetings on Tuesdays and Thursdays between the hours of 2:00 p.m. and 8:00 p.m. Other meeting times may be scheduled as necessary. All meetings are posted in accordance with Chapter 551, Government Code, Open Meetings Act.

All hearings are scheduled allowing the protester at least 15 days advance written notice of hearing unless the property owner files a waiver of the notice. PTC Section 41.46(a)

At least 14 days before the protest hearing, the property owner must be provided with the pamphlets and information listed below. The following information is mailed along with or incorporated in the Notice of Protest Hearing:

- A copy of the ARB hearings procedures, and
- A copy of ***Taxpayer's Rights, Remedies, and Responsibilities***
- Notice to the property owner of the right to inspect and/or obtain a copy of the information the CAD plans to introduce at the protest hearing. (The charge for copies can not exceed \$15 for each residential property and \$25 for any other type of property. PTC Section 41.461)

Hearings Scheduled by Category of Property

Protests filed on all accounts appraised by the industrial appraising firm are scheduled on the same day that is set by the Chief Appraiser. The industrial hearings are typically held in mid-July.

Protests filed by tax agents are also scheduled for the same day late in the hearings process. Whenever possible, personal property and commercial accounts should be grouped together. Based on the volume of protests filed on these properties, several days or portions of days throughout the schedule may be set aside for hearings.

Taxpayer Requests for CAD Evidence

A property owner may request to inspect and/or obtain a copy of the information the District intends to introduce at the protest by filing a written request with the appraisal district. Information obtained by a property owner under this section must be delivered to the requestor no less than fourteen days before the scheduled hearing date.

Rescheduling Policies

A protesting property owner who has not appointed a tax representative will be entitled to one postponement of his hearing without having to give any reason for the postponement. (Sec. 41.12, 41.45, and 41.46 Tax Code)

Hearing postponements may be granted by the ARB on showings of "reasonable cause" including:

- Military duty;
- Hospitalization or serious illness of property owner;
- Death or serious illness of family member;

- Jury duty or court subpoena as a witness;
- Legislator requiring a legislative continuance;
- Protest hearing in another appraisal district providing that hearing was scheduled first;
- An unforeseen conflict with work where the protestor is unable to appear at the scheduled time;
- A request for additional time to prepare for the hearing after establishing with the Board that the Chief Appraiser failed to comply with PTC Section 41.461; or
- Any other extenuating circumstance deemed an emergency situation by the Board.

If a hearing is rescheduled, it may not be postponed to a date less than 5 or more than 15 days after the date scheduled for the original hearing unless agreed to by the ARB, the property owner, and the Chief Appraiser. PTC Section 41.45(e)

If a request to reschedule a protest hearing is made under the extenuating circumstances provisions, approval of the ARB must be obtained. An additional Notice of Protest Hearing is not required and will not be sent unless it is rescheduled at least one week from the original hearing date.

A property owner is allowed to reschedule a hearing only one time for any reason. If a property owner does not make prior arrangements to reschedule a hearing and does not appear at the scheduled time, the protest will be dismissed by the ARB for failure to appear. A new hearing will not be scheduled.

Requests to postpone a hearing must be made in writing and presented to the ARB clerk. While the ARB clerk may grant postponements, only the ARB may deny them.

Protest Hearing Requirements

Protest hearings and any subsequent meetings to make decisions concerning protests must be duly posted and meet all of the requirements of the Open Meetings Act.

The protesting property owner or the designated representative must sign the Affidavit of Sworn Testimony prior to the protest hearing. This affidavit must be subscribed before either a Notary Public or a member of the ARB. An attorney representing a client is not required to sign this affidavit. The Board must be informed of any instance where a property owner does not subscribe to the affidavit.

All CAD representatives who submit testimony to the ARB must sign the Affidavit of Sworn Testimony Form. PTC Section 41.67(a)

Prior to the protest hearing, all members of the ARB that are present must subscribe to the Affidavit for Protest Hearing. This form states that the ARB members have not communicated with anyone concerning the protest prior to the protest hearing.

An ARB member that has communicated with anyone concerning a protest on the schedule must recuse himself from the hearing and may not participate in the hearing or determination of the protest. If there is not a quorum to hear the protest after a member has recused himself, the protest must be rescheduled. PTC Section 41.66(g)

A member of the ARB may not participate in the determination of a protest in which he is interested or in which he is related to a party by affinity within the second degree or by consanguinity within the third degree, as determined under Chapter 573, Government Code. PTC Section 41.69

An ARB member may ask to recuse himself from a protest even if there has been no communication regarding the protest, but the member is familiar with the protesting party. Familiarity with the protesting party does not qualify as a conflict of interest. Recusing based on an ARB member's familiarity with the protesting party is done as a courtesy only for the ARB member.

