

## BOARD OF REVISION PRACTICE & PROCEDURE

Clerk of the Board of Revision  
31 N. Limestone Street, Springfield, OH 45501  
937-521-1878

The Board of Revision hereby enacts the following as its Rules of Procedure pursuant to the Ohio Revised Code 5715.02 et seq.

### I. JURISDICTION

- A. **The BOR has jurisdiction on** value, classification and determinations; such as CAUV or homestead eligibility.
- B. Subject Matter of a Complaint – R.C. §5715.19(A)(1):
  - 1. The determination of the total valuation or assessment of any parcel that appears on the tax list or on the agricultural land tax list, except parcels assessed by the tax commissioner pursuant to R.C. §5727.06 [public utility property].
  - 2. Any classification made under R.C. §5713.041 [residential-agricultural vs. non-residential-agricultural].
  - 3. Any determination made under R.C. §5713.32 or 5713.35 [current agricultural use valuation]; or Any recoupment charge levied under R.C. §5713.35 [as the result of a conversion from agricultural use].
  - 4. Complaint against the denial of 10% rollback (R.C. §319.302), homestead exemption [R.C. §323.151(A) and R.C. §323.154], or 2 ½% reduction [R.C. §323.151(B) and R.C. §323.154].
- C. **Decisions.** The Board of Revision may maintain, increase, or decrease the total value of any parcel included in a complaint. For each complaint filed, the board will take one of the following actions:
  - 1. **Settlement Notice** offer to the complainant by the board without further proceedings; the board will meet to discuss the requested amount and agree or propose settlement amount. The settlement offer will be provided to all parties and any party can request a hearing in lieu of the settlement offer.
  - 2. **Schedule a Hearing** at which time testimony and evidence may be presented to the Board of Revision by the parties to the complaint, and parties of the counter-complaint, when applicable;
  - 3. **Summary Dismissal** due to *lack of jurisdiction* (see F).
- D. **The Complaint Form** DTE Form 1 **must** be correctly completed or the complaint may be rendered invalid. Some questions can be answered by contacting the Clerk, but legal advice will not be given.
  - 1. Instructions for completing DTE Form 1 are on the back of the form.
  - 2. To complete DTE Form 1 for the purpose of seeking CAUV reinstatement or other determinations varies from value complaints. In Section 8; Column A, enter what it is the Board is being asked to consider, such as “Reinstate CAUV” to indicate a request for program reinstatement.
  - 3. The preparation, signing, and filing of a complaint on behalf of another person may be considered the practice of law.
  - 4. The signature on the complaint must be an owner of the property as of the date of signing; the trustee of a trust; an officer of a corporation; the general partner of a partnership or LLC; or an attorney representing one of these authorized persons/entities.
- E. Grounds for Summary Dismissal
  - 1. **Late filing** – A complaint for the current tax year shall be filed with the County Auditor on or before the thirty-first (31st) day of March of the ensuing tax year. [ORC §5715.19 (A)(1)]
  - 2. **Same Interim** – *Ohio Revised Code §5715.19 (A)(2) states, "No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior*

*tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:*

- *The property was sold in an arm's length transaction, as described in section §5713.03 of the Revised Code;*
- *The property lost value due to some casualty;*
- *Substantial improvement was added to the property;*
- *An increase or decrease of at least fifteen percent in the property's occupancy has had a substantial economic impact of the property."*

\*\*\* The reason sought to file more than once during the interim must be shown on the complaint form.

- F. **No opinion of value** – failure to complete or show value information for board of education notice in Section 8; Column A on DTE Form 1 [Supreme Court case Cleveland Electric Illumination Company v. Lake County Board of Revision]
- G. **Any complainant party not providing data** deemed to be competent and relevant which is requested by the Board of Revision. [ORC §5715.19 (G)]
- H. **The complaint form (DTE Form 1) requires a signature.** Anyone with interest in the property can sign such as owner, trustee, POA, general partner, corporate officer, attorney, etc. However, the following cannot sign: tax agents, tax reps, accountants, appraiser, real estate agents, brokers, etc. [Ohio Supreme Court case Sharon Village Limited v. Licking County Board of Revision (1997), 78 Ohio St. 3d 478, and Worthington City School District Board of Education V. Franklin County Board of Revision (1999), 85 Ohio St. 3d 156]
- I. **Failure to appear and prosecute at the scheduled hearing time is grounds for dismissal.**

