



*Formally adopted by the Walker CAD Appraisal Review Board for 2022 with additions to address any item(s) specific to Walker CAD ARB.*

*Adopted May 5, 2022   
ARB Chair*

## **Model Hearing Procedures for Appraisal Review Boards**

### **I. ARB Membership**

*Walker CAD ARB members are NOT employees or officers of ANY political subdivision that assesses or collects property tax. ARB members are NOT employees or officers of Walker Co. Appraisal District. The Appraisal Review Board cannot hear matters concerning: Tax Rates, the amount of Tax Due, the ability to pay taxes, or the manner in which Tax Dollars are spent. Appraisal Review Board members have no responsibility for or control over Appraisal District operations. The Walker County Appraisal Review Board (ARB) is appointed to act independently of the appraisal district to make fair and impartial determinations. The Board of Directors of the appraisal district have no authority over how the ARB conducts its business and are prohibited from communicating with the ARB concerning matters that could be the subject of hearings. The ARB is a decision-making body that has as its sole function the determination of statutorily-authorized protests, motions to correct and challenges brought by property owners and taxing units. The ARB only has the authority specifically given by statute.*

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

##### **1) Administration of ARB Appointments**

ARB members have no statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an ARB member is contacted by an individual regarding requesting an appointment to the ARB, the member must direct the individual to the person(s) designated to receive applications or requests for ARB appointment.

##### **2) Conflicts of Interest**

Each ARB member must ensure that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or that restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chair in addition to any other individual or entity as required by law. The chair must ensure prompt notification of reported conflicts of interest to the appropriate individuals.

If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member cannot participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, the member must file an affidavit with the ARB secretary. The ARB member must file the affidavit as soon as the conflict is identified, even if it requires a delay in the conducting of the hearing. If the conflict arises from Tax Code Section 41.69, the ARB member does not have to file an affidavit but must recuse himself or herself immediately from the hearing and report the conflict to the ARB chair or secretary.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of "substantial interest," Tax Code Section 41.69 applies to any protest in which an ARB member has interest (i.e., Tax Code Section 41.69 does not require the interest to be substantial). While a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether he or she has a conflict of interest that might prohibit his or her involvement, the member must immediately contact the ARB chair to address the matter.

**In the recusal process, the ARB member cannot hear the protest, deliberate on the protest, or vote on the matter that is the subject of the protest.**

##### **3) Ex Parte and Other Prohibited Communications**

ARB members must not engage in prohibited ex parte or other communications. If one or more individuals approach the ARB member and appear to engage or attempt to engage in a prohibited communication, the ARB member must immediately remove himself or herself from the conversation.

## II. ARB Duties

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

#### 1) Statutory Duties of an ARB

Each ARB member must ensure that he or she understands the statutory duties of the ARB and complies with all statutory requirements in performing statutory duties as an ARB member.

#### 2) Notices Required under the Property Tax Code

Each ARB member must obtain and maintain familiarity with notices required under the Property Tax Code. If an ARB member believes that any required notice is not being provided or does not meet the requirements of applicable law, the ARB member must promptly notify the ARB chair. The ARB chair must investigate each report and take appropriate action to correct all verified problems.

#### 3) Determination of Good Cause under Tax Code Section 41.44(b)

“Good cause” for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests must be carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) must be uniformly applied. The ARB should give due consideration to good cause claims in a manner that properly respects the rights of property owners and their agents while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

## III. ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

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

#### 1) Scheduling Hearings Generally

The ARB must schedule a hearing when a timely notice of protest is filed and, in doing so, the appraisal district can provide the ARB with clerical assistance.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the appraised value of the property if the property owner does not file a protest relating to the property. Under Tax Code Section 41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code Section 1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

#### 2) Scheduling Hearings for Property Owners, Agents and Qualifying Lessees Pursuant to Tax Code

Section 41.66(i), the ARB must schedule hearing requests filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, the property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB **within two hours of the scheduled hearing time**. The postponement **request must contain the mailing address and email address of the person requesting the postponement**. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

#### 3) Scheduling Hearings for Multiple Accounts

If requested by a property owner or the designated agent, the ARB must schedule consecutive hearings on the same day on protests concerning up to 20 designated properties. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: “request for same-day protest hearings.” A property owner or designated agent can file more than one such request in the same tax year. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule protest hearings concerning more than 20 properties filed by the same property owner or designated agent and may use different panels to conduct the hearings based on the ARB’s customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Section 41.66(j).

