

## **Lucas County Board of Revision Rules of Procedure**

### **1. Authority**

The Lucas County Board of Revision promulgates these rules in accordance with Chapter 5715 and Section 323.66(B) (1) of the Ohio Revised Code.

### **2. Organization**

- A. The Board of Revision (“Board” or “BOR”) consists of the Auditor, the Treasurer, and a member of the Board of County Commissioners selected by the Board of County Commissioners, or the members’ respective statutorily authorized designee.
- B. The Board may create one or more hearing boards (“Hearing Board”) when necessary to the expeditious hearing of valuation complaints.
- C. Each statutory member of the Board may appoint one qualified employee from that members’ office to serve in place of the member on each hearing board solely for the purpose of hearing complaints as to the value of real property. The Board shall establish and implement a training program for individuals appointed to serve on Hearing Boards to ensure that Hearing Board members are familiar with these rules and the substantive issues that typically arise during hearings.
- D. The office of the Board shall be at One Government Center Suite 670 Toledo, OH 43604, or at such other place as designated by the Board and shall be open every weekday day from 8:00 a.m. to 4:30 p.m., except for legal holidays.
- E. All meetings of the Board are open meetings and are open to the public except to the extent the Board may conduct an executive session in accordance with R.C. 121.22. All meetings of the Board may be convened and adjourned without further notice thereof on its records. All hearings are quasi-judicial hearings and will be conducted under the procedures for such hearings, including, but not limited to, the right to be represented by an attorney, call witnesses, cross-examination, and present evidence. All testimony must be under oath. The Hearing Board may deliberate in private. Its decisions must be made in public.
- F. All records of the Board are public records, except to the extent exempted under R.C. §149.43, and are available to the public for inspection or copying in accordance with R.C. §149.43. A person submitting a document to the Board is responsible for ensuring the document does not contain personal-identifying

information, or, alternatively, for redacting the information. A person believing that the records of the Board containing personal-identifying information may request in writing that the Board redact that information.

### **3. Filing a Complaint Relating to the Valuation or Assessment of Real Property**

- A. A person owning taxable real property in Lucas County, or another person authorized under R.C. §5715.19, may file with the County Auditor a Complaint relating to the valuation or assessment of the real property. The permitted subjects of Complaints are set forth in R.C. §5715.19(A)(1).
- B. The Complaint to contest the value of a parcel may be filed after January 1 of the following year and it must be filed on or before March 31 of the following tax year. A complaint not timely filed will not be accepted for filing and mailed back to the Complainant. A United States Postal Service postmark, or the date stamp of the County Auditor, is proof of the date of filing. Complaints with technical deficiencies will be accepted but must be corrected by the Complainant before the Board makes the decision.
- C. The Complaint must be filed using DTE Form 1 or Form 2, which must be completed in its entirety. The Board or Hearing Board may dismiss a Complaint if the appropriate DTE Form is not completed in its entirety. The Board will maintain and make freely available to the public a guide to filing a DTE 1 or Form 2.
- D. Only one complaint per parcel may be filed following a re-evaluation period unless the Complaint alleges on DTE Form 1 that one of the exceptions set forth in R.C. §5715.19(A)(2) applies.
- E. If the complainant requests a valuation change of \$50,000 or greater (taxable value), the BOR shall give notice to each board of education whose school district may be affected by the Complaint. Such notice shall be given no later than 30 days after the last day for filing of complaints.
- F. When a Complaint is filed by an entity other than the property owner, the Board will give notice by certified mail to the property owner, no later than 30 days after the last day for filing of complaints.
- G. A Counter-Complaint relating to the valuation or assessment of real property may be filed by a board of education whose school district may be affected by the Complaint within 30 days after receipt of notice that the Complaint was filed.

