

2024 Hearing Procedures for Gonzales County **Appraisal Review Board**

Appointment of Agent/Appointment for Representation forms for any account(s) needing assigned authorization as of the scheduled hearing date are due at check in: Texas Comptroller Forms 50-162 (A of A); Appointment for Representation, available from GCAD.

I. ARB Membership

[Tax Code Section 5.103(b)(12), (15), and (16)]

1. Administration of ARB Appointments

ARB members have no statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an individual is contacted by an ARB member regarding requesting an appointment to the ARB, the member must direct the individual to the person designated to receive applications or requests for ARB appointment.

2. Conflicts of Interest

Each ARB member must ensure that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or that restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chair in addition to any other individual or entity as required by law. The chair must ensure prompt notification of reported conflicts of interest to the appropriate individuals.

If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member cannot participate in a protest hearing. If the conflict exists due to the provisions of Local Government Code Chapter 171, the member must file an affidavit with the ARB secretary. The ARB member must file the affidavit as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code Section 41.69, the ARB member does not have to file an affidavit but must recuse himself or herself immediately from the hearing and report the conflict to the ARB chair or secretary.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of substantial interest, Tax Code Section 41.69 applies to any protest in which an ARB member has interest (i.e. Tax Code Section 41.69 does not require the interest to be substantial). While a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code Section 41.69 may still prohibit participation. If an ARB member has a question as to whether he or she has a conflict of interest that might prohibit his or her involvement, the member must immediately contact the ARB chair to address the matter.

In the recusal process, the ARB member cannot hear the protest, deliberate on the protest or vote on the matter that is the subject of the protest.

3. Ex Parte and Other Prohibited Communications

ARB members must not engage in prohibited ex parte or other communications. If one or more individuals approach the ARB member and appear to engage or attempt to engage in a prohibited communication, the ARB member must immediately remove himself or herself from the conversation.

II. ARB Duties

[Tax Code Section 5.103(b) (1), (5), and (6)]

1. Statutory Duties of an ARB

Each ARB member must ensure that he or she understands the statutory duties of the ARB and complies with all statutory requirements in performing statutory duties as an ARB member. Tax Code Section 41.01 addresses the duties of the ARB and the actions they are authorized to make.

2. Notices Required Under the Property Tax Code

Each ARB member must obtain and maintain familiarity with notices required under the Property Tax Code. If an ARB member believes that any required notice is not being provided or does not meet the requirements of applicable law, the ARB member must promptly notify the ARB chair. The ARB chair must investigate each report and take appropriate action to correct all verified problems.

3. Determination of Good Cause Under Tax Code Section 41.44(b)

"Good cause" for filing late protests is not defined in Tax Code Section 41.44(b). Claims of good cause for late-filed protests must be carefully considered. The standards in making determinations of good cause under Tax Code Section 41.44(b) must be uniformly applied. The ARB should give due consideration to good cause claims in a manner that properly respects the rights of property owners and their agents while not undermining or

contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

The GCARB will make this determination of good cause based solely upon the property owner's written explanation of good cause prior to scheduling any hearing. **Circumstances that GCARB has recognized as for purposes of good cause include the following: 1) active military duty outside the United States; 2) illness or injury requiring the care of a medical professional; 3) recent death in the immediate family; 4) being involved in a legislative or judicial function (i.e. jury duty) or impending court hearing; or 5) other instances of good cause as determined by the GCARB. Supporting documentation shall be included with the late protest and claim of good cause.**

Good cause, for the purpose of making this specific determination, is not a reason, that includes: 1) being on family vacation; 2) being out of the area; 3) being out of the state; 4) being out of the country; or 5) failing to recognize the deadline. The decision to allow a hearing on a late-filed protest received before GCARB's deadline to approve the appraisal records based upon the demonstration of the requisite good cause is to be determined by the GCARB, in its sole discretion. If GCARB determines good cause exists, a protest filed after the legal deadline but before GCARB has approved the appraisal records shall be scheduled for a hearing.

III. ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

(Tax Code Section 5.103(b)(3), (4), (7), and (14))

I. Scheduling Hearings Generally

The ARB must schedule a hearing when a timely notice of protest is filed and, in doing so, the appraisal district can provide the ARB with clerical assistance.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the appraised value of the property. If the property owner does not file a protest relating to the property. Under Tax Code Section 41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code Section 1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

- **A person leasing property who protests the appraised value of the property should include the contract or lease to show the lessee is obligated to pay the taxes for the owner.**

2. Scheduling Hearings for Property Owners, Agents and Qualifying Lessees

Pursuant to Tax Code Section 41.66(i), the ARB must schedule hearing requests filed by property owners or their designated agents under Tax Code Section 1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, the property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

3. Scheduling Hearings for Multiple Accounts

If requested by a property owner or designated agent, the ARB must schedule consecutive hearings on the same day on protests concerning up to 20 designated properties. The request must meet all requirements of Tax Code Section 41.66(j), including the required statement in boldfaced type: "request for same-day protest hearings." A property owner or designated agent can file more than one such request in the same tax year. Also pursuant to Tax Code Section 41.66(j), the ARB may schedule protest hearings concerning more than 20 properties filed by the same property owner or designated agent and may use different panels to conduct the hearings based on ARB's customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Tax Code Section 41.66(j).