#### 4) ARB Panel Assignments [Tax Code Section 41.66 (k)(k-1) and 41.45(d) (d- 1)]

Pursuant to Tax Code Section 41.66(k) and (k-1), if an ARB sits in panels as authorized by Tax Code Section 41.45(d) and (d-1), it must randomly assign protests. Except for panels established under Tax Code Section 6.425, the ARB, with or without clerical assistance from the appraisal district staff, may consider the property type or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Tax Code Section 41.45(b-4) allows a property owner to request that a single-member panel conduct the protest hearing. The property owner must submit the request not later than the 10th day before the hearing date in writing on the notice of protest or by a written submission. If the ARB does not accept the recommendations made by the single-panel member, the ARB can determine the protest or refer it for rehearing to a single-member panel composed of someone who did not hear the original protest.

Tax Code Section 41.66(k-1) allows a property owner or agent to request a special ARB panel to hear a complex property protest if in a county with a population of one million or more. The owner or agent must consent to a special panel reassignment and may request a postponement if they disagree with the reassignment.

Once a protest is scheduled for a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or a designated agent. If the ARB reassigns a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB must postpone the hearing if requested in this situation. Pursuant to Tax Code Section 41.66(k), “[a] change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel.”

#### 5) Postponements Under Tax Code Section 41.45(e)

A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause. The property owner must request the postponement before the hearing date in writing, including by facsimile, email, telephone, or in-person to the ARB, an ARB panel, or the ARB chair. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner, and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the property owner or the designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). The property owner or designated agent must request the postponement in writing, including by facsimile, email, telephone, or in-person to the ARB, an ARB panel, or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner, and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by facsimile, email, telephone, or in-person to the ARB, an ARB panel, or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner, and the chief appraiser, the ARB cannot postpone a hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

#### 6) Postponements Under Tax Code Section 41.45(e-1)

A property owner or owner’s agent who fails to appear at the hearing is entitled to a new hearing if the property owner or owner’s agent file, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

7) Postponements Under Tax Code Section 41.45(g)

The ARB must postpone a hearing to a later date if:

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

8) Postponements Under Tax Code Section 41.66(h)

The ARB must postpone a hearing (one time only) if the property owner or the designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

9) Postponements Under Tax Code Section 41.66(i)

The ARB must schedule protest hearings filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, a property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

10) Postponements Under Tax Code Section 41.66(k)(k-1)

Once the ARB schedules a hearing by a specific panel, the ARB may not reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, a property owner or designated agent may agree to reassignment or request a hearing postponement. The ARB must postpone the hearing on that request. A change of panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute panel reassignment.

A property owner or agent must consent to a special panel ARB hearing reassignment or request a postponement if they disagree with the reassignment. A change of special panel members because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute a special panel hearing reassignment.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

**IV. Conduct of ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)**

**[Tax Code Section 5.103(b)(2), (9), and (10)]**

1) Conducting Hearings Open to the Public

*The Walker CAD ARB will begin holding hearings typically in May or June and plan to convene weekly, alternating on Tuesdays & Thursdays, followed by Mondays, Wednesdays, & Fridays, with deviations to the typical schedule as deemed necessary by the ARB. The ARB will continue to meet until all taxpayer and taxing unit appeals timely filed have been heard. Evening or weekend hearing times will be available for protests as mandated by Sec. 41.71*