#### 4. Rules for Service, Filings, and Appearances

- A. **Service.** All pleadings, briefs, and other documents a Complainant files with the BOR, after the filing of the complaint, must be served on all parties and must contain a statement that the required service has been made, the manner in which service was made, and the names and addresses of the parties or attorneys upon whom service was made. Service may be made by delivering, mailing, or emailing a copy to the party or the attorney being served. Service by mail is complete upon delivery, mailing, or emailing.
- B. **Appearances and Practice before Hearing Board.** The following individuals may appear and practice before the Hearing Board:
1. An Owner of record of affected property, or a person the Owner has authorized in writing to appear on behalf of the Owner;
  2. An attorney licensed to practice law in the State of Ohio who is representing (1) the owner of record of affected property or (2) a Board of Education where the property is situated or a political jurisdiction within the county;
  3. An attorney licensed to practice law in a state other than Ohio, upon (1) presenting to the Board proper documentation that demonstrates licensure in another State, and (2) certifying to the Hearing Board that the attorney is familiar with, and will abide by, the Ohio Rules of Professional Conduct.
  4. The Prosecuting Attorney of the county;
  5. An Officer of a corporation that is owner of affected property;
  6. A limited partner of a limited partnership that is the owner of the affected property;
  7. The general partner of a general partnership that is the owner of the affected property;
  8. A Trustee of a trust that is the owner of the affected property.

#### 5. Scheduling Hearings

- A. The Board will schedule each Complaint for a hearing before a Hearing Board, not earlier than 30 days after the filing of the Complaint. If a Counter-Complaint is timely filed, upon the request of a party the hearing will be rescheduled.
- B. Notice of the hearing schedule will be provided to each Board member and the officer's respective hearing officers to ensure that the members of the Hearing Board assigned to each case are available or have time to arrange for alternates.
- C. A conflict of interest exists when a member of the Board of Revision or a Hearing Board has a personal interest in the matter, it involves an immediate family member, or the Board member has received something of value that might influence the member actions. When a Board of Revision member (County Commissioners,

Treasurer or Auditor) determines that a conflict exists in a pending matter, that Board of Revision member shall not participate in that matter and the two remaining Board of Revision members shall make the decision.

When a Hearing Board member determines that a conflict exists in a matter pending before the Hearing Board, the member shall not participate in that matter. The Board of Revision member who appointed the conflicted Hearing Board member shall appointed a new member to the Hearing Board.

- D. When there is no conflict, but a Hearing Board member determines that it would be inappropriate to hear a matter, that member will be replaced by the appointing official.
- E. Parties are encouraged to submit all documents that they intend to present in support of or in opposition to a Complaint at least five days before the hearing. Parties will be informed that they are solely responsible for ensuring that all evidence, including documents that support the Complaint is presented to the Board by the close of the hearing, regardless of the party's intention to attend the hearing.
- F. The Board will give written notice of the hearing to all parties and their representatives, stating the date, time, and location of the hearing. The notice will inform the Complainant of the right to waive appearance at the hearing, in which case the Complaint will be informed of the procedure the Board will follow in deciding the Complaint, including the process by which the Complaint may submit documents for the Board's consideration. The Board will maintain an appropriate form documenting the waiver of the right to appear. The form will inform the Complainant that, in the event of a waiver of the right to appear, the Board will consider only the Complaint and documents the Complainant has submitted to the Board before the hearing. The Complainant may not voluntarily withdraw the complaint after the Board has made the decision.
- G. Upon a written request for continuance, and for good cause shown, the Secretary of the Board may vacate a hearing date and reschedule the hearing, in which case the Board will send a revised written notice of hearing. A request for continuance based on a statement that the Complainant is not prepared to proceed is unlikely to be granted in the absence of exceptional circumstances.
- H. Hearing Board members will not discuss a Complaint with a party before the hearing. If such discussions take place, they must be disclosed to other Hearing Board members and the member having such discussions must be replaced. Staff members of the Auditor's Office may provide procedural guidance to Complaints in connection with the filing of Complaints but may not provide substantive advice.

## **6. Preliminary Motions**

- A. A preliminary motion made by a party must be presented to the Board at least ten (10) days before the scheduled hearing.
- B. A party may file a response to a motion at least 24 hours before the start of the hearing.
- C. The Board may refer a motion to the Prosecuting Attorney for an opinion on the merits of such motion. The referral must be in writing, unless time constraints make a written referral impracticable.
- D. The Board may rule on the motion before, during, or after the hearing.
- E. The Complainant may voluntarily withdraw a complaint by filing a written notice of withdrawal at any time before the decision is made by the Board. A voluntary withdrawal of an original complaint does not affect the validity of a timely filed counter-complaint and such counter-complaint may proceed on its merits. Voluntary withdrawal does not limit the Complainant's right to file again during the triennial period, except as set forth in R.C. §5715.19.

