

# FULTON COUNTY BOARD OF REVISION

## RULES OF PROCEDURE

The Board of Revision hereby enacts the following as its Rules of Procedure pursuant to Ohio Revised Code 5715.02 et seq. and HB 294 §323.66

### I. SCHOOL NOTICE

- A. The County Auditor, as Secretary of the Board of Revision, shall give notice of each complaint in which the stated amount of the increase or decrease is at least seventeen thousand five hundred (\$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)).
- C. Upon the filing of a counter-complaint the board of education shall be made a party to the hearing.
- D. If the Board of Education files the original complaint, the owner shall be notified and shall automatically be made party to the complaint.

### II. HEARING NOTICES AND RESCHEDULES

- A. The County Auditor, as Secretary to the Board of Revision, shall schedule each complaint 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 (provided the address is known) not less than ten (10) days prior to the hearing.
- C. The Board of Revision shall grant one (1) request for a reschedule of the hearing date from the original complainant and the counter-complainant. The request for reschedule shall be in writing (including telephone number), either mailed to, or faxed to the County Auditor so it arrives in the County Auditor's office at least five (5) days prior to the scheduled hearing date.**
- D. In case of illness the Board of Revision shall reschedule another hearing date provided reasonable notice is given.
- E. If a counter-complaint was filed on the property, the party requesting the reschedule shall notify the parties affected by the request, and all parties and their attorneys shall mutually agree upon the reschedule request before the request shall be granted.
- F. All hearings shall be open to the public.
- G. Failure to appear before the Board of Revision at the scheduled hearing time and shall be grounds for dismissal consideration.

### III. APPEARANCE BEFORE THE BOARD OF REVISION

- A. Any person who is a party to the complaint may appear.
- B. Attorneys representing a party to the 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 expert witness, is required to be present in order for testimony to be given.

#### IV. WITNESSES AND TESTIMONY

- A. 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.”
- B. 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)
- C. 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.
- D. 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.
- E. An owner shall be considered competent to testify as to the value of his/her own property and need not qualify as an expert.
- F. 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.
- G. 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.
- H. The Board of Revision may impose other sanctions on the party to the matter as it deems just and equitable after considering the relationship of the witness to the party.

#### V. HEARSAY EVIDENCE

- A. 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 present this evidence before the Board of Revision.
- B. The Board of Revision shall not accept hearsay evidence in the form of documents or oral testimony concerning, but not necessarily limited to:
  - 1. The terms and conditions of 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; and
  - 4. The condition or operations of the property.

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

- A. A party to the complaint intending to introduce evidence involving expert opinion shall file with the Board of Revision a summary of that opinion and a summary of the

expert's qualification at least five (5) days prior to the time of the hearing on the complaint.

- B. If an appraiser will testify, a copy of the appraisal shall be filed to meet the requirements. A copy of the appraisal shall also be served upon other parties to the matter and with the Board of Revisions at least five (5) days prior to the time of the hearing on the complaint.
- C. For income-producing, commercial or industrial property the following information shall be submitted by complainant to the Board of Revision:
  - 1. Physical data
    - A. A description of the improvements to the property, including age, construction, size, mechanical equipment, use and functional adequacy.
    - B. 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.
  - 2. Rental property
    - A. 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. The identity and description, including size or type, of each rental unit.
    - C. The current rent roll showing potential rent
    - D. The lease or rental date for each tenant and the lease terms, options, base rent plus provisions for additional rent or services charges, etc.
    - E. List of 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 property (This is not required for apartment buildings.)
- D. The Board of Revision may obtain additional information by requiring the complainant and/or the owner of the property, upon not less than thirty (30) days written notice, to provide the Board of Revision with such information. The Board of Revision may request additional information at the hearing.
- E. 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.

## VII. INDEPENDENT OR APPRAISER EXPERTS

- A. All agents, or other representatives, presenting evidence to the Board of Revision on behalf of complainant shall submit a copy of their contract with the owner as a part of the evidence of the case.

- B. The Board of Revision will not consider 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.
- C. Any individual who expects to rely upon a document prepared by an independent or expert appraiser shall 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. The Board of Revision shall not rely solely on the document itself.

#### VIII. EVIDENCE OF VALUATION

- A. Evidence of valuation presented by complainant 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, will 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, will not be considered competent evidence before the Board of Revision.

#### IX. RECORD

- A. The Board of Revision creates a formal record of the activities that take place before it.
- B. Each hearing's minutes may be recorded by either using a recording system or a court stenographer.
- C. A transcript of the hearing will be provided at the sole expense of the person or entity requesting same for the cost of either reproducing the tape recording or the cost of obtaining the transcript from the court stenographer.

#### X. GROUNDS FOR DISMISSAL

- A. Late filing – A complaint for the current tax year shall be filed with the County Auditor on or before the thirty-first (31<sup>st</sup>) day of March of the ensuing tax year. (ORC 5715.19(A)(1)).
- B. A fax filing is acceptable if the first page of a multiple page complaint is received by the close of business on or before the thirty-first (31<sup>st</sup>) day of March of the ensuing tax year and the original is received with five (5) business days of the fax.
- C. 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:
  - 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 fifteen percent in the property's occupancy that has had a substantial economic impact on the property.
- D. No opinion of value – failure to complete or show value information for board of education notice in Section 8 on DTE Form 1 (Revised 4/96) (Ohio Supreme Court case Cleveland Electric Illumination Company v. Lake County Board of Revision)
- E. Any complainant party not providing data deemed to be competent and relevant which is requested by the Board of Revision (ORC 5715.19(G)).
- F. Failure to appear and prosecute at the scheduled hearing time is grounds for dismissal.
- G. The signature on the complaint must be that of the owner of the property, an attorney, or the general partner of a partnership. (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 Eights 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).

#### XI. WHO CAN SIGN THE COMPLAINT

- A. The preparation, signing, and filing of a complaint on behalf of another person constitutes the practice of law. (Ohio Supreme Court 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, LP v. Cuyahoga County Board of Revision (July 27, 2000), Cuyahoga App. No. 76713, unreported, discretionary appeal denied April 11, 2001).
- B. The signature on the complaint shall be that of the owner of the property, an attorney, or the general partner of a partnership. An attorney shall sign the complaint for a trustee of a trust, a managing partner of a limited liability partnership, an officer of a corporation, or a school district.

#### XII. SETTLEMENT OFFER

- A. The Fulton County Board of Revision has agreed to implement the process of settlement offers. This will allow the Board to meet and review the complaints prior to a formal hearing. If sufficient evidence is provided with the complaint for the Board to make a decision, then a settlement offer will be sent to the complainant for consideration. Upon acceptance of the offer from the complainant, the Board will acknowledge same in its minutes. If the complainant does not accept the offer then the complaint will be scheduled for a formal hearing.

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