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

"We are the appraisal review [board **or** panel *as applicable*] that will hear your protest today. We are not employees of the appraisal district. We are appointed to perform an independent review of your protest. You can complete a survey regarding your experience today *either electronically (URL to be provided upon request) or by completing a written copy provided upon request*. **The survey is voluntary.** You also have the right to appeal our decision. We will provide the appeal information to you with our determination." **The ARB or ARB panel does not have to read the statement above if the owner or agent has previously appeared before the ARB, or any ARB panel for the ARB for that county that same day.**

*The Walker CAD ARB may not prohibit a party's right to offer evidence and argument. However, the ARB may enforce time limits and dictate the order of ARB hearings. To the extent possible, the parties will be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence and argument. The ARB will, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument. The following are current time limits established by the Walker CAD ARB:*

- *ARB Hearings are scheduled for a total of 15 minutes*
- *ARB will allow the property owner 5-7 minutes to present relevant evidence and offer testimony*
- *ARB will allow CAD the same allotted 5-7 minutes to present relevant evidence and testimony*
- *ARB may establish other time limits for hearings based on the size and complexity of the property at issue*

ARBs should conduct most protest hearings in the following order:

- a. Commence the hearing and announce the assigned protest number, property location, property owner, and other identifying information.
- b. Announce that, in accordance with Tax Code Section 41.45(h), the parties must provide all written and electronic material that has not been provided.
- c. State that the ARB members who are considering the protest have not communicated with anyone about the protest and have signed affidavits to that effect.
- d. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
- e. Ask if any testifying witness holds a license or certificate from the Texas all Appraiser Licensing Board and if the witness is appearing in that capacity.
- f. Inform witnesses that they must give all testimony under oath and swear-in all witnesses who plan to testify.
- g. Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
- h. If the property owner or agent presents his/her case first, he/she will present evidence (documents and/or testimony). If witnesses are present, the property owner or agent can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the property owner or agent must state an opinion of the property's value (if applicable).
- i. Next, the appraisal district representative may cross-examine the property owner, the agent or representative and/or witnesses.
- j. If the property owner or agent presented his/her case first, the appraisal district representative will present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the appraisal district representative must state an opinion of the property's value (if applicable).
- k. Then, the property owner or agent can cross-examine the appraisal district representative and/or witnesses.
- l. The parties cannot examine or cross-examine the ARB members.

- m. The party presenting its case first can offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- n. The other party can then offer rebuttal evidence.
- o. The party presenting its case first must make its closing argument and state the ARB determination being sought.
- p. The party presenting its case second must make its closing argument and state the ARB determination being sought.
- q. The ARB or panel chair must state that the hearing is closed.
- r. The ARB or panel must deliberate orally. No notes, text messages, or other forms of written communication are permitted.
- s. The ARB or panel chairperson must ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations). Single-member panels must make a recommendation on each motion submitted under protest; however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest. Special panels appointed in certain counties must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination or refer the matter for rehearing to another special panel composed of members who did not hear the original protest. If ARB does not have at least three other special panel members available, the ARB may make the determination.
- t. Thank the parties for their participation and announce the ARB determination(s) and that an order determining protest will be sent by certified mail or email in counties with populations greater than 120,000 where property owners can submit a written request for email delivery of the notice of determination. Provide the property owner or agent documents indicating that the members of the board hearing the protest signed the required affidavit. (*Confirmation that affidavit(s) are on file in the ARB records is included on Walker CAD ARB determination letters*).

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

If a chief appraiser uses audiovisual equipment at a protest hearing, the appraisal office must provide equipment of the same general type, kind, and character for the use of the property owner or agent during the hearing. See section VI, Other Issues, for more information regarding audiovisual equipment requirements.

**The property owner or agent and the appraisal district representative are prohibited from debating each other. The parties must direct all communications to the ARB members, except for examination or cross-examination during testimony of witnesses or parties testifying at the hearing.**

For taxing unit challenges, motions to correct appraisal records, protests regarding exemptions, or other matters that may be the subject of ARB hearings, the ARB should follow the order of conducting hearings above but may make exceptions for the type of hearing.

