

BOARD RULES OF PROCEDURE - BOARD OF REVISION

Rules of Procedure pursuant to the Ohio Revised Code Sections 5715.02 et seq. and 323.66

I. PEOPLE WHO MAY APPEAR BEFORE THE BOARD:

- Property Owner
- An attorney, licensed to practice law in the State of Ohio, representing any party properly before the Board.
- Any other entity named in Revised Code Section 5715.19 (A) (1) (F).

II. FILING REQUIREMENTS

A. Sale requirement

1. The act requires that, before a political subdivision or other person may file a complaint with respect to property that the political subdivision or person does not own, the property must have been sold in an arm's length transaction in a year preceding the tax year for which the complaint is to be filed. In addition, the sale price must have been at least 10% and \$500,000 more than the auditor's current valuation. The \$500,000 threshold increases each year for inflation, beginning in tax year 2023.
2. For example, if a school board wishes to challenge the value of a property for tax year 2022, it may only do so if the property was sold in 2021 or earlier, it has not been sold since, and the auditor's valuation of the property for tax year 2022 is both 10% and \$500,000 less than the sale price.

B. Approval of Complaints

1. Before filing a property tax complaint against property it does not own, a legislative authority must, in addition to complying with the sale requirement, first adopt a resolution approving the filing at a public meeting. The resolution must identify the parcel number and, the parcel's address; the name of an owner; the tax year for which the complaint will be filed; and the basis for the complaint (e.g., valuation, tax classification, CAUV status).
2. A single resolution must be confined to identifying a single parcel or multiple parcels having the same owner. The legislative authority may adopt one or more of these resolutions by a single vote, provided no other type of resolution addressing a different matter is adopted pursuant to that same vote; i.e., the measure could not be included in a "consent agenda."

C. Notice of Hearing

1. Before adopting the resolution, the legislative authority must send written notice by certified mail to one of the property owner's last known property tax-mailing address and, if different, to the property's street address. Alternatively, the notice may be sent to the owner by ordinary mail if it is also sent electronically to the owner. The notice must declare the intent of the legislative authority to adopt the resolution and state the proposed date of adoption and the basis for the complaint. The notice must be postmarked or, if electronic, sent at least seven days before the resolution is scheduled to be adopted.

III. COMPLAINT FILINGS

A. Electronic filing – DTE Form 1

1. The Board of Revision will accept the electronic filing of Complaint Forms via a dedicated email link. https://clermontsmartfile.iasworld.tylerhost.net/clermontoh_sf
2. The electronically filed DTE Form 1 will carry the statutory disclaimer as required when using the option of emailing an electronic filing, pursuant to ORC 5715.13 (B): *I declare under penalties of perjury that this complaint (including attachments) has been examined by me and to the best of my knowledge and belief is true, correct and complete.*
3. Every complaint must be electronically signed by either the Party or, an Attorney licensed to practice law in the State of Ohio.
4. If the complainant utilizes the electronic filing process, only one form is required to be filed.
5. In the case of a counter complaint, the counter complainant must submit a copy of their counter complaint and any accompanying documentation to the original complainant at the time it is filed with the Board of Revision.
6. All electronic submissions must be received no later than 11:59 p.m. Eastern Standard Time on the last day to file such a complaint, which is March 31st, pursuant to the Ohio Revised Code. After the filing deadline date and time, the dedicated email link will be deactivated.
7. The Board of Revision will accept at the time of filing additional documentation, provided such documents are clearly marked with the parcel number(s).
8. Disclaimer: The complainant assumes all risks associated with the use of electronic filing system, including the risk that the system may become unavailable at any time without prior notice, or that the confirmations or notifications sent by the system may be blocked or delayed by causes beyond the control of the Board of Revision.

Complainant is hereby notified that they are solely responsible for confirming that all documents and filings have been properly received by the Board of Revision for the filing. Complainant, by its use of the electronic filing system, hereby agrees to hold the Board of Revision and Clermont County harmless in the event of any interruption, unavailability, error or breakdown in service that results in an error in the Complainant's filing or in Complainant being unable to make its filing electronically, regardless of the source of the interruption, unavailability, error or breakdown in service.

9. If the complaint is submitted by a legislative authority, question 15 on the DTE Form 1 must be completed and a copy of that resolution must be attached.