## II. EVIDENCE AND TESTIMONY

### A. EVIDENCE OF VALUATION

1. The BOR is “finder of fact” and will weigh all evidence and testimony at its discretion.
2. Evidence of valuation must relate to the total value of both land and improvements.
3. The owner's opinion of value, if unsupported by facts, will not be considered competent evidence before the Board of Revision.
4. Any member, appointee or designee of the BOR reserves the right to view and inspect all property subject to the complaint upon reasonable notice.

### B. SUBMITTING EVIDENCE TO THE BOARD OF REVISION

1. A party to the complaint intending to introduce evidence involving expert opinion shall file with the Board of Revision a copy of any appraisal report and a summary of the expert's qualifications at least five (5) business days prior to the scheduled hearing of the complaint. [Additionally, a copy of the appraisal shall be served upon all other parties to the matter.]
2. For income-producing, commercial or industrial property the following information in addition to B1 shall be submitted to the Board of Revision.
  - A description of the improvements to the property, including age, construction, size, mechanical equipment, use and functional adequacy.
  - Any changes in the condition of the property occurring or completed within the last three (3) years such as new construction, etc., together with the total actual cost of any new improvements and the date completed.
3. Rental property
  - In addition to B1, provide a financial statement detailing all income, actual operating expenses, fixed expenses, replacement reserves, and rental losses due to vacancy and uncollectable accounts for the tax year in question and for the prior three (3) years or back to the last transfer of ownership, if transferred within the past three (3) years.
  - Give the identity and description, including size or type, of each rental unit.
  - Provide the current rent roll showing potential rent
  - Provide the lease or rental date for each tenant and the lease terms, options, base rent plus provisions for additional rent or service charges, etc.
  - List all other income, such as parking, laundry, etc.
4. CAUV. The owner must show evidence of qualification in that the land is “Used exclusively for commercial agriculture.” Some items to consider include:

- A map of the property outlining each section of land and how it is used. As an example, crop fields are marked off and labeled "Corn." The map should be an aerial photo and is available for printing at the Auditor's web site [www.clarkcountyauditor.org](http://www.clarkcountyauditor.org)
  - Income tax returns on IRS 1040 schedule F.
  - Documentary evidence of crops, commercial animals, harvesting, etc.
  - Forest Management plan for commercial woodland.
  - If a second year idle is requested, documentation for "just cause" of that provision must be provided.
5. The Board of Revision, upon written notice of request prior to hearing or oral notice of request at time of hearing, may ask the complainant and/or owner of the property for additional information. The Board of Revision, when making such requests, will grant complainant (30) thirty days from the time of written or oral notice of request for submission of information. Complainant must submit the requested information to the board in writing within the (30) thirty day period.
  6. The Ohio Revised Code §5715.19 provides that a complainant "shall provide the Board of Revision all information or evidence within his knowledge or possession that affects the real property" in question. **Evidence or information that is not presented to the Board of Revision cannot later be presented on any appeal, unless good cause is shown for the failure to present such evidence or information to the Board of Revision.**

#### C. HEARSAY EVIDENCE

1. Hearsay evidence is a statement by one person as to what another person says or thinks. Any testimony must be relative and drawn from a person with actual and personal knowledge of these matters in order to present this evidence before the Board of Revision.
2. The Board of Revision shall not accept hearsay evidence in the form of documents or oral testimony concerning:
  - the terms and conditions of a sale or the motives of the parties to the sale;
  - the owner's opinion of the value of the property offered by someone other than the owner;
  - financial data;
  - the condition or operations of the property.