**Tax Code Section 41.68 and Comptroller Rule 9.803 require that the ARB keep records for each ARB proceeding. This includes the ARB retaining evidence offered or submitted by the parties as required by Tax Code Section 41.45 and Comptroller Rules 9.803 and 9.805. The ARB secretary is responsible for ensuring proper record keeping, maintenance and retention. (All evidence, including recorded testimony, is retained in accordance with Walker CAD Records Retention Policies).**

## 2) Conducting Hearings by Telephone or Videoconference Call

Tax Code Section 41.45(n) allows a property owner initiating a protest can offer evidence or argument by affidavit without physically appearing at the hearing. **Tax Code Section 41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10<sup>th</sup> day before the date of the hearing if the property intends to**

**appear remotely.** To offer evidence or argument at a hearing conducted remotely, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted remotely to another person the owner invites to participate in the hearing. (*Texas Comptroller Affidavit form 50-283 may be used and can be found on the TX Comptroller's website.*)

Tax Code Section 41.45(b-2) requires the ARB to provide the telephone number for conducting the teleconference call or the URL address for conducting the videoconference (if offered in that county). The ARB must hold the hearing in a location with equipment that allows all ARB members and parties to the protest in attendance to hear and see the property owner's argument.

## **GUIDELINES FOR YOUR WALKER COUNTY APPRAISAL REVIEW BOARD ("ARB") TELECONFERENCE CALL**

1. A property owner initiating a protest is entitled to appear to offer evidence or argument. A property owner may offer evidence or argument **under the cover of an affidavit** (or unsworn declaration as provided in Texas Civil Practices and Remedies Code, Chapter 132.001) without personally appearing and may appear by telephone conference call to offer argument. **A property owner must submit an affidavit (or unsworn declaration) that includes any evidence for consideration, described by this subsection to the board hearing the protest before the board begins the hearing on the protest.** On receipt of an affidavit (or unsworn declaration), the board shall notify the chief appraiser. The chief appraiser may inspect the affidavit (or unsworn declaration) and is entitled to a copy on request. [Section 41.45(b).]
2. **Please call in promptly at the time identified on your NOTICE OF HEARING. If you do not call in at your scheduled time, the hearing might still be started by the ARB if an affidavit was submitted. If you have not called in before the ARB convenes the hearing, and if you have submitted the required affidavit (or unsworn declaration), the ARB will start and conduct the hearing as an appearance by Affidavit. You will not be entitled to a rescheduled hearing.**
3. **Please call using the following phone number: 936-295-0402.**
4. Be prepared to identify yourself and your case by reference to the (PID #; GEO #, Special PIN) listed in Step 2 of your NOTICE OF PROTEST.
5. Although the ARB will make every effort to convene your hearing as close to the scheduled time as possible, sometimes prior hearings run over. Until the ARB is available, you will need to wait on the phone line. **DO NOT HANG UP.** If you have to wait longer than 2 hours, you are entitled to a reschedule of the hearing.
6. When an administrator gets on the phone line to confirm that you are going to be transferred to the ARB, you must respond. If you do not respond, you will be placed on a short hold. After the short hold, the staff person will again check to see if you are on the line. If you do not respond on the 2nd call, it will be recorded on the ARB record that you did not respond to appear at the ARB teleconference hearing and the call will be disconnected. The hearing will proceed as if it is an appearance by Affidavit.
7. The ARB will conduct its hearings in accordance with its local procedures, a copy of which was provided with your NOTICE OF HEARING.
8. **If you are waiting for your hearing to start or already participating in an ARB teleconference hearing and your call is disconnected, it is your responsibility to call the phone number listed above and request to be reconnected to the hearing in progress by identifying the (PID #, GEO #, Special PIN).**
9. The hearing time will not be extended if the call is disconnected.
10. If you choose, you may include a 3rd party to participate in the teleconference hearing but only for the purpose of listening or offering argument. No new evidence or new information may be offered via the telephone. It is the Owner's responsibility to coordinate adding the 3rd party participant to the ARB teleconference hearing. Please do so before calling into the teleconference hearing as the hearing time will not be extended. The ARB will not coordinate 3- party conference calls.
11. **The evidence you intend to discuss must have been provided to the Appraisal District in advance of your hearing. It is STRONGLY RECOMMENDED that the Owner's evidence be clearly numbered or labeled so that the ARB members can quickly identify what document an Owner is referencing. The hearing time will not be extended if the ARB is unable to match the evidence with the material referenced during the Owner's arguments.**
12. **You are not allowed to present additional evidence during the hearing (for example, no sworn testimony offered over the phone). You are only allowed to make arguments related to the evidence that has already been**