Hearings are limited to fifteen (15) minutes per parcel. Hearings involving multiple accounts will be limited to thirty (30) minutes. The board may waive the time limit at its discretion. In the event that there are joint owners in a property, the board will schedule a joint hearing for all parties protesting.

Cell phones and pagers must be silenced during board proceedings.

Appearance at Protest Hearings

Property owners may personally represent and present evidence at protest hearings by personal appearance.

Property owners may appoint an attorney, lessee, or agent to present the protest and perform other required actions. The owner must use the Comptroller's Forms 1.111 [50-162-1] or 1.111R [50-241-1] to make this appointment. The second form--1.111R--is for designating an agent for a single-family residence in which the property owner resides. The owner must sign the form, but it does not have to be notarized.

Agent appointments aren't binding until the form is filed with the appraisal district. Attorneys, most mortgage lenders and corporate employees authorized by the corporation to represent it are not required to file agent designation forms. The ARB must accept and consider a motion or protest filed by an owner's agent if the agent's authorization form is filed at or before the hearing begins on the motion or protest.

If an agent appointed by a property owner has not registered with the Texas Department of Licensing and Regulation (TDLR) as required by Article 8886, the registration act for property tax consultants, the ARB will not cut off the property owner's right to a hearing on his or her protest. However, non-compliance with this act will be reported to the TDLR.

Section 41.413 of the Texas Property Tax Code allows a lessee--person 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 lessee's right to protest exists for leased personal or real property.

A property owner may submit his protest in writing in lieu of a personal appearance before the ARB. If a hearing has not been previously scheduled, the written protest must be submitted to the District prior to the date the ARB approves the appraisal records. If a hearing has previously been scheduled and the property owner has requested the protest be handled in writing in place of a personal appearance, the written protest must be in the office prior to the date and time that the hearing was originally scheduled. An affidavit will be considered by the board only if:

- It contains statements that the evidence or argument presented in the affidavit is true and correct;
- It is attested before an officer authorized to administer oaths such as a notary or judge.

Evidence

Any evidence submitted to the ARB during a protest hearing becomes a part of the protest records. All testifying witnesses should provide seven (7) copies of any evidence to the ARB clerk or allow the evidence to be scanned into evidence prior to the protest hearing. Any original documents submitted to the ARB will remain in the possession of the ARB until they have been scanned into the official records of the protest.

Any party wishing to submit a copy of a document must request that the ARB rule that the copy is admissible. The board may admit the copy into evidence when the board determines that the original document is not readily available. PTC 41.67(b)

An appraisal from a state certified appraiser that has been performed at least 180 days before the protest hearing may be introduced as evidence at the protest hearing provided that it has been delivered to the appraisal district for examination at least fourteen days before the hearing. In order to be valid, an appraisal has to be attested to in a sworn statement from the certifying appraiser that: (1) the appraisal reflects the January 1 value of the property; (2) that the appraisal involves methods approved by the Tax Code; and, (3) that the appraisal complies with USPAP.

WARNING: *A property owner or agent who produces a false or fraudulent appraisal will be guilty of a misdemeanor, and the offense is more serious if the appraiser has a contingency interest in the outcome of the protest hearing.*

Order of Protest/Challenge Hearings

Hearings of the ARB are conducted according to Robert's Rules of Order and should occur in the following sequence:

ARB members hearing the case execute affidavits regarding ex parte contact.

All persons presenting testimony before the board will be sworn in. Any board member may swear in witnesses.

ARB Clerk will call the protest case number for the audio record.

The protester will state the nature of the complaint and present evidence and argument. Testimony by any witness may be in narrative form or by questioning of witnesses.

The chief appraiser or his designee will present evidence and argument on behalf of the appraisal district.

The ARB may exclude irrelevant testimony and may instruct a witness to confine his or her testimony to matters relevant to the issues before the board.

The ARB shall permit cross-examination if requested by either party. ARB members hearing the case may question any witnesses testifying before the board and may question any of the parties appearing before the board. The board shall limit cross-examination to matters that are relevant to the subject of the hearing and shall not permit questions that are abusive or personal. All cross-examination must be completed within the time limit for the hearing.

Parties may make brief closing statements.

The ARB chairman calls for a motion from the board and the ARB renders its decision regarding the protest.

Decisions Made by Board

The ARB renders its decision on a protest at the conclusion of the protest hearing whenever possible. The decision must be made in an open meeting and the property owner and the District representative must be allowed the opportunity to be in attendance at the time the decision is made.

In some cases, it is necessary for the ARB to request additional information or a re-inspection of the property, and the Board is not able to render its decision at the conclusion of the hearing. The ARB must inform the property owner at the conclusion of the hearing of the date and time the decision will be made. No additional testimony or evidence, unless requested by the ARB, can be made at the meeting on the final decision.

If the decision on the protest is not made at the conclusion of the protest hearing, the property owner is mailed a notice as soon as possible notifying them of the date when the decision will be made. It is not mandatory that the property owner be in attendance at this meeting.

An ARB Final Decision Letter is signed by the Chairman of the Board and mailed to the property owner by certified mail. A copy of the final decision letter is attached to the protest as a permanent record.

Record of Proceeding

The appraisal review board shall keep a record of its proceedings in the form and manner prescribed by the comptroller.

Cancellation of Scheduled Protest

A property owner may cancel a scheduled protest hearing by filing a written statement of withdrawal or a settlement/waiver of protest form with the ARB.

Protest Dismissal for Failure to Appear

Protests where the property owner or his/her agent who has not appeared within 20 minutes of the scheduled hearing time and who have had no communication with the ARB Clerk prior to the hearing time will be dismissed by the ARB for failure to appear. A property who has **not** designated an agent is entitled to request a new hearing for good cause within four days of a failure to appear. This request must be made in writing and must include a good cause reason for missing their previously scheduled hearing.

Issuance of Subpoenas

The Board as a whole, on its own motion or at the request of a party, may subpoena witnesses, books, records, or other documents. To issue a subpoena, the Board must conduct a hearing to determine that good cause exists for the issuance of the subpoena. Said hearing may not be held without notice to the parties and the Board's decision may be based upon written request of the party requesting the subpoena. The Board may subpoena witnesses, books, records, or other documents of the appraisal district or of the property owner who is part of the protest. Records of the appraisal district that are made confidential by law must be subpoenaed by the Board in order to be considered in any protest hearing [TAX CODE 22.27 & 41.61].

Approval of Appraisal Records

The ARB must complete protest hearings on 95 percent of the total appraised value of the district before it can approve the appraisal records. The ARB must approve the appraisal records by July 20 or as soon thereafter as practicable. The ARB approves the appraisal records by filing the Order Approving Appraisal Records.

Correction of Appraisal Records

At any time before the approval of the appraisal records, the ARB in writing may correct a clerical error in the records without referring the matter to the appraisal office if the correction will not affect the tax liability of a property owner and if the chief appraiser does not object in writing.

At any time before the approval of the appraisal records, the chief appraiser may submit written recommendations to the ARB for corrections in the records. If the board approves a recommended correction and it will not result in an increase in the tax liability of a property owner, the board may make the correction by written order.

Not later than the date the ARB approved the appraisal records, the secretary of the board shall deliver written notice to a property owner of any change in the records that is ordered by the board as provided by Chapter 41 of the Property Tax Code. An owner who receives a notice as provided by this section shall be entitled to protest the action as provided by Section 41.44 (a)(2) of the Tax Code.

The chief appraiser shall make corrections to the appraisal records that are not subject to protest so long as the chief appraiser and the property owner are in agreement regarding the change. The chief appraiser is authorized by the ARB to issue change orders to the taxing units for these corrections to the appraisal roll.

The chief appraiser is required to issue a report to the ARB quarterly of all changes made to the appraisal records for the board's approval. PTC 25.25(b)

Limitation on Changes

The ARB is limited to the current year plus a five-year period in which corrections may be made to the appraisal roll. Each tax year begins on January 1.

Changes Resulting in Increase in Tax Liability

After the appraisal records are approved, the ARB cannot order an adjustment that will result in an increase in the tax liability of a property owner except in the case of a deleted exemption or a split out property. The property owner must be mailed a Notice of Change in Appraisal Records providing notification of the change. The notice must include a brief explanation of the procedures for protesting the change. Failure to deliver notice to a property owner as required nullifies the change. PTC Section 41.11

Protest Procedures

A property owner may protest any change ordered by the ARB by filing a Notice of Protest within 30 days after the date the Notice of Change is mailed. The protest filing deadline is indicated in the notice. PTC Section 41.44(a)(2)

A protest filed under this provision is handled in the same manner as all protests.

Section 25.25c Motion Filed by Property Owner

If a property owner files a 25.25c Motion that the District objects to, a hearing must be scheduled before the ARB at their next meeting. The hearing is held in the same manner as a protest hearing. A hearing must be scheduled within 15 days of the date the 25.25c motion is filed. If an ARB meeting date is unknown at that time, a letter must be sent to the property owner within the 15-day deadline stating that a hearing will be scheduled at the next meeting of the ARB.

Notification Procedures – Taxing Entities

Not later than the 15th day before the date of the hearing on the 25.25c motion, written notice must be provided to the presiding officer of the governing body of each affected taxing entity notifying them of the date, time, and place of the hearing. This notification is sent under the signature of the ARB Secretary.

Each taxing entity is entitled to appear to offer evidence or argument at the hearing. PTC Section 25.25(e)

Tax Payment Requirements

A property owner who files a 25.25c motion must comply with the tax payment requirements of Section 42.08 of the Property Tax Code or the right to a final determination on the motion is forfeited. At the hearing on the motion, the property owner must present tax receipts for all tax years covered by the motion.