4. ARB Panel Assignments [Tax Code sections 41.66 (k)(k-1) and 41.45(d)(d-1)]

Pursuant to Tax Code Section 41.66(k) and (k-1), if an ARB sits in panels as authorized by Tax Code Section 41.45(d) and (d-1), it must randomly assign protests. Except for panels established under Tax Code Section 6.425, the ARB, with or without clerical assistance from the appraisal district staff, may consider the property type or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Tax Code Section 41.45(b-4) allows a property owner to request that a single-member panel conduct the protest hearing. The property owner must submit the request not later than the 10th day before the hearing date in writing on the notice of protest or by a written submission. If the ARB does not accept the recommendations made by the single-panel member, the ARB can determine the protest or refer it for rehearing to a single-member panel composed of someone who did not hear the original protest.

Tax Code Section 41.66(k-l) allows a property owner or agent to request a special ARB panel to hear a complex property protest if in a county with a population of 1.2 million or more. The owner or agent must consent to a special panel reassignment and may request a postponement if they disagree with the reassignment.

Once a protest is scheduled for a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB must postpone the hearing if requested in this situation. Pursuant to Tax Code Section 41.66(k), "[a] change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel."

5. Postponements Under Tax Code Section 41.45(e)

A property owner who is not represented by an agent under Tax Code Section 1.111 is entitled to one postponement of a hearing without showing cause. The property owner must request the postponement before the hearing date in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date

less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the property owner or designated agent shows good cause, as defined in Tax Code Section 41.45(e-2). The property owner or designated agent must request the postponement in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair's representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair's representative, the property owner and the chief appraiser, the ARB cannot postpone a hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

- *Request for postponement should be emailed to: gonzcad@gvec.net. Reference the account number in the subject line and state request in body of email.*
- *Request for postponement under 41.45 should be emailed to: gonzcad@gvec.net. In the subject line, reference account number + Good Cause Request, and state request in body of email. A postponement request requiring a showing of good cause should be supported by documentation and will not be granted automatically. A person making such a request should not assume the request has been granted until the person receives a confirmation from the GCARB. If a postponement is not granted and the person fails to appear for the scheduled hearing, the protest will be dismissed.*
- As an alternative to postponing and to better accommodate your schedule, you may choose to come to the GCARB's office on a day that is prior to your scheduled hearing, with scheduled hearings taking precedence. If we are too busy, and cannot hold your hearing at a convenient time on that earlier day, you will have to attend the scheduled hearing on its scheduled date and at the scheduled time

6. Postponements Under Tax Code Section 41.45(e-1)

A property owner or owner's agent who fails to appear at the hearing is entitled to a new hearing if the property owner or owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code Section 41.45(e-2), for the failure to appear and requesting a new hearing.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

- **For purposes of Subsections (e) and (e-1), "good cause" means a reason that includes an error or mistake that: (1) was not intentional or the result of conscious indifference; and (2) will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling." Any supporting documentation should be included with the claim of good cause. The written statement should be delivered to the GCARB either in person, by mail or by common or contract carrier. If delivered in person, deliver to: GCARB Chairman • 30 I Saint Joseph Street Suite A, Gonzales, Texas 78629. If sent by mail, common or contract carrier, deliver to GCARB Chairman • P.O. Box 867 Gonzales, Texas 78629-0519. With either form of delivery, the outside of the envelope should be marked SEC. 41.45(e-1) REQUEST, to help ensure proper processing**

7. Postponements Under Tax Code Section 41.45(g)

The ARB must postpone a hearing to a later date if:

- (1) the property owner or the owner's agent is also scheduled to appear at an ARB protest hearing in another appraisal district;
- (2) the other scheduled ARB protest hearing is scheduled to occur on the same date as the hearing set by this ARB;
- (3) the hearing notice delivered to the property owner or the owner's agent by the other ARB bears an earlier postmark than the hearing notice delivered by this ARB or, if the postmark date is identical, the property owner or agent has not requested a postponement of the other hearing; and
- (4) the property owner or the owner's agent includes with the postponement request a copy of the hearing notice delivered to the property owner or the owner's agent by the other ARB.