## **7. Conduct of Hearing Boards.**

- A. The Hearing Board conducts the hearing. The members of the Hearing Board will select a member to serve as Chief Hearing Officer, who will be primarily responsible for conducting the hearing according to these Rules. The Hearing Board has the full right to conduct the hearing in a manner that ensures proper decorum. The Hearing Board has the full right to control the length of a hearing and to limit or prohibit additional commentary by a party.
- B. Hearings are quasi-judicial and will be conducted accordingly.
- C. All Hearing Board hearings are open to the public. The Board shall record each hearing and shall retain the recording for the time period required by law. The recording will be available for transcription in the event of appeal.
- D. The Chief Hearing Officer will start the recorder and then call the case, by case number, parcel number, or property address.
- E. All parties and their representatives will identify themselves and state their relationship to the case (i.e., property owner, attorney, lay witness, expert witness, and so on).

- F. All witnesses will be sworn in.
- G. At the opening of the hearing, the Chief Hearing Officer will give a brief overview of how the hearing will proceed and may answer procedural questions about the hearing.
- H. Each member of the Hearing Board will disclose on the record all information received from a Party.
- I. If the Complainant fails to appear, the Chief Hearing Officer will note that absence on the record.

## **8. Order of Hearing**

- A. First, the Complainant or the Complainant's authorized representative shall present evidence in support of the complaint. If the complainant has waived appearance at the hearing or otherwise fails to appear, the Complainant's evidence in support of the Complaint will consist of the Complaint and any documents the Complainant has submitted to the Board.
- B. Next, any Counter-Complainant in the case shall present evidence in support of the Complaint.
- C. Next, the Auditor shall present evidence in support of the Auditor's valuation.
- D. Each party presenting evidence will identify on the record all documents, including those submitted before the hearing, that the party contends supports the party's position. Each Hearing Board member and each party, or party's representative, will be afforded access to a copy of each document in the record. Each party may call witnesses, including expert witnesses on behalf of the party. An attorney appearing on behalf of a party may not testify. When a party finishes presenting evidence, the party will state that on the record.
- E. The Hearing Board may ask questions of a witness and will permit other parties or their legal representatives to examine a witness, subject to the reasonable control of the Hearing Board.
- F. After all parties have concluded their presentations, the Hearing Board may ask any additional questions and request any additional information the Hearing Board considers relevant to its decision on the Complaint.
- G. At the conclusion of the hearing, the Hearing Board may request the parties to submit written statements summarizing the evidence and the party's position. The Hearing Board will set a timeline for the submittal of written statements. The

- Hearing Board need not consider any written statement that is not timely submitted.
- H. At the conclusion of the hearing, the Chief Hearing Officer will inform the parties of the expected timeline for decision and of the method(s) by which the parties will be informed of the decision.
  - I. The Hearing Board may in its discretion recess a hearing and continue it to a later date for the purpose of allowing a Party to obtain additional evidence if the Board concludes that the evidence is necessary to make a fair determination on the Complaint.

## **9. Evidence**

- A. The burden is on the Complainant to present evidence, including testimony and documents, in support of the Complaint sufficient to support the claim that the valuation or assessment that the Complaint challenges is in error and should be revised. The Complainant's failure to provide evidence in support of a Complaint is grounds for dismissal of the Complaint.
- B. The Board retains discretion to determine the evidence it considers relevant to its decision on the Complaint and to give any evidence whatever weight the Board concludes is appropriate.
- C. In particular, the Board need not consider any document or exhibit not specifically enumerated in these rules and which is offered for purposes of the hearing and has been prepared by a person not present at the hearing and capable of being cross-examined by the Board.
- D. In residential-property hearings,

the Board typically considers the following evidence useful in making a decision on a Complaint:

- 1. Arms-length sale documentation, including a recorded deed, a HUD-1 closing statement, and purchase contract. The Board will not consider testimony about an arms-length sale in the absence of documentary evidence of the sale. The Board will not consider testimony regarding a sale if the testimony is not based on first-hand knowledge.
- 2. Recent qualified appraisal report of the subject property made for tax-valuation purposes and authenticated by the appraiser in person during the hearing. To testify as an appraiser, an individual must hold appropriate certification from a national appraisal organization or society, sufficient to indicate good standing in the

appraisal profession, or must present other evidence of education, skill, training, and experience as an appraiser sufficient to indicate professional expertise as an appraiser.