B. In person or by mail filing – **DTE Form 1 and DTE Form 2**

1. Every complaint must be signed by either the Party or, an Attorney licensed to practice law in the State of Ohio.
2. Every complaint must be completed in full. A complaint which does not contain the complainant's opinion of value stated on the complaint form will be dismissed.
3. In addition to the original, 2 copies of each complaint and any accompanying documentation must be filed with the Auditor's Office.
4. In the case of a counter-complaint, the counter complainant must submit a copy of their counter complaint and any accompanying documentation to the original complainant at the time it is filed with the Board of Revision.

All correspondence should be sent to the attention of:
Linda L. Fraley
Clermont County Auditor
Secretary
Clermont County Board of Revision
101 East Main Street
Batavia, OH 45103-2961

5. If the complaint is submitted by a legislative authority, question 15 on the DTE Form 1 and question 11 on the DTE Form 2 must be completed and a copy of that resolution must be attached.

IV. COUNTER COMPLAINT PROCEDURE

- A. The County Auditor, as Secretary of the Board, will provide information related to current complaints via the website. Complaints in which the stated amount of increase or decrease is at least \$50,000 in market value, each board of education whose school district may be affected by the complaint may file a counter complaint.

- B. Within thirty days after a complaint has been filed, 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. The board of education filing a counter complaint is requested by the Board 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.

V. SCHEDULING HEARINGS

- A. The County Auditor, as Secretary of the Board, shall schedule complaints for hearing.
- B. A notice stating the date, time, and place of the hearing shall be sent by regular mail or electronically to all parties of the complaint (if address is known) not less than ten (10) 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 shall, subject to the conditions set forth below in this Section D, grant one request for a reschedule of the hearing date from the original complainant and the counter-complainant. This request for reschedule shall be in writing and either mailed to or faxed to the County Auditor no less than ten days prior to the scheduled hearing date. Upon receipt of a timely request for a rescheduling, the Board shall provide not less than ten days written notice to the parties of the re-scheduled hearing date.
- E. In addition to the request to reschedule set forth above, the Board may also consider additional requests for reschedule of the hearing date from the original complainant and counter-complainant. These further requests shall be by written application and shall set forth good cause as to why such rescheduling should be granted. The Board shall consider the facts of each request to reschedule and render a decision as quickly as practical. The granting of a request to reschedule a hearing is within the sound discretion of the Board. 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 previously scheduled hearing date. If a request for a rescheduling is granted under this section, then the parties shall be notified by regular mail or electronically not less than ten days prior to the new rescheduled 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 reschedule request may be granted.
- G. All hearings shall be open to the public.
- H. Failure to appear before the Board at any scheduled hearing date and time shall constitute failure to prosecute and is grounds for dismissal of the party's complaint or counter-complaint.

VI. PRE-HEARING DOCUMENT SUBMISSION PROCEDURE

Written Documents

A party filing any written documents with the Board, as set forth below, shall file two copies of each such document with the Board. Photographs need only be submitted in the original without copies.

Submission of Exhibits for the Initial Hearing Date

- A. A party seeking to change the Auditor's valuation on one or more properties shall file with the Board and serve on all other parties no later than fourteen days prior to the initial scheduled hearing date, all of the documents, photographs, records and other exhibits it intends to introduce into evidence at the hearing, other than any appraisal reports or the written reports of any other expert witnesses.
- B. Appraisal reports or the written reports of any other experts that a party intends to introduce at the hearing shall be filed with the Board and served on all other parties no later than seven days prior to the initial hearing date. Such appraisal reports shall include a summary of the expert's qualifications and credentials.

Submission of Exhibits for the First Rescheduled Hearing Date

- C. If a party has been granted a continuance of the initial hearing date as set forth in Section II, D above, then no later than seven days prior to the date set for the rescheduled hearing ("the First Rescheduled Hearing Date") such party shall file with the Board and serve on all other parties all documents and other exhibits it intends to introduce at the First Rescheduled Hearing Date including, but not limited to, all appraisal reports or the written reports of any other expert witnesses.