Request and documentation should be emailed to: gonzcad@gvec.net. Requests sent without documentation will not be reviewed.

8. Postponements Under Tax Code Section 41.66(h)

The ARB must postpone a hearing (one time only) if the property owner or the

designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code Section 41.461. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

The Comptroller's pamphlet and GCARB's hearing procedures are enclosed with the Notice of Protest Hearing. **GCARB does not provide GCAD evidence, 41.461(a)(2) materials. To get information for your property from GCAD, you may ask GCAD to provide the evidence, 41.461(a)(2) materials, by regular first-class mail or in person at GCAD Customer Service counter.**

9. Postponements Under Tax Code Section 41.66(i)

The ARB must schedule protest hearings filed by property owners or their designated agents under Tax Code Section 1.11 I for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, a property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

10. Postponements Under Tax Code Section 41.66(k)(k-1)

Once the ARB schedules a hearing by a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, a property owner or designated agent may agree to reassignment or request a hearing postponement. The ARB must postpone the hearing on that request. A change of panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute panel reassignment.

A property owner or agent must consent to a special panel ARB hearing reassignment or request a postponement if they disagree with the reassignment. A change of special panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute a special panel hearing reassignment.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

IV. Conduct of ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

[Tax Code Section 5.103(b)(2), (9), and (10))

1. Conducting Hearings Open to the Public

This introductory statement must read at the beginning of each hearing:

We are the appraisal review [board or panel] that will hear your protest today. We are not employees of the appraisal district. We are appointed to perform an independent review of your protest. You can complete a survey regarding your experience today [provide instructions on how to fill out the survey]. The survey is voluntary. You also have the right to appeal our decision. We will provide the appeal information to you with our determination.

The ARB or ARB panel does not have to read the statement above if the owner or agent has previously appeared before the ARB or any ARB panel for the ARB for that county that same day.

ARBs should conduct most protest hearings in the following order:

- a. Commence the hearing and announce the assigned protest number, property location, property owner and other identifying information.
- b. Announce that, in accordance with Tax Code Section 41.45(h), the parties must provide all written and electronic material that has not been provided.
- c. State that the ARB members who are considering the protest have not communicated with anyone about the protest and have signed affidavits to that effect.
- d. Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.

D-1. Time limits are as follows:

- **Five minutes for opening by GCARB Chair.**
 - **Eight minutes total for property owner or agent. (five minutes for initial evidence and three for cross examination and closing statements)**
 - **Eight minutes total for GCAD (five minutes for initial evidence and three for cross examination and closing statements)**
 - **Four minutes for GCARB to determine or issue a value and close hearing.**
- e. Ask if any testifying witness holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
 - f. Inform witnesses that they must give all testimony under oath and swear-in all witnesses who plan to testify.

- g. Ask the property owner to decide if he/she wishes to present his/her evidence
and argument before or after the appraisal district.
- h. If the property owner or agent presents his/her case first, he/she will present evidence (documents and/or testimony). If witnesses are present, the property owner or agent can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the property owner or agent must state an opinion of the property's value (if applicable).
- i. Next, the appraisal district representative may cross-examine the property owner, the agent or representative and/or witnesses.
- j. If the property owner or agent presented his/her case first, the appraisal district representative will present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the appraisal district representative must state an opinion of the property's value (if applicable).
- k. Then, the property owner or agent can cross-examine the appraisal district representative and/or witnesses.
- l. The parties cannot examine or cross-examine the ARB members.
- m. The party presenting its case first can offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- n. The other party can then offer rebuttal evidence.
- o. The party presenting its case first must make its closing argument and state the ARB determination being sought.
- p. The party presenting its case second must make its closing argument and state the ARB determination being sought.
- q. The ARB or panel chair must state that the hearing is closed.
- r. The ARB or panel must deliberate orally. No notes, text messages, or other forms of written communication are permitted.
- s. The ARB or panel chairman must ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations). Single-member panels must make a recommendation each motion submitted under protest, however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest. Special panels appointed in certain counties must make a recommendation on each motion submitted under protest, however, the ARB will ultimately accept the panel's determination or refer the matter for rehearing to another special panel composed of members who did

not hear the original protest. If the ARB does not have at least three other special panel members available, the ARB may make the determination.

- t. Thank the parties for their participation and announce the ARB determination(s) and that an order determining protest will be sent by certified mail or email in counties with populations greater than 120,000 where property owners can submit a request form for electronic delivery of the notice of determination from the ARB. Provide the property owner or agent documents indicating that the members of the board hearing the protest signed the required affidavