

# 2024 Appraisal Review Board Policies & Procedures

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Matagorda County Appraisal District

**Approved by Matagorda County Appraisal Review Board on March 26, 2024**

## Table of Contents

Matagorda County Appraisal Review Board.....	55
Qualifications & Appointments.....	55
ARB Member Removal.....	66
Meeting Location, Dates and Member Compensation.....	66
Election of Officers.....	77
Oath of Office.....	77
Meetings and Quorums.....	88
Appraisal Review Board Hearing Procedures.....	88
I.    ARB Membership.....	88
1.    Administration of ARB Appointments.....	88
2.    Conflicts of Interest.....	88
3.    Ex Parte and Other Prohibited Communications.....	99
II.   ARB Duties.....	99
1.    Statutory Duties of an ARB.....	99
2.    Notices Required under the Property Tax Code.....	99
3.    Determination of Good Cause under Tax Code Section 41.44(b).....	1010
III.  ARB hearings (formal hearings, not informal meetings between property owners and appraisal district staff).....	1010
1.    Scheduling Hearings Generally.....	1010
2.    Scheduling Hearings for Property Owners, Agents and Qualifying Lessees.....	1010
3.    Scheduling Hearings for Multiple Accounts.....	1111
4.    ARB Panel Assignments.....	1111
5.    Postponements Under Tax Code Section 41.45(e).....	1212

6.	Postponements Under Tax Code Section 41.45(e-1).....	<a href="#">1313</a>
7.	Postponements Under Tax Code Section 41.45(g).....	<a href="#">1313</a>
8.	Postponements Under Tax Code Section 41.66(h).....	<a href="#">1313</a>
9.	Postponements Under Tax Code Section 41.66(i).....	<a href="#">1313</a>
10.	Postponements Under Tax Code Section 41.66(k)(k-1).....	<a href="#">1414</a>
IV.	Conduct of ARB Hearing (formal hearings, not informal meeting between property owners and appraisal district staff).....	<a href="#">1414</a>
1.	Three Types of Hearings Heard by the ARB.....	<a href="#">1414</a>
2.	Conducting Hearings Open to the Public.....	<a href="#">1515</a>
3.	Conducting Hearings by Telephone Call or Videoconference.....	<a href="#">1717</a>
4.	Conducting Hearings Closed to the Public.....	<a href="#">1818</a>
5.	Right to Examine and Cross-Examine Witnesses or Other Parties.....	<a href="#">1818</a>
6.	Party’s Right to Appear by an Agent.....	<a href="#">1818</a>
V.	Evidence Considerations.....	<a href="#">1919</a>
1.	A Party’s Right to Offer Evidence and Argument.....	<a href="#">1919</a>
2.	Prohibition of Consideration of Information Not Provided at the ARB Hearing [Tax Code Section 41.66(e)].....	<a href="#">1919</a>
3.	Exclusion of Evidence Required by Tax Code Section 41.67(d).....	<a href="#">1919</a>
4.	Exclusion of Evidence Required by Tax Code Section 41.67(e).....	<a href="#">2020</a>
VI.	Other Issues.....	<a href="#">2020</a>
1.	Compliance with the Law, Integrity, and Impartiality.....	<a href="#">2020</a>
2.	Patience and Courtesy.....	<a href="#">2020</a>
3.	Bias or Prejudice.....	<a href="#">2020</a>
4.	Confidential Information.....	<a href="#">2020</a>

5. Audiovisual Equipment, CAD's Internet or Network, File Formats for Electronic Evidence

Exchange .....	<a href="#">20</a> <del>20</del>
Closing.....	<a href="#">21</a> <del>21</del>
Public Service .....	<a href="#">21</a> <del>21</del>
More Information .....	<a href="#">21</a> <del>21</del>

# Matagorda County Appraisal Review Board

An Appraisal Review Board (ARB) is the administrative review arm of the property tax system and a quasi-judicial entity with responsibility to resolve disputes between property owners and appraisal districts. Under Subchapter D, Chapter 74 of the Government Code and Section 6.41(d) of the Texas Property Tax Code (Tax Code), the local administrative district judge appoints citizens from the county to serve on the ARB.

ARB members are charged with being fair and willing to listen when considering all the evidence presented by both parties before making a determination on a protest. The ARB has no role in the day-to-day activities of the appraisal district or in the appraisal of property.

Under some instances, the ARB may need to interpret the meaning of statutes in a protest. Section 6.43 of the Tax Code states the ARB may employ legal counsel as provided by the appraisal district's budget or use the services of the county attorney, and may use the staff of the appraisal office for clerical assistance. Another alternative that ARBs may use is the Comptroller's ARB Hotline.

## ***Qualifications & Appointments***

To be appointed to serve on the Matagorda County ARB, you must have lived in Matagorda County for at least two years before taking office. There are no special qualifications, but you may not serve on the board if you are:

- A current appraisal district director.
- A current employee or Chief Appraiser of the appraisal district.
- A current board member, employee, or officer of a taxing unit served by the appraisal district.
- A current employee or officer of the Comptroller of Public Accounts.
- Related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district for which the appraisal review board is established.
- Related within the third degree by blood or second degree by marriage to a member of the appraisal district's board of directors or to a member of the ARB.
- Has a contract with the appraisal district or with a taxing unit within the appraisal district.
- Holding another paid public office.
- Are delinquent for more than 60 days on property taxes; but can serve if member has a payment agreement in place.
- Did not complete the mandatory training for ARB members as provided by the Texas State Comptroller Office Property Tax Division or the Texas Open Meetings Act training and the Public Information Act training as provided by the Office of the Attorney General.

The Matagorda County Appraisal District (MCAD) currently has 13 citizens of Matagorda County appointed to its ARB, serving two-year staggered terms that begin anew each January 1<sup>st</sup>. Per an update in the 2021 Tax Code, ARB members in appraisal districts with population less than 120,000 can now serve their staggered 2-year terms indefinitely until they step down or are removed. The term limitation of only being able to serve (3) consecutive 2-year terms before sitting out for a year that was provided for in the 2019 Tax Code no longer applies to Matagorda County due to our population size.

Applications for potential new members are available for eligible, interested parties at the appraisal district office. Completed applications submitted to the appraisal district will be delivered to the local administrative judge when an ARB member position is vacant and needs to be filled, and the judge will then notify the appraisal district of the new appointment(s) he/she has decided on. The appraisal district will notify new appointees of their appointment as well as training requirements and when & where they are to appear for the first meeting of their term.

### ***ARB Member Removal***

A member of the ARB may be removed by the local administrative judge or the judge's designee for the following reasons:

- Violating Texas Property Tax Code Section 6.41(f)(1)
  - violations of 6.412 – eligibility issues
  - violations of 6.413 – conflicts of issue
  - violations of 41.66(f) – ex parte communication about a property that is the subject of a protest outside of the protest hearing
  - violations of 41.69 - ARB member participates in a hearing when he or she has a conflict of interest or is related to party of the hearing by affinity within the second degree or by consanguinity within the third degree
- Violating Texas Property Tax Code Section 6.41(f)(2) – failing to attend ARB meetings
- Violating Texas Property Tax Code Section 6.41(f)(3) - repeated bias or misconduct

### ***Meeting Location, Dates and Member Compensation***

The Matagorda County ARB normally meets in the MCAD Conference Room located at 2225 Avenue G, Bay City, Texas 77414. Should the need for a different location arise, proper notification of the alternate location of the meeting will be given.

All ARB meetings and hearings are open to the public. An agenda and notice of the date, time and location of the ARB meeting/hearing will be posted at least 72 hours in advance on the front door of the CAD office located 2225 Avenue G, Bay City, Texas, at the Matagorda County Courthouse located at 1700 Seventh Street, Bay City, Texas, and on the MCAD website.

The ARB shall meet at least once per calendar quarter and at any other time at the call of the Chairman. The ARB shall meet to examine the appraisal records within 10 days after the date the Chief Appraiser submits the records to the ARB.

The MCAD Board of Directors has budgeted for the ARB members to receive \$100 per meeting for performance of board functions and mandatory education expenses.