**provided.**

13. ARB reserves the right to limit the number of telephone conference hearings allowed for a single property owner &/or Agent.

3) Conducting Hearings Closed to the Public [Tax Code Section 41.66(d), (d-1)]

The chief appraiser and the property owner must file a joint motion to request that a closed hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code Section 41.66(d) and (d-1). Only the parties to the protest, their witnesses and the ARB members are permitted to stay in the hearing room. The ARB must follow the same order of proceedings as for hearings open to the public.

The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with Comptroller Rule 9.803, generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27. The ARB must mark as “confidential” and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law.

After deliberation, the ARB must reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. The ARB and parties cannot mention proprietary or confidential information during the open meeting.

4) Right to Examine and Cross-Examine Witnesses or Other Parties

Tax Code Section 41.66(b) states that “each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing.” The ARB cannot prohibit this entitlement in any way; however, **it may enforce time limits and dictate the order of ARB hearings for** witness examination and cross-examination. To the extent possible, the ARB should advise the parties in advance of any time limitations that the ARB intends to impose regarding the presentation of evidence.

5) Party’s Right to Appear by an Agent

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

**V. Evidence Considerations**

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

1) A Party’s Right to Offer Evidence and Argument

The ARB cannot prohibit a party’s right to offer evidence and argument **but may enforce time limits and dictate the order of ARB hearings.** To the extent possible, the ARB should advise the parties in advance of any time limitations the ARB intends to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument. ***Walker CAD ARB has adopted time limits and is addressed in Sec. IV of this document.***

2) Prohibition of Consideration of Information Not Provided at the ARB Hearing  
**[Tax Code Section 41.66(e)]**

In a protest hearing, the ARB cannot consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for the ARB to consider any appraisal district record (i.e., appraisal roll history, appraisal cards), one of the parties must present it as evidence (e.g., chief appraiser, appraisal district representative, property owner, agent, or witness) at the protest hearing.

3) Exclusion of Evidence Required by Tax Code Section 41.67(d), (e)

If it is established during a protest hearing that the protesting party previously requested information under Tax Code Section 41.461 and that the opposing party did not deliver the information to the protesting party at least 14 days before the scheduled or postponed hearing, the opposing party cannot use or offer the requested information not made available in any form as evidence in the hearing. The ARB must exclude evidence under Tax Code Section 41.67(d) only if evidence presented at the hearing establishes that:

- 1) the information sought to be excluded as evidence was not delivered at least 14 days before the hearing; and
- 2) the information sought to be excluded as evidence was previously requested by the protesting party.

Tax Code Section 41.67(e) prohibits the chief appraiser from offering evidence at a hearing in support of a modification or denial of an exemption or application unless:

- 1) the chief appraiser provided the reasoning for the modification or denial to the property owner in writing no later than the 14th day before the hearing date; and
- 2) evidence establishes that the additional reason was not known by the chief appraiser at the time the chief appraiser delivered the original notice of modification or denial.

## VI. Other Issues

### [Tax Code Section 5.103(17)]

#### 1) Compliance with the Law, Integrity, and Impartiality

ARB members must comply with the law and always act in a manner that promotes public confidence in the integrity and impartiality of the ARB.

