

2019 - Tarrant Appraisal Review Board (TARB) Agent Policies

These policies will apply to the TAD appraisal staff where applicable in a just and equitable manner.

Date: March 14, 2019

From: Shirley Jacobson, Chair TARB - 2019

To: Taxpayer Representatives

Subject: Certain Written Policies and Procedures of the Tarrant Appraisal Review Board

The TARB is given the responsibility of hearing protests from taxpayers or their agents when they are unable to come to an agreement with the Tarrant Appraisal District (TAD). We are expected to process the vast majority of these protests and approve the appraisal records by our statutory deadline. This is a formidable task.

The TARB has therefore instituted the following rules to ensure, to the greatest extent possible, the TARB fulfills its duties timely and efficiently even though there are various knowns and unknowns involved. By giving you, the agent, early notice of changes to our systems, policies and procedures that fully comply with the law, we trust you will be able to take advantage of these changes for a positive benefit to your business or prepare for any changes necessary for you to comply with these rules.

Several of you have already contacted us and initiated early protesting which will start the process of early hearings with the TARB.

The TARB is a taxpayer funded operation. As Chair of the TARB, I take seriously the responsibility of my duty to complete the TARB's duties at the lowest cost to taxpayers as a whole. I appreciate each of you adjusting and adhering to last year's policies and any new policies this year. I believe they will help us all save time and energy, which is good for each of our businesses and results in cost savings to the taxpayers who fund this operation through the various taxing units' budgets. These policies will pertain to the TAD appraisal staff in a fair and just manner where applicable. Thank you in advance for your cooperation.

PANEL ASSIGNMENTS

The TARB assigns cases based on panel experience, panel availability, property type and ground of protest. This normally improves the pace of hearings, and fairness and consistency of determinations.

The TARB will consider the type of property subject to the protest or the ground of the protest for the purpose of using the experience of a particular panel in hearing protests regarding particular types of property or based on particular grounds. As a matter of practicality, due to the time variables and fluid nature of each hearing in a hearing day, the TARB will not assign any case to a specific panel except on a case by case basis as the case is about to be heard. For instance, a panel with certain experience may be expecting to hear several cases of similar nature in successive hearings. However, all but one of those cases may have been resolved on the day of the hearing, withdrawn as they are called, or be dismissed for lack of an Appointment of Agent for Property Tax Matters – form 50 – 162 (AoA) or other non-appearance. Another panel with expertise in an area may expect a hearing to be completed in 10 minutes but complex issues of the hearing may take more than an hour. The TARB will generally not be forewarned about complex issues.

AGENTS MAY BE ASSIGNED MULTIPLE PANELS

The officers and members of the TARB have been looking forward to the upcoming protest season and contemplating the mathematics involved in scheduling hearings. The Texas Property Tax Code (Tax Code) gives the Chair or his/her assigns the duty of scheduling. See Tax Code §41.46. The Chair can request assistance in this area from TAD staff. I want to share some thoughts and encourage you to be thinking about this issue.

As you know, **in most circumstances, the deadline to file a protest is May 15th of the current tax year.** The TARB is required to send notices of hearings at least fifteen days in advance in order to comply with Tax Code §41.46. Consequently, most protests filed close to the May 15th deadline will be scheduled for hearings in mid to late June or in July. Of course, §41.12 of the Tax Code requires the TARB to hear and determine substantially all timely filed protests by the statutory deadline. Subsection (c) would allow the TAD's Directors to extend this deadline, but to my knowledge the Directors have never done so in the past, and the TARB does not expect them to do so this year. For those who wait until May 15th to file their protests, there are approximately 30 available hearing days. To the extent the TARB schedules hearings on evenings or

weekends, it must reserve some hearing slots for property owners whose obligations do not allow them to come during normal business hours. The 12 hearing days prior to the statutory deadline for records approval must be used for cleanup. This means for some tax-consultant firms, hearings must be scheduled in 30 hearing days. If a panel conducts four hearings per hour and works eight hours a day, it can conduct 32 hearings a day, a total of 960 hearings during the peak protest season. Of course, these figures assume a level of efficiency which may be, as a practical matter, impossible. However the TARB will work to operate as efficiently as possible.

Suppose a tax-consultant firm files 2,000 protests. Suppose further, the firm is able to dispose of half the protests through withdrawals, settlements, etc., and suppose those protests are disposed of in a way that does not require any time or attention from a TARB panel. This leaves 1,000 hearings to be conducted. It will be impossible for a single panel or a single tax consultant to address those hearings one at a time by the statutory deadline. The Tax Code anticipates this problem and addresses it by allowing the TARB to schedule simultaneous multiple panels for a firm as the TARB deems necessary to complete its statutory duties. The TARB may use different panels to conduct the hearings based on the board's customary scheduling. The reason the Tax Code allows an ARB to use panels for conducting hearings is to allow multiple hearings to occur simultaneously. Scheduling hearings before multiple panels is left to the discretion of the Chair based on scheduling procedures. The TARB and the firm must recognize there will be days in which multiple hearings have to proceed simultaneously before multiple panels. If a panel is calling protests for hearings, but no one is appearing for the property owners, the TARB may have no choice but to dismiss those protests.

The demands on the TARB have been discussed with the TAD's Directors. The Directors increased the size of the TARB to allow for more panels to conduct hearings simultaneously. Of course, the TARB will try to be reasonable in scheduling hearings and to minimize the instances in which a single firm's protests are being heard before multiple panels at the same time. For example, if a firm has five hundred protests to be heard, the firm's average hearing time is 15 minutes, and its consultants are available for all or most of the 30 days of the peak hearing season, there should be no need to schedule simultaneous hearings. If the firm has 1,000 protests to be heard, there should be no need to use more than two panels to hold hearings at any time.

However, this is a simplistic example under optimal conditions. In reality, there are myriad variables too numerous to construct into a "one size fits all" formula. These variables include the nature of protest, value of the property, property category, category subset, average length of a particular agent's presentation style, the presentation length of individual TAD representatives, the panel's processing speed, complexity of the evidence, and the computer processing speed. There are many more variables and then there are the unknowns.

Every tax-consultant firm should also consider the scheduling demands imposed by State law and by simple mathematics obviously, a firm should not take on more clients or more protests than it can handle competently and professionally. **The clients of a firm which takes on more than it can effectively process within the statutory time constraints have only the firm to blame for adverse consequences, not the TARB.** The TARB assumes no responsibilities for the clients of a firm. The TARB encourages every firm or agent to do the following:

1. File protests as early as possible and be available and prepared for hearings as early as possible. Getting an early start will allow more time for hearings. This may also eliminate conflicts with other districts that would restrict available days at TARB.
2. Start as early as possible resolving protests without hearings. Work with TAD to negotiate settlement agreements whenever possible.
3. Consult with TAD and utilize other processes to expedite the hearing process if appropriate.
4. Withdraw any protests that should be withdrawn before scheduling occurs.
5. Remove properties on which you are not named on the AoA before scheduling occurs.
6. Waive all rights to the 15-day and 14-day advance notices provided by Tax Code §41.46, §41.461, and §25.25(e).
7. Be prepared to use the number of consultants that may be reasonably necessary to prepare for and attend hearings. This may mean having multiple consultants attending multiple hearings at the same time.

The above points are for your consideration to avoid or lessen the necessity of being assigned undesired simultaneous multiple panels. Please realize the TARB must consider all protests to be active even if the agent intends to withdraw them prior to the end of the season. We cannot anticipate you will bring in a mass withdrawal on the day before statutory approval of the records. Likewise, we must consider a protest to be active and to require a hearing even though a required AoA form has not yet been filed.

You must also understand, by necessity, the scheduling and Notice of Protest Hearing will proceed as soon as we receive your protests. We will not be able to “wait and see” how the system flows. We will notify you of the number of simultaneous multiple panels to which you have been assigned as soon as practical but always prior to the day of the hearings. We will remove or add simultaneous multiple panels throughout the season as dictated by actual results with as much notice as practicable. TARB will endeavor to avoid scheduling an individual agent for more than one hearing at the same time. If this occurs, the agent should promptly bring it to the attention of the Chair.

The subject of this section is not intended to be nor will it be exercised as punitive. When a firm avails itself of laws which benefit the agent in completing their duties, the TARB does not consider this as punitive measures when it inconveniences TARB. For instance, firms could file their protests well before the statutory deadlines, which would benefit TARB greatly. Most firms, however, file on the last day which is their legal right. TARB has statutory duties that affect the taxing units which include schools, hospitals, cities and water districts. These units rely on TARB’s timely processing of protests for budgeting purposes. The Tax Code anticipated certain conflicts in completing these duties and gave agents, CADs and ARBs individual rights and interaction rules. The multiple-panel rules give the TARB a tool to prevent a single firm’s business practices from impeding the TARB’s ability to complete its duties with the domino effect of harming taxing units such as schools’ and hospitals’ ability to plan and budget. TARB will judiciously and without prejudice exercise its rights to timely complete its duties. We will, however, accommodate the business practices of TAD and the agents as much as practicable in a fair, consistent and equitable manner. Nevertheless, it is incumbent on TARB to place the completion of statutory duties before the business practices or convenience of the TAD, individual agents or firms.

SEQUENCING OF CONTINUOUS HEARINGS

The Tax Code gives a protesting property owner who is not represented by an agent the right to have his hearing set for a time and date certain and the right to have the hearing postponed if it does not begin within two hours of the scheduled time. See Tax Code §41.66 (i) and (j). The Tax Code gives this right to someone who has to take time away from business or personal matters to appear before the ARB, but not to an agent whose business is appearing before the ARB. The Tax Code states, *“The appraisal review board may schedule hearings on protests concerning more than 20 properties filed by the same property owner or designated agent and may use different panels to conduct the hearings based on the board’s customary scheduling. The appraisal review board may follow the practices customarily used by the board in the scheduling of hearings under this subsection.”* TARB has customarily scheduled multiple hearings for an agent on the same day but without assigning each hearing its own unique time. The hearings are scheduled to begin at a designated time, although, some of them will not be reached until later in the day. An agent should come prepared to participate in any scheduled hearing as it is called by the panel.

TARB sequences continuous hearings for the purpose of meeting statutory deadlines. TARB has acted to aid firms with multiple agents to hear specific areas or categories of the sequence, to hear properties that are contiguous, interrelated or for various other reasons. TARB schedules hearings based on the best information at the time, but information changes as the season continues; additional filings are made that affect the original calculations. Calculations of specific units are altered due to agent conflicts, illness and other variables. TARB never intended to give nor does it give an agent or firm the right to have protests heard in a particular sequence.

These variations from the TARB’s customary scheduling practices have come to hamper the ability of the TARB to complete its statutory duty to approve the appraisal records by the statutory deadline. **TARB wants to make clear it is reserving its right to employ its customary scheduling practices. This means TARB or a panel may call the protests scheduled for a particular day or series of days in any order it considers appropriate in order to use its time efficiently and conduct many hearings expeditiously. This sequencing is flexible, as the TARB deems it to be necessary, at its sole discretion.** While we will attempt to give an agent or firm as much notice as practicable with regard to the order of a day’s hearings, TARB and its panels reserve the right to conduct any hearing on the hearing list at any time or date listed on the Notice of Protest Hearing without further advance notice to the agent or firm. Be prepared to present any protest on any day at any time in the continuous hearing dates and times.

As a practical matter, this change of sequence may be more prevalent as we get closer to the approval of the appraisal records. The sooner an agent chooses to file, the earlier in the process the agent can be scheduled which should enable the TARB to give better notice of changes to the sequence.

As with other notices in this information letter, this is not intended to be nor will it be used as a punitive measure. We want to be more than fair in dealings with firms and individual agents. Nevertheless, it is incumbent on TARB to place the completion of statutory duties before the business practices or inconveniences of individual agents or firms.

FILING A PROTEST

Submit an original hard copy protest per the Tax Code. If protest is sent USPS, mail to: TARB●P.O. Box 185519●Fort Worth, Texas 76181-0519. If protest is delivered in person, common or contract carrier, deliver to: TARB●2500 Handley Ederville Rd●Fort Worth, Texas 76118. **Email a duplicate Excel spreadsheet copy to arbagentprotest@tad.org.** The spreadsheet must have the TAD account number in text format and contain all eight digits of the account number. This will prevent the lead zeros from dropping off.

All agents are encouraged to submit the duplicate excel spreadsheet. This should provide for fewer errors. However, if there is a conflict between the hard copy and the excel spreadsheet, the hard copy will prevail.

SCHEDULED HEARING START TIME/END TIME (morning, after lunch, end of day)

Monday through Saturday, the TARB building will open at 7:30 a.m. every hearing morning. If a Sunday hearing docket is necessary, the building will open at 12:30 pm. If you need to set up computer equipment or other aids, do so by your scheduled hearing start time. Your hearings will start promptly at your scheduled start time and continue until close of the day every day listed on the Notice of Protest Hearing until all hearings are completed unless otherwise noted on the notice. Any deviation from this schedule must be approved in writing by an authorized TARB officer or TAD support staff member. If you do not appear timely or if you leave early, scheduled hearings for which you are not present will be dismissed for failure to appear.

This same rule will apply to the time given by the panel chair regarding return from lunch.

PREPARE TO PRESENT A FULL DAY OF HEARINGS

Agents in continuous hearings will adhere to the following: Hearings will be heard as quickly as possible while still giving each party sufficient time for testimony as determined by the panel chair. If an agent does not have enough cases prepared to insure hearings continue through the end of the day, the next cases in the schedule will be dismissed.

REVIEW OF PANEL DETERMINATIONS

The law provides an ARB be composed of citizens from disparate walks of life; consequently panels are varied in knowledge and experience. However, their decisions should fall within the purview of the law based on evidence presented. Pursuant to Tax Code §41.45(d) a panel presents recommendations to the full Board, which either approves or disapproves them. If an agent has grounds to prove the panel has made a decision contrary to the law or TARB policy, the following complaint resolution procedure is required: place the complaint in writing citing the specific law or policy that was violated and precisely how it was breached. Your written complaint should not discuss specific evidence, arguments, or facts related to the protest or include arguments about why your side should prevail on the merits. For example, it would be proper to point out a panel mistakenly refused to admit evidence, but it would be improper to claim a panel did not give sufficient weight to some particular item such as a photograph. State the TARB Chair may listen to the tape if it is deemed necessary to make a decision. The complaint must be legible. The TARB has a form to use for the purpose of this section. The complaint must be filed before the TARB meets to approve or disapprove panel recommendations.

The TARB will also review factual sufficiency challenges to determine whether the evidence is so weak or the finding is so against the great weight and preponderance of the evidence that it is clearly wrong and unjust. This challenge should be brought to the Chair's attention in the same manner described in this section without revealing any ex parte information. A challenge of this order should be carefully considered and not be asserted lightly.

Panel decisions that do not fall within these categories are not a part of the review process.

ILLNESS

Hearings will be postponed due to legitimate illness of the agent. If possible, the agent should have someone else present the cases. If this becomes a continuing illness or a continuing series of illnesses, the TARB reserves the right to take the necessary actions as required. Postponements of scheduled hearings may be granted for being in the hospital or under a doctor's care during the protest hearing period. In either case, the TARB asks for proof of illness, generally in the form of paperwork from a doctor visit. We will review other forms of proof of illness on a case by case basis.

CONFLICTS WITH OTHER COUNTY ARBS

Tax Code §41.45(g) is very specific regarding conflicting ARB scheduling. TARB will be consistent with the law if an agent is also called to present at another ARB conflicting with TARB scheduled protests. However, if the cases at the other ARB do not require the physical appearance of the agent due to withdrawals, affidavits or other reason, TARB hearings may commence as scheduled. Postponement requests under Tax Code §41.45(g) should be emailed to agentconflict@tad.org. Requests received without conflict documentation will not be considered or reviewed.

AFFIDAVITS

An affidavit must be signed under oath before a Notary Public or other person authorized to administer oaths. An affidavit must be submitted to the TARB before the hearing begins. The affidavit must state you do not intend to appear at the hearing or you intend to appear in person or by telephone conference call. Affidavits can be delivered in person, by mail or common or contract carrier. If delivered in person or common or contract carrier, deliver to: TARB•2500 Handley Ederville Rd • Fort Worth, Texas • 76118. If delivered by mail, deliver to: TARB•P.O. Box 185519•Fort Worth, Texas•76181-0519. To help facilitate accurate processing **ATTENTION-ARB HEARING AFFIDAVIT** should be prominently displayed on the outside of the envelope. Affidavits are not accepted via fax or email.

TARB requests an **original and three copies** of evidence from all parties appearing before the board in person or by affidavit. This applies to any and all parts of the evidence including the affidavit and supporting evidence.

TARB is given a directive by law to be equal and fair to all parties coming before it. The TARB strives to complete this directive of equality and fairness. The affidavit evidence requirement enhances this effort. The TARB thanks all of the agents who are already in compliance with the four copy standard to more fully represent their clients.

EVIDENCE

Tax Code §41.45(h) requires a protesting property owner or agent to provide TAD with a copy of any written material the person intends to offer or submit at a TARB hearing. This rule does not include any exception for a hearing at which the owner or agent appears by affidavit. TARB has a long standing local procedure established under Tax Code §41.66 that parties appearing before the TARB present an original and three copies of written evidence to the panel (four copies if the original cannot be produced). Evidence, such as photographs, physical evidence or evidence presented by acceptable electronic device (such as a laptop or projector), requires only two copies for evidence storage and review by the panel and TAD. Each case number presented using electronic presentation will require its own electronic device (i.e. flash drive), unless one hard copy of the evidence is provided for each case. If the electronic presentation contains evidence for more than one account number, one hard copy of the evidence for each account being represented, must be presented to the TARB for the evidence to be considered. As most of the professionals are aware, we do so to give each TARB panel member and TAD adequate time to review each document. TARB does not want to have evidence missed or discounted by passing voluminous documents from person to person during the evidentiary and deliberation portions of a hearing.

TARB does not provide 41.461 evidence. Email request to:

For Residential – RES@TAD.ORG

For Commercial – COM@TAD.ORG

For BPP – BPP@TAD.ORG

TARB OFFICE and SUPPORT STAFF

TARB vending area and hearing rooms as assigned are public space. The hall space between the waiting area and vending areas should be used only for accessing those areas. The restrooms can be accessed through the TAD area. The support staff office, copy machine, TARB Chair's office and other areas are private. Hallways are not a place to wait. Protestors (agents or individuals), should not be treated differently; it gives a sense of unfairness to those who are not familiar with the process. Please check in at the front counter. Utilize the waiting area like our other guests. The front counter is for checking in or consulting with support staff regarding TARB matters. Please limit conversation to these subjects. If a private meeting is appropriate, one will be arranged by the support staff.

TARB members and support staff are professionals. They will work with all agents in a courteous, consistent manner. I urge you to reciprocate by treating them as professionals in a courteous manner. Please do not ask them for special treatment or ask them to provide services that are the agent's responsibility.

NEGOTIATING WITH APPRAISERS

The best outcome of a TARB protest is an agreement. If you need to meet with an appraiser a request should be made to TAD staff. The best place to negotiate is in TAD's offices. This area is accessible from the TARB check in area. TARB will try to accommodate agreements which may speed up the hearing process. It is illegal for TARB members to hear negotiations outside of the hearing. Negotiations should be completed no later than three days prior to the scheduled hearing date to allow proper time for processing.

POSTPONEMENTS FOR "GOOD CAUSE"

Postponements are received and granted or denied according to strict interpretation of the Tax Code and the TARB Hearing Procedures. Documentation will be required to substantiate the request for postponement. Email request and documentation to: agentconflict@tad.org with **"GOOD CAUSE REQUEST"** stated in the subject line.

DELIVERY OF TARB AGENT POLICIES

This document is referenced in the TARB Notice of Protest Hearing. It is available electronically at <http://www.tad.org>. Agents should check the website regularly to see any amendments. It is the responsibility of the firm and/or agents within firms who are in receipt of this document to disseminate it among all persons who will be representing that firm in hearings at TARB.

CONCLUSION

The preceding is not meant to be punitive. It is intended to produce a productive, efficient TARB that generates budget savings for this taxpayer funded entity. The TARB will operate within the law and apply its policies fairly and consistently to all parties involved. While it may be necessary to grant certain exceptions to allow for a fair and just outcome, these exceptions will be weighed against the inherent unfairness of certain individuals possibly receiving special treatment. Please do not ask the support staff, the TARB panel chairs or the TARB officers to deviate from the above policies. The TARB looks forward to an efficient and productive ARB season and appreciates your cooperation and adherence to the above mentioned policies.

HELPFUL EMAIL ADDRESSES:

AOA@TAD.ORG
WITHDRAWPROTEST@TAD.ORG
AGENTCONFLICT@TAD.ORG
ARBAGENTPROTEST@TAD.ORG

CHAPTER 41.461 REQUESTS SHOULD BE EMAILED TO:

Residential – RES@TAD.ORG
Commercial – COM@TAD.ORG
BPP – BPP@TAD.ORG

To alleviate confusion and avoid delays, please use only these dedicated email addresses for submission of information.

"TARB Notice of Protest Hearing" and "TARB Hearing Procedures" are incorporated by reference.