

## BOARD OF REVISION RULES OF PROCEDURE

The Board of Revision hereby enacts the following as its Rules of Procedure pursuant to the Ohio Revised Code (ORC) 5715.02 et seq. and HB294 §323.66

### I. NOTICE

- A. The County Auditor, as Secretary of the Board of Revision, shall give notice of each complaint in which the stated amount of increase or decrease is at least \$17,500 to each board of education whose school district may be affected by the complaint. [ORC 5715.19 (B)]
- B. Within thirty (30) days after receiving such notice, a board of education may file a counter-complaint in support of, or objecting to, the amount of increase or decrease in value as stated on the original complaint [ORC 5715.19 (B)]. The board of education filing a counter-complaint is requested by the Board of Revision to provide service to the original complaining party.
- C. Upon filing a counter-complaint, the board of education shall be made a party to the complaint.
- D. If the board of education files the original complaint, the owner shall be notified and shall automatically be made a party to the complaint.

### II. HEARING NOTICES AND RESCHEDULES

- A. The County Auditor, as Secretary of the Board of Revision, shall schedule complaints for hearing.
- B. A written notice stating the date, time, and place of the hearing shall be sent by certified mail to all parties of the complaint (if address is known) not less than forty five (45) days prior to the hearing.
- C. Along with the notice a copy of these rules shall be provided to each party of the complainant.
- D. The Board of Revision shall, subject to the conditions set forth below in this Section D, grant one (1) request for a reschedule of the hearing date from the original complainant and the counter-complainant. This request for reschedule shall be in writing (include telephone number), and either mailed to, or faxed to the County Auditor so that it arrives in the County Auditor's office no less than ten (10) days prior to the scheduled hearing date.
- E. The Board of Revision may also consider additional requests for reschedule of the hearing date from the original complainant and counter-complainant. These further requests must be by written application, and set forth good cause as to why such rescheduling should be granted. The Board of Revision shall consider the facts of each request to reschedule and render a decision as quickly as practical. In case of serious illness the Board of Revision shall reschedule another hearing date provided reasonable notice is given and, upon request of the Board, documentation demonstrating such illness is provided to the Board's reasonable satisfaction. The granting of a request to reschedule a hearing is within the sound discretion of the Board of Revision. For purposes of this section "good cause" does not include excuses or reasons for rescheduling which are the result of lack of planning or scheduling conflicts which could reasonably be avoided with advanced planning after notice of the hearing date was sent. If a request for a rescheduling is not granted, the case will be heard on the scheduled hearing date.
- F. The party requesting the reschedule shall notify all parties affected by the request, and all parties and their attorneys shall mutually agree upon the reschedule request before the request shall be granted.
- G. All hearings shall be open to the public.
- H. 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.

### III. PRE-HEARING DOCUMENT SUBMISSION PROCEDURE

- A. A party seeking to change the Auditor's valuation on one or more properties shall file with the Board of Revision and serve on all other parties no later than twenty one (21) days prior to the scheduled hearing date all of the documents and other exhibits it intends to introduce into evidence at the hearing.
- B. Any documents or other exhibits that a party intends to use to rebut documents produced under Section A, above, shall be filed with the Board of Revision and served on all other parties no later than seven (7) days prior to the scheduled hearing date.
- C. Four (4) copies of all such documents and exhibits shall be filed with the Board of Revision.

### IV. APPEARANCE BEFORE THE BOARD OF REVISION

- A. Any person who is a party to the complaint may appear at the hearing before the Board of Revision.
- B. Attorneys representing a party to the complaint or counter-complaint shall not be permitted to testify or appear in any capacity other than that of counsel. The owner of the property, or an appropriate and qualified expert witness, is required to be present at the hearing in order to give testimony at the hearing.

### V. WITNESSES AND TESTIMONY

- A. The Board of Revision 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. [ORC 5715.10]
- B. If a person notified to appear before the Board of Revision 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 Board of Revision shall make a complaint thereof in writing to the probate judge of the county. [ORC 5715.10]
- C. Any witness, who shall be giving expert testimony on the complaint, must be qualified as an expert [Ohio Rules of Evidence #702 and #703].
- D. Testimony as to comparable properties, their values, and recent sales values shall be considered expert testimony, and may 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 may be submitted to the Board of Revision in the form of certified copies of transfer deeds, or through any other acceptable form of evidence contemplated under Ohio Rules of Evidence. However, the Board of Revision shall not consider them as comparable sales without expert opinion testimony indicating how they are comparable.
- E. A complainant or counter-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.

### VI. HEARSAY EVIDENCE

- A. Hearsay evidence is a statement by one person as to what another person says or thinks. Any testimony must be relevant and elicited from a person with actual and personal knowledge of the matters testified about in order for such testimony or evidence to be presented to and

considered by the Board of Revision.

- B. The Board of Revision shall not accept hearsay evidence in the form of documents or oral testimony concerning, amongst other things:
  - 1. the terms and conditions of a sale or the motives of the parties to the sale
  - 2. the owner's opinion of the value of the property offered by someone other than the owner
  - 3. financial data
  - 4. the condition or operations of the property

#### VII. SUBMITTING EVIDENCE TO THE BOARD OF REVISION AND HEARING PROCEDURE

- A. A party to the complaint intending to introduce evidence involving expert opinion shall file with the Board of Revision a copy of an appraisal report or other report of the expert and a listing a summary of the expert's qualifications at least seven (7) days prior to the time of the hearing on the complaint.
- B. If an appraiser will be testifying at the hearing, a copy of the appraisal shall be filed at least seven (7) days prior to the time of the hearing. A copy of the appraisal shall be served upon all other parties to the complaint at least seven (7) days prior to the time of the hearing.
- C. The party that first filed its complaint shall present its evidence first at the hearing.
- D. Upon completion of the introduction of testimony and evidence by the party that first filed its complaint, the opposing party or parties may introduce testimony and other evidence in support of their counter-complaint or in opposition to the opposing party's complaint.
- E. For income producing commercial or industrial property the Board of Revision requires that the following information be submitted to the Board of Revision.
  - 1. Physical data
    - a) A description of the improvements to the property, including the age of all buildings and other improvements, the type of construction used, the size of the property, the mechanical or other equipment that is affixed to the property, and the use and functional adequacy of such mechanical or other equipment.
    - b) Any changes in the condition of the property occurring or completed within the last three (3) years (such as, for example, new construction) together with the actual cost of any new improvements and the date completed.

## 2. Rental property

- a) 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.
- b) Give the identity and description (include size and type) of each rental unit.
- c) Provide the current rent roll showing potential rent.
- d) 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.
- e) List all other income, such as parking, laundry, etc.

## 3. Other information

- a) Provide current zoning status of property.
  - b) Provide a sketch, map and floor plan of the buildings (not required for apartments).
- D. The Board of Revision may request additional information at the hearing or by written notice.
- E. The complainant shall provide the Board of Revision all information or evidence within his/her knowledge or possession that affects the real property in question [ORC 5715.19]. Evidence and/or information 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 information to the Board of Revision.

## VIII. INDEPENDENT OR APPRAISER EXPERTS

- A. All agents, appraisers, (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.
- B. Any individual relying on a document prepared by an independent appraiser or expert witness shall require that individual to be present at the hearing to testify before the Board of Revision. The Board of Revision shall not rely solely on the document itself, and may question the individual regarding the appraisal or exhibits which have been submitted.
- C. Any document submitted as evidence, other than those stated herein, that was prepared by an individual not present at the hearing shall not be considered because the individual cannot be questioned by the Board.

## IX. EVIDENCE OF VALUATION

- A. Evidence of valuation must relate to the total value of both land and improvements. The over-assessment of land, if not accompanied by an under-assessment of buildings in like amount, shall not justify a reduction.
- B. The Board of Revision may increase or decrease the total value of any parcel included in a complaint.
- C. The owner's opinion of value, if unsupported by facts, shall not be considered competent evidence before the Board of Revision.

## X. RECORD

- A. The Board of Revision creates a formal record of the activities that take place before it.
- B. Each hearing's minutes are taken either using an audio or video recording system, or court stenographer.

- C. A transcript of the hearing is available at the cost of either reproducing the tape recording or the cost of obtaining the transcript from the court stenographer.

#### XI. GROUNDINGS FOR DISMISSAL

- A. 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)]. Failure to comply with that deadline shall result in dismissal of the complaint.
- B. ORC 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:
1. The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;
  2. The property lost value due to some casualty;
  3. Substantial improvement was added to the property;
  4. An increase or decrease of at least 15% in the property's occupancy has had a substantial economic impact of the property."
- C. Failure to complete or show value information in Section 8 on DTE Form 1.
- D. Any complainant party not providing information deemed to be competent and relevant which is requested by the Board of Revision .
- E. 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, appraisers, 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, and the decision of the Court of Appeals for the Eighth Judicial District in C.R. Truman, L.P. v. Cuyahoga County Board of Revision (July 27, 2000), Cuyahoga App. No. 76713, unreported, discretionary appeal denied April 11, 2001 and Dayton Supply & Tool Co., Inc. v. Montgomery County Board of Revision, 111 Ohio St.3d 367, 2006-Ohio-5852]