#### 2) Patience and Courtesy

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

#### 3) Bias or Prejudice

ARB members must perform their ARB duties without bias or prejudice.

#### 4) Confidential Information

ARB members must not disclose or use confidential information acquired in the performance of ARB duties for any purpose unrelated to ARB duties.

#### 5) Required Contents That Vary By ARB

ARB model hearing procedures must comply with Comptroller Rule 9.805 concerning ARB evidence exchange and retention and audiovisual equipment requirements. The rule requires that ARB procedures include specific items that may vary by ARB. The rule addresses:

- the manner and form, including security requirements, in which a person must provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device;
- how to retain the evidence as part of the ARB's hearing record; and
- the audiovisual equipment provided by an appraisal district, if any, for use by a property owner or the property owner's agent.

This section of the ARB's hearing procedures must address each item required in Comptroller Rule 9.805.

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Assistance Division Texas Comptroller of Public Accounts

### Comptroller Rule 9.805 (Texas Administrative Code) Local Application /Requirements for Walker CAD ARB

- a. Exchange of evidence. Before or immediately after an appraisal review board hearing begins, the appraisal district and the property owner or the owner's agent shall each provide the other party with a duplicated set of the evidentiary materials the person intends to offer or submit to the appraisal review board for consideration at the hearing. One set of these materials is to be exchanged with and retained by the other party, **and another set of these materials is to be provided to and retained by the appraisal review board as evidence for its records as required under §9.803 of this title (relating to Requirements for Appraisal Review Board Records). The duplicated material sets shall be produced in either paper or electronic form.**

- i. ***Walker CAD ARB may offer assistance, to copy paper evidence in an instance where the protesting party failed to bring duplicates for the CAD staff and ARB records.***
        - ii. ***Copies may incur a charge of \$0.10 per page***
        - iii. ***Copy equipment can accommodate Letter, Legal or Ledger size documents***
        - iv. ***Walker CAD does not offer assistance to copy Electronic (USB compatible zip drive) evidence.***
- b. Evidentiary materials on a portable electronic device. Evidentiary materials produced on a portable electronic device shall be saved in a file format type and downloaded to a small, portable, electronic device. The file format type and small, portable, electronic device must be considered generally accepted technology and must be suitable for retention by the recipient. For security purposes, the electronic files on devices produced pursuant to this section shall be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance by or exposure to the recipient's computer system.
- i. ***Walker CAD ARB will provide a PC or Laptop for ARB proceedings equipped to access a USB zip/thumb drive.***
  - ii. ***Evidence submitted for presentation using Walker CAD ARB audio/visual equipment should be saved to a portable drive often referred to as a "flash drive," a "zip drive" or a "thumb drive" and must be USB port compatible.***
  - iii. ***Electronic files must be saved in a manner that allows a security scan by the current security software utilized by the Walker CAD ARB. Due to ever-changing security threats, security software is subject to change. It is the responsibility of the individual to confirm the USB drive is not protected and will not prevent a security scan.***
- c. Electronic file format types and devices. The appraisal review board shall determine the types of file formats and devices which meet the requirements of subsection (b) of this section and specify the types of file formats and devices in the appraisal review board hearing procedures. Examples of file format types that may be considered acceptable include but are not limited to the Adobe portable document format (PDF); Microsoft Word, typically used for text documents; Microsoft Excel, typically used for spreadsheets and tables; Microsoft PowerPoint, typically used for presentations or slideshows; and JPEG (.jpg or .jpeg) for photographs. Examples of the general types of small, portable, electronic devices suitable for retention by the recipient that may be considered acceptable include but are not limited to USB flash drives (i.e., thumb or jump drives, USB, or memory sticks), and compact discs (i.e., CDs, DVDs) with various characteristics. The appraisal district and the property owner or the owner's agent may agree to exchange evidence in a manner other than provided in appraisal review board hearing procedures so long as a copy of the evidence may be retained in the records of the appraisal review board and satisfies the requirements of subsection (a) of this section.
- i. ***Evidence saved to an approved electronic device as described in subsection b of this section must be saved as, or compatible with Microsoft Office Suite (Word, Excel, PowerPoint), Adobe PDF, or in JPEG (.jpg or jpeg) format to ensure compatibility with Walker CAD ARB software installed on provided equipment.***
  - ii. ***As stated in subsection a of this section, Walker CAD ARB must retain a copy of the device and the individual is responsible for providing said copy.***
- d. Audiovisual equipment requirements. If the appraisal district uses audiovisual equipment at appraisal review board hearings, the appraisal district shall make available this same equipment or audiovisual equipment of the same general type, kind, and character for use at the hearing by the property owner or the owner's agent. The equipment made available shall be capable of reading and accepting the same types of file formats and devices the appraisal review board has determined are generally accepted under subsection (c) of this section. In the alternative, property owners and their agents may bring their own audiovisual equipment for their presentation of evidentiary materials at appraisal review board hearings. If the operation of audiovisual equipment at the hearing requires access to and connection with the Internet for the presentation, the parties must provide their own Internet connection and access through their own service provider. The property owner and the owner's agent may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the appraisal review board hearing procedures. The appraisal district and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in the hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.
- i. ***Walker CAD ARB will provide a shared PC connected to monitors, keyboard, mouse, audio speakers, and an overhead projector for use by both individuals and CAD staff during hearing presentations to display evidence.***
  - ii. ***Individual evidence submitted electronically that is provided in compliance with subsections (b) and (c) of this section, will be scanned, in compliance with subsection b of this section, and if no security threat is detected, the files on the electronic device will be placed in a file accessible to the individual for the duration of the presentation.***