3. Certified estimates from a contractor for work cited in the Complaint. Major structural issues may affect the value of the property, while regular maintenance needs (e.g., new roof, new driveway) are typically factored into the existing current value based on the age and condition of the property.
4. Dated photographs of the subject property and of comparable properties showing the condition.
5. Certified statements from a contractor for hard and soft costs of new construction.
6. Tax Map, Topography Map, or Plat Map, showing the subject property.
7. If the Complaint is based on Market Data Analysis, the Complainant should present all comparable sales-conveyance statements supporting the analysis.

E. In commercial-property hearings,

the Board typically considers the following evidence useful in making a decisions on the Complaint:

1. Complete income and expense information for the tax year for which the Complaint was filed and the two previous years.
2. Rent rolls showing tenants and rental rates as of January 1 of the tax year for which the Complaint was filed, and all rent changes that took place during the year, including reductions and incentives.
3. The Board may request additional information before or during the hearing and may give a party additional time to collect responsive information.
4. All financial information submitted in support of a Complaint must be set forth in financial documents prepared by an independent accountant and must include all notes and other materials typically included in independent financial documents, such as audited financial statements.
5. The owner of property, or an employed manager, who has personal knowledge of the operations of the property must appear at the hearing as a witness and be prepared to testify as to the accuracy and completeness of the financial information.



F. Hearing Boards do not consider:

- a. Financial arguments or contentions that are not supported by authentic financial records;
- b. Unsubstantiated personal opinions;
- c. the opinions of non-experts;
- d. newspaper articles; or
- e. third-party statements by people not present at the hearing to be useful.

G. Equalization is defined as using the assessed value by the Auditor of neighboring properties as the reason for a reduction in the value of the subject property. Equalization is not a recognized approach to value structures. The evidence on how the Auditor valued nearby parcels is generally “insufficient to warrant a reduction.” Equalization may be used to value vacant land if there are no comparable sales. The fact that other properties are valued differently from the subject is not grounds for changing the value of the subject property.

**10. Decision by the Hearing Board**

- A. The members of the Hearing Board will begin their deliberations on a case as soon as practicable after the conclusion of the hearing. Deliberations may take place in private.
- B. Following the hearing, no member of the Hearing Board may have substantive discussion of any kind with a party or a party’s representative.
- C. The Hearing Board will make its decision on a Complaint by majority vote of the three members. The decision will be made on the record at a public hearing. The decision will refer to the evidence on which the decision is based. A member of the Hearing Board may dissent from a majority decision and may set forth on the record the reason(s) for the dissent.
- D. The vote of each member shall be recorded on the record as cast.
- E. The decision will be entered into IAS World Production or an equivalent data system by each voting member.

**11. Notice of Decision**

- A. The Board will provide to all parties and their representatives with written notice of the Hearing Board's decision. The content of the notice will be approved by all Hearing Board members before it is sent. If the complainant has provided an email, the Board shall email the decision to the Complainant, and send ordinary mail. If there is no email address provided the Board shall send the decision by Certified Mail.
- B. The notice will inform the parties of their right to appeal, including the time and procedural requirements for filing an appeal.

**12. Procedure on Appeal**

- A. Upon receipt of an appeal by the Complainant, the Board will notify its statutory counsel. The Board will also give notice of the appeal to each board of education whose school district may be affected by the appeal.
- B. The Board is represented on appeal by its statutory counsel.
- C. The party on appeal is the Board. Only the Board, acting as a whole, may give counsel direction regarding the prosecution of the appeal and any proposed resolution while the matter is on appeal.

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