## ***Election of Officers***

Under Subchapter D, Chapter 74 of the Government Code and Section 6.42(a) of Tax Code, the local administrative district judge of the appraisal district shall appoint a chairman and a secretary from among the members of the ARB. The judge is encouraged to select as chairman a member of the ARB, if any, who has a background in law or property tax appraisal.

The ARB will select by a majority vote of those present and voting, a vice-chairman to preside at the meetings when the chairman is absent. The vice-chairman will perform the duties and responsibilities of the chairperson in his/her absence.

The chairman is charged with ensuring that hearings are conducted properly and procedures are followed, and performs such other responsibilities as the law requires. The secretary is charged with sending required notices, ensuring that meetings are posted, and keeping official minutes or recordings of ARB proceedings and performs such other responsibilities as the law requires. The secretary may delegate to appraisal district staff on providing for notices, postings and minutes.

## **Oath of Office**

All ARB members must sign a statement and take an oath of office before beginning a new term. ARB members must be properly sworn in before taking any official action. All members must take and sign the oath of office before a notary public, county clerk, judge, or other official authorized to administer oaths of office.

The 2-step process must follow the order below:

STEP 1 – Secretary of State form 2201 (Statement of Elected/Appointed Officer)

STEP 2 – Secretary of State form 2204 (Oath of Office)

## ***Meetings and Quorums***

Robert's Rules of Order govern the conduct of all meetings of the ARB other than hearings. Where Robert's Rules are in conflict with the rules of this board, the rules of the board will govern. The person chairing the board or panel may vote and make motions on any matter.

A majority of the ARB constitutes a quorum; 50% plus one. When the ARB is conducting hearings on taxpayer protests, members may break into 3-member panels. The panel will hear the protest and make a recommendation. The board will either accept or reject the panel recommendation. Rejected determinations will be treated in accordance with Sec. 41.45(d) of the Texas Property Tax Code.

## **Appraisal Review Board Hearing Procedures**

### **I. ARB Membership**

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

#### ***1. Administration of ARB Appointments***

ARB members are not provided any statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an ARB member is contacted by an individual regarding requesting an appointment to the ARB, the member shall direct the individual to the Matagorda County Appraisal District office to receive an ARB application to be presented to the local administrative district judge, who appoints ARB members to serve.

#### ***2. Conflicts of Interest***

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

If an ARB member discovers before or during the protest hearing that a conflict of interest exists, the member may not participate in a protest hearing. If the conflict exists due to the provisions of the Local Government Code Chapter 171, an affidavit must be filed with the secretary of the ARB. The affidavit must be filed as soon as the conflict arises. If the conflict arises from Tax Code Section 41.69, no affidavit



must be filed; however, the ARB member must recuse himself or herself immediately from the hearing and report the conflict to the chairman or secretary of the ARB.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of “substantial interest,” Tax Code Section 41.69 applies to any protest in which an ARB member is interested (i.e. there is no requirement under Tax Code Section 41.69 that the interest be substantial). Therefore, while a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether or not he or she has a conflict of interest that might prohibit his or her involvement, the member shall immediately contact the ARB chairman to address the matter.

In the recusal process, the ARB member not only may not vote on the matter that is subject of the protest, but also may not hear or deliberate on the protest.

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

ARB members shall not engage in prohibited ex parte or other communications. If an ARB member is approached by one or more individuals that appear to be engaging or attempting to engage in a prohibited communication, the ARB member shall immediately remove himself or herself from the conversation.

## **II. ARB Duties**

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

### ***1. Statutory Duties of an ARB***

Each ARB member is responsible for ensuring that he or she understands the statutory duties of the ARB and shall comply with all statutory requirements in performing statutory duties as a member of the ARB. Tax Code Section 41.01 addresses the duties of the ARB and the actions they are authorized to make.

### ***2. Notices Required under the Property Tax Code***

Each ARB member is responsible for obtaining and maintaining familiarity with notices required under the Property Tax Code. If an ARB member has reason to believe that any notice that is required by law to be provided by the ARB is not being provided or does not meet the requirements of applicable law, the ARB member shall promptly notify the ARB Chairman, who must then investigate the report and take appropriate action to correct any verified problems.

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

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

## **III. ARB Hearings**

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

The following subsections under Section III of this document pertain to formal hearings with the ARB, not informal meetings between property owners and appraisal district staff.

### ***1. Scheduling Hearings Generally***

The ARB shall schedule a hearing when a timely notice of protest is filed and, in doing so, may be provided with clerical assistance by appraisal district.

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. Agents designated by lessees 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, qualifying lessees, 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 7<sup>th</sup> day after the date of receipt of the request.

### ***3. Scheduling Hearings for Multiple Accounts***

If requested by a property owner or a designated agent, hearings on protests concerning up to 20 designated properties shall be scheduled on the same day by the ARB. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: “request for same-day protest hearings.” 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 Tax Code Section 41.66(j).

### ***4. ARB Panel Assignments***

[ Tax Code sections 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), protests shall be assigned randomly, except that the ARB, with or without clerical assistance from the MCAD staff, may consider the type of property or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

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 10<sup>th</sup> 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 1.2 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. This provision of the Tax Code does not apply to Matagorda County due to our population size.

Once a protest is scheduled to be heard by a specific panel, it shall not be reassigned to another panel without the consent of the property owner or designated agent. If the ARB has cause to reassign a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB is required to postpone the hearing if requested in this situation. Pursuant to Tax Code Section 41.66(k), “(a) change of members of a panel because of a

conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel.”

## ***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, if the request is made before the date of the hearing. The request may be made in writing (including by facsimile transmission or electronic mail), by telephone, or in person to the ARB, an ARB panel, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman’s representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairman or the chairman’s representative, the property owner, and the Chief Appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition and without limit as to the number of postponements, the ARB shall postpone a hearing if the property owner or designated agent at any time shows good cause, as defined in Tax Code Section 41.45(e-2). The request may be made in writing (including by facsimile transmission or electronic mail), by telephone, or in person to the ARB, an ARB panel, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman’s representative may take action on the request for postponement without necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairman or the chairman’s representative, the property owner, and the Chief Appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

In addition and without limit, the ARB shall postpone a hearing if the Chief Appraiser consents to the postponement. The request may be made in writing (including by facsimile transmission or electronic mail), by telephone, or in person to the ARB, an ARB panel, or the ARB chairman. If the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the ARB, the chairman or the chairman’s representative may take action on the request for postponement without the necessity of action by the full ARB. Unless the date and time of the hearing as postponed are agreed to by the ARB chairman or the chairman’s representative, the property owner, and the Chief Appraiser, the hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

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 7<sup>th</sup> day after the date of receipt of the request.

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

A property owner or designated agent who fails to appear at the hearing (a no-show) is entitled to a new hearing if the property owner or designated agent files, not later than the 4<sup>th</sup> 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 7<sup>th</sup> 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 owner of the property or designated agent is also scheduled to appear at a hearing on a protest filed with the ARB of another appraisal district;
- (2) the hearing before the other ARB is scheduled to occur on the same date as the hearing set by the ARB;
- (3) the notice of hearing delivered to the property owner or designated agent by the other ARB bears an earlier postmark than the notice of hearing delivered by the Matagorda County ARB or, if the date of the postmark is identical, the property owner or agent has not requested a postponement of the other hearing; and
- (4) the property owner or designated agent includes with the request for a postponement a copy of the notice of hearing delivered to the property owner or designated agent by the other ARB.

## ***8. Postponements Under Tax Code Section 41.66(h)***

The ARB shall postpone a hearing (one time only) if the property owner or 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 7<sup>th</sup> day after the date of receipt of the request.

## ***9. Postponements Under Tax Code Section 41.66(i)***

Hearings on protests filed by property owners or their designated agents under Tax Code Section 1.111 shall be scheduled for a specific time and date. More than one protest may be scheduled for hearings at the same time and date; however, if a hearing for a property owner is not started by ARB panel or the full ARB within two hours of the scheduled hearing time, the ARB is required to postpone the hearing, if a postponement is requested by the property owner. The request for postponement must contain the

mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the 7<sup>th</sup> day after the date of receipt of the request.

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

If a protest is scheduled to be heard by a particular panel, the protest may not be reassigned to another panel without the consent of the property owner or designated agent. If the ARB has cause to reassign a protest to another panel, a property owner or designated agent may agree to reassign a protest to another panel, a property owner or designated agent may agree to reassignment of the protest or may request that the hearing on the protest be postponed. The ARB shall postpone the hearing on that request. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the 7<sup>th</sup> day after the date of receipt of the 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 reassignment of a protest to another panel.

A property owner or agent must consent to a special panel ARB hearing reassignment or request a postponement if they disagree with the reassignment. The request for postponement must contain the mailing address and email address of the person requesting the postponement. The ARB shall respond in writing or by email to the request for postponement not later than the 7<sup>th</sup> day after the date of receipt of the request. 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 reassignment of a protest to another special panel.

## **IV. Conduct of ARB Hearing**

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

The following subsections under Section IV of this document pertain to formal hearings with the ARB, not informal meetings between property owners and appraisal district staff.

### ***1. Three Types of Hearings Heard by the ARB***

1. Property owner or designated agent appears in person to offer evidence at his/her scheduled appointment date and time.
2. Telephone call or videoconference – Written notice to appear via telephone or videoconference must be received no less than 10 days prior to the hearing date, and evidence must be presented in a sworn affidavit. The ARB will have available telephone/videoconference equipment for all ARB members present at the hearing to listen and talk with the protester. On the day of the hearing, the owner or designated agent calls the appraisal district five minutes prior to the scheduled time to check in for his/her case.
  - Telephone conference – During the check-in phone call to the appraisal district office, the owner or agent will give the property ID, owner name, time of the scheduled

hearing as listed on the hearing notice sent to them. If the ARB is not immediately available to take the call & hear the protest, the owner or designated agent will give their call-back number, and the ARB will call back as soon as they become available.

- Videoconference – During the check-in phone call to the appraisal district, the owner or agent will give the property ID, owner name, and time of the scheduled hearing as listed on the videoconference details insert that was included with the hearing notice sent to them. Then the owner or agent will follow the instructions on the insert to log in for the videoconference. Upon entry into the meeting, the owner/agent will be placed into a virtual waiting room until the ARB is ready to hear their protest and brings them live into the meeting.
3. A sworn written affidavit, delivered to the ARB before the hearing begins, is simply read in as the means for offering evidence, with no owner or agent present either in person or via telephone or videoconference.

Regarding online protests - At this time, the MCAD only allows online protests for residence homestead properties and only for property owners, not for agents. When requested for qualifying properties, the owner will be given a pin number to use in setting up their login, and they will proceed with their protest through the online portal (i.e. filing the notice of protest, accepting/denying settlement offers, or withdrawing the protest). If a settlement offered during an online protest is accepted by the owner, the protest is closed. If a settlement offered during an online protest is not accepted by the owner, a formal hearing with the ARB may be conducted via one of the above-listed methods. The MCAD online taxpayer appeals portal can be accessed (for qualified accounts) at this URL: <https://eprotest.matagorda-cad.org/> Evidence sharing is always done directly with the MCAD office. Even for owners' residence homestead protests filed online through the portal, evidence is to be submitted directly to the MCAD office.

## ***2. Conducting Hearings Open to the Public***

At the beginning of each hearing, the following introductory statement should be read:

“We are the appraisal review [board or panel] that will be hearing your protest today. We do not work for the appraisal district. We are citizens of Matagorda County appointed by the local administrative judge to perform an independent review of your protest. You may complete a survey regarding your experience today upon the conclusion of your hearing. The survey is voluntary. You also have the right to appeal our decision. Appeal information will be provided to you along with our Board Order and the voluntary survey.”

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 that county that same day.

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

- a. Commence the hearing and announce the assigned protest number, property location and owner, and other identifying information.

- b. Announce that, in accordance with Tax Code Section 41.45(h), all written material that has not been provided must be 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 Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- f. Inform witnesses that all testimony must be given under oath and swear-in all witnesses who plan to testify.
- g. Ask the property owner or designated agent to decide if he/she wishes to present their evidence & argument before or after the appraisal district.
- h. If the property owner or agent chooses to go first, he/she shall proceed with their presentation of evidence (documents and/or testimony). If witnesses are present, the property owner or agent may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
- i. Next, the appraisal district representative may cross-examine the property owner, the agent, or the representative and/or witnesses.
- j. If the property owner or agent presented his/her case first, the appraisal district representative shall present the district's evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative may examine the witnesses as part of the presentation of evidence. At the end of the presentation, an opinion of value (if applicable) for the property must be stated.
- k. Then, the property owner or agent may cross-examine the appraisal district representative and/or witnesses.
- l. Members of the ARB shall not be examined or cross-examined by parties.
- m. The party presenting its case first may offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- n. The other party may then offer rebuttal evidence.
- o. The party presenting its case first shall make its closing argument and state the ARB determination being sought.
- p. The party presenting its case second shall make its closing argument and state the ARB determination being sought.
- q. The ARB or panel chairman shall state that the hearing is closed and they will now deliberate.
- r. The ARB or panel shall deliberate orally. No notes, text messages, or other non-verbal form of communication are permitted.
- s. The ARB or panel chairman shall ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. A vote shall be taken and recorded by a designated appraisal district staff person or member of the ARB assigned for this purpose. Separate motions and determinations must be made for each protested issue. Single-member panels must also make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the single-member panel's determination, make its own determination, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest.



- t. Thank the parties for their participation and announce the determination(s) of the ARB and that a board order determining the protest will be sent by certified mail along with information on appealing the board's determination as well as the voluntary Comptroller's survey.

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

If the 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.

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

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

Records for each ARB proceeding must be kept according to Tax Code Section 41.68 and Comptroller Rule 9.803. 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 secretary of the ARB is responsible for ensuring proper record keeping, maintenance, and retention. Therefore, please bring hard copies of any evidence you wish the ARB to consider. The ARB will not accept evidence presented on any medium that cannot be retained and copied for permanent records; no video or audio files will be accepted. The ARB cannot accept any evidence presented on electronic devices such as cell phones/iPads/tablets, nor via email from any device.

### ***3. Conducting Hearings by Telephone Call or Videoconference***

Tax Code Section 41.45(n) allows a property owner initiating a protest to offer evidence or argument by affidavit without physically being present. To offer evidence or argument at a hearing conducted by telephone call or videoconference, a property owner must submit a written sworn affidavit of any evidence before the hearing begins. Tax Code Section 41.45(b-1) requires a property owner to notify the ARB in writing no later than the 10<sup>th</sup> day before the date of the hearing if the property owner intends to appear remotely. A property owner is responsible for providing access to a hearing conducted remotely to another person the owner invites to participate in the hearing.

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. 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, if applicable, see the property owner's argument.

#### ***4. Conducting Hearings Closed to the Public***

[ Tax Code Section 41.66(d), (d-1) ]

A joint motion by the chief appraiser and the property owner is required to request that the hearing be closed due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chairman shall convene the hearing as an open meeting and then announce that the meeting will be closed to the public as permitted by Tax Code Sections 41.66(d) and (d-1). Only the parties to the protest, their witnesses, and the ARB members are permitted to stay in the hearing room. The same order of proceedings as for hearings open to the public should be followed.

The secretary of the ARB is responsible for ensuring that a separate recording or written summary of testimony is kept for the closed meeting in accordance with the provisions of Comptroller Rule 9.803 generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is "confidential" (as defined in Tax Code 22.27) and maintained as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel shall confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The confidentiality of the information must be maintained by the ARB members and disclosed only as provided by law.

After deliberation, the ARB shall reconvene in open meeting and vote to take final action on the protest deliberated in the closed meeting. There must be no mention of the proprietary or confidential information during the open meeting.

#### ***5. Right to Examine and Cross-Examine Witnesses or Other Parties***

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

#### ***6. Party's Right to Appear by an Agent***

The ARB shall accept and consider a motion or protest filed by an agent if an authorization of agent form is filed at or before the hearing on the motion or protest. The ARB may not require that an agency authorization be filed at an earlier time. The ARB may not require a person to designate an agent to represent the person in a property tax matter other than as provided by Tax Code Section 1.111.

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

## **V. Evidence Considerations**

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

### ***1. A Party's Right to Offer Evidence and Argument***

The ARB may not prohibit a party's right to offer argument and timely submitted evidence. However, the ARB may enforce time limits and dictate the order of ARB hearings. To the extent possible, the parties should be advised in advance of any time limitations the ARB has determined to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument.

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

In a protest hearing, the ARB will not consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for any appraisal district record (i.e., appraisal roll history, appraisal cards) to be considered by the ARB, it must be presented as evidence by or on behalf of a party (e.g. Chief Appraiser, appraisal district representative, property owner, agent, or witness) at the protest hearing.

### ***3. Exclusion of Evidence Required by Tax Code Section 41.67(d)***

If it is established during a protest hearing that information was previously requested under Tax Code Section 41.461 by the protesting party and that the information was not made available to the protesting party at least 14 days before the scheduled or postponed hearing, the requested information not made available may not be used as evidence in the hearing. The ARB shall make a determination to exclude evidence under Tax Code Section 41.67(d) only if evidence presented at the hearing establishes that: (1) the information sought to be excluded as evidence was not made available at least 14 days

before the hearing; and (2) the information sought to be excluded as evidence was previously requested by the protesting party.

#### ***4. Exclusion of Evidence Required by Tax Code Section 41.67(e)***

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 14<sup>th</sup> 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 modification or denial.

## **VI. Other Issues**

[Tax Code Section 5.103(17)]

### ***1. Compliance with the Law, Integrity, and Impartiality***

Members of the ARB shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the ARB.

### ***2. Patience and Courtesy***

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

### ***3. Bias or Prejudice***

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

### ***4. Confidential Information***

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

### ***5. Audiovisual Equipment, CAD's Internet or Network, File Formats for Electronic Evidence Exchange***

(Compliance with Comptroller Rule 9.805)

If the ARB and the appraisal district use audiovisual equipment in the hearing it shall provide audiovisual equipment of the same general type, kind, and character for use by the property owner or agent during the hearing. A property owner or agent may bring their own audiovisual equipment for their presentation but must provide their own internet access, if needed, through their own service provider. The property owner or agent may not access the appraisal district office's network or internet connection or any of the appraisal district's technology or equipment other than that made available by the appraisal district.

All evidence provided in the testimony is considered part of the ARB's official hearing record and will be retained as part of the hearing record. Evidentiary materials produced in electronic form must use generally accepted technology and must be suitable for retention and be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance by the recipient's computer system.

The ARB will only accept the following electronic file types and only on USB flash drives that will be retained in the hearing records:

- Pictures - .jpg, .jpeg, .bmp, .tif
- PDF - .pdf
- Excel - .xls, .xlsx
- Documents (Word) - .doc, .docx,

The ARB will not accept for consideration any evidence presented directly from electronic devices such as cell phones or tablets, nor via email from any device. The property owner must bring printed hard copies of any evidence from their cell phone or tablets.

## ***Closing***

## ***Public Service***

The goal or intent of the Matagorda County ARB is to provide the public with a good perception of how the property tax system works. An ARB meeting/hearing is often the first time a property owner appears before a governing body. Maintaining professionalism, offering a willingness to listen and maintaining fair and impartial meetings and hearings will allow the public to leave the meeting/hearing with a positive opinion.

## ***More Information***

You can get more information if needed by contacting the Matagorda County Appraisal District at 979-244-2031 or by mail 2225 Avenue G, Bay City, TX 77414. You can get a pamphlet or watch a video on "How to Present your case to an ARB" by going to the Texas State Comptroller's Property Tax Division

via the web address <http://www.cpa.state.tx.us/taxinfo/proptax/>. Should you experience a problem connecting to their website you may call 1-800-252-9121 for assistance.