Submission of Exhibits for Any Subsequent Rescheduled Hearing Dates

- D. If a party requests, and is granted, a continuance of the hearing date beyond the First Rescheduled Hearing Date pursuant to Section II, E, above, (such later date being known as the “Subsequent Rescheduled Hearing Date”), then all documents and other exhibits it intends to introduce at such Subsequent Rescheduled Hearing Date shall be filed with the Board and served on all other parties by no later than the date of the First Rescheduled Hearing Date including, but not limited to, all appraisal reports or the written reports of any other expert witnesses.
- E. Any documents or other exhibits that an opposing party intends to use to rebut the documents produced under Sections A through D, above, shall be filed with the Board and served on all other parties no later than three business days prior to either the Initial Hearing Date, the First Rescheduled Hearing Date, or the Subsequent Rescheduled Hearing Date.

Failure to Comply with Deadlines

- F. If a party fails to timely comply with the deadlines or filing requirements set forth above, then the Board may
 - 1. Refuse to accept or consider the documents or appraisal or expert reports untimely filed
 - 2. Adjourn the hearing to a date of its selection to provide it with sufficient time to review such documents or reports, or
 - 3. Take such other actions consistent with applicable law as it deems just and warranted.

VII. APPEARANCE BEFORE THE BOARD

- A. Any person who is a party to the complaint may appear at the hearing before the Board.
- 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.

VIII. WITNESSES AND TESTIMONY

- A. 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. [ORC 5715.10]
- B. 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 Board 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 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 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.

IX. HEARSAY EVIDENCE

- A. Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, which is offered to prove the truth of the matter asserted in the statement. Often hearsay takes the form of one person seeking to testify about what another person said or thought. All testimony elicited at hearings hereunder 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.
- B. The Board may refuse to accept hearsay evidence including, but not limited to, hearsay evidence contained in documents.

X. SUBMITTING EVIDENCE TO THE BOARD AND HEARING PROCEDURE

- A. Unless otherwise ordered by the Board, the party that first filed its complaint shall present its evidence first at the hearing.

- B. 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.
- C. For income producing commercial or industrial property the Board requires that the following information be submitted to the Board.
1. Physical data
 - a) Description of the improvements to the property, including the age of all buildings and other improvements, the type of construction, 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 years (such as new construction) together with the actual cost of any new improvements and the date completed.
 2. Rental property
 - a) Financial statements 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 years or back to the last transfer of ownership, if transferred within the past three years.
 - b) The identity and description (include size and 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 service charges, etc.
 - e) All other income, such as parking, laundry, etc. generated from the property
 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 may request additional information at the hearing or by written notice.
- E. The complainant shall provide the Board 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 cannot later be presented on

any appeal, unless good cause is shown for the failure to present such information to the Board.

XI. INDEPENDENT OR APPRAISER EXPERTS

- A. All agents, appraisers, (or other representatives) presenting evidence to the Board 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. The Board 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.

XII. EVIDENCE OF VALUATION

- A. Evidence of valuation must relate to the total value of both land and improvements.
- B. The Board may increase or decrease the total value of any parcel included in a complaint.

XIII. RECORD

- A. The Board 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.

XIV. GROUNDS FOR DISMISSAL

Grounds for dismissal include, but are not limited to, the following:

- A. A complaint for the current tax year shall be filed with the County Auditor on or before the thirty-first 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. The complaint form (DTE Form 1) is not signed.

- 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
- E. ORC 5715.19 (A)(2) states, “No person, legislative authority, 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, legislative authority, 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.”

XV. PUBLIC NOTICE

- A. The Auditor, acting as secretary to the Board of Revision, will provide public notice in the form of signage posted on the Administration Building, not less than 24 hours prior to regular and special meetings. Signage will identify the Board’s purpose for meeting. Additionally, the Auditor will notify the nearest distributing newspaper not less than 24 hours prior to regular and special Board of Revision meetings.
- B. Regular meetings include Board of Revision reorganization, occurring statutorily on the second Monday of each calendar year.
- C. Special meetings include determination of applications presented to the Board of Revision in the form of hearings.

XVI. PUBLIC ATTENDANCE

- A. Board of Revision regular and special meetings are open to public inspection. Should any individual not involved with a hearing or Board business that day attend, he or she is allowed to observe hearings without participating. Participating is defined as making statements or asking questions, or moving from the designated public space established by the Auditor.

- B. Any individual attending as part of public inspection is required to sign in and acknowledge if they plan to record the Board's meetings, whether using an audio or video recording device. The Board of Revision's regular and special meetings are digitally recorded using a high definition, wide-angle lens with multiple microphones instruments capturing all sound.