- iii. *Walker CAD ARB will provide access to the saved electronic files as well as peripheral equipment (keyboard, mouse, and audio speakers) to facilitate the presentation of evidence on the overhead display provided.*
  - iv. *Walker CAD ARB will provide access to a standard 120/240 v ac outlet and provide electricity for any individual bringing personal audiovisual equipment. No other provisions will be made by the Walker CAD ARB for individual audiovisual equipment. It is the responsibility of the individual to ensure the personal equipment they may use is compatible to 120/240 v ac AND that the equipment is of such size that the Walker CAD ARB hearing room can accommodate said personal equipment.*
  - v. *Walker CAD ARB WILL NOT provide internet access, nor access to CAD network connection for any personal audiovisual equipment, nor will access to the internet be allowed thru any links embedded in electronic files saved to a file accessible using audiovisual equipment provided by Walker CAD ARB.*
- e. Appraisal Review Board hearing procedures. The following information regarding the exchange and presentation of evidence at appraisal review board hearings shall be provided in the appraisal review board hearing procedures:
- (1) identification of the file format types considered acceptable under subsection (c) of this section; *(see subsection (c) (i) of this section for Walker CAD ARB specific information)*
  - (2) description of the types of small, portable, electronic devices suitable for retention by the recipient considered acceptable under subsection (c) of this section; *(see subsection (b)(ii) & (iii) of this section for Walker CAD ARB specific information)*
  - (3) notice that property owners and their agents may bring their own audiovisual equipment for their presentation at appraisal review board hearings but must provide their own Internet access, if needed, through their own service provider; *(see subsection (d) (iv) and (v) of this section for Walker CAD ARB specific information)*
  - (4) whether the appraisal district uses audiovisual equipment at appraisal review board hearings; *(see subsection (d) (i), (ii), & (iii) of this section for Walker CAD ARB specific information)*
  - (5) if the appraisal district uses audiovisual equipment at appraisal review board hearings, a description of the type, kind, and character of audiovisual equipment the appraisal district makes available for use by property owners or their agents and which meets the requirements of subsection (d) of this section; *(see subsection (d)(i) of this section for Walker CAD ARB specific information)* and
  - (6) notice that property owners and their agents may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the hearing procedures. *(see subsection (d) (v) of this section for Walker CAD ARB specific information)*

***Proper attire and courtesy will be expected from all speakers.***