#### D. TESTIMONY AND WITNESSES

1. Any person who is a party to the complaint may appear and testify.
2. The Ohio Revised Code §5715.10 states, "The board may call persons before it and examine them under oath as to their own or another's real property to be placed on the tax list and duplicate for taxation, or the value thereof."
3. It further states, "If a person notified to appear before the board refuses, or neglects to appear at the time required, or appearing refuses to be sworn or answer any question put to him/her by the board or by its order, the chairman of the board shall make a complaint thereof in writing to the probate judge of the county." [ORC §5715.10]
4. Any witness, who will be giving expert testimony on a subject, must be qualified as an expert pursuant to Ohio Rules of Evidence #702 and #703.
5. Parties not qualifying as experts to the Board of Revision's satisfaction, in its position as a trier of fact, shall be excluded from testifying to the extent that their proposed testimony relates to the giving of an expert opinion.
6. An owner shall be considered competent to testify as to the value of his/her own property and need not qualify as an expert.
7. Testimony as to comparable properties, their values, and recent sales values shall be considered expert testimony, which can only be presented by expert witnesses properly qualified as provided herein. Mere testimony that a certain property was transferred on a certain date for a certain price can be submitted to the Board of Revision in the form of a recording, certified copy of transfer deeds, or through any other acceptable form of evidence contemplated under Ohio Rules of Evidence. However, the Board of Revision will not consider them as comparable sales without expert opinion testimony indicating how they are comparable.
8. A complainant party's attorney may not appear in lieu of the owner to provide testimony. The owner's opinion of value may only be expressed by the owner, or an appropriate expert witness.

#### E. TESTIMONY OF INDEPENDENT OR APPRAISAL EXPERTS

1. All agents, or other representatives, presenting evidence to the Board of Revision shall submit a copy of their contract with the owner as a part of the evidence of the case.
2. The Board of Revision **may exclude at its discretion** as evidence any document or exhibit, other than those herein specified, that is prepared by a person not present at the hearing and, therefore, not capable of being questioned by the Board of Revision.
3. Any individual who expects to rely upon a document prepared by an independent or expert appraiser shall *require that individual be present at the hearing to testify before the Board of Revision, and be questioned regarding the appraisal and/or other exhibits which have been prepared or submitted.*

### III. NOTICES AND RESCHEDULING

#### A. Hearing Notices and Rescheduling

1. A written notice stating the date, time, and place of the hearing shall be sent by certified mail to all parties of the complaint (provided address is known) not less than twenty (20) days prior to the hearing.
2. The Board of Revision may, at their discretion, grant one (1) request from the original complainant and one from the counter-complainant to reschedule a hearing. *A request to reschedule shall be submitted in writing to the County Auditor's office at least five (5) days prior to the scheduled hearing date, and must include a telephone number. It is the responsibility of the requestor to ensure the receipt of the request by the Auditor and all parties affected by the request.*
3. In case of illness the Board of Revision may reschedule another hearing date, provided reasonable notice is given.
4. **\*\* If a counter-complaint was filed on the property, the party that requests the rescheduling shall notify all parties affected by the request.**
5. Failure to appear before the Board of Revision at the scheduled hearing time and date shall constitute failure to prosecute and is grounds for dismissal of the party's complaint.
6. All hearings shall be open to the public.

#### B. Results

1. All parties will be notified of the Board's action by certified mail.
2. Any party may appeal the decision of the Board to either the State of Ohio Board of Tax Appeals or Clark County Common Pleas Court. Information is available from the County Auditor.
3. The deliberations of the Board are executive session and not open to the public.
4. The vote, of each member and the overall result, is public record.
5. Deliberation and results are documented by minutes, which summarize the Board's action. These minutes are public record and can be obtained by request through the county auditor.

#### C. SCHOOL NOTICE

1. The County Auditor, as Secretary of the Board, shall give notice of each complaint in which the stated request for change is \$50,000 (fifty thousand dollars) market value or more, to the Board of Education whose school district would be affected by change of value. [ORC §5715.19 (B)]
2. Within thirty (30) days after receiving such notice, a board of education may file a counter-complaint in support of, or objecting to the request for change in value as stated in the original complaint. [ORC §5715.19 (B)]
3. Upon the filing of a counter-complaint the board of education shall be made a party to the case.
4. If the board of education files the original complaint, the owner shall be notified and shall automatically be made a party to the complaint.

### IV. RECORD

- A. The Board of Revision creates a formal record of the activities that take place before it.
- B. Each hearing's testimony is taken either using a digital recording system or a court stenographer.
- C. A transcript of the hearing is available at the cost of either reproducing the digital recording or the cost of obtaining the transcript from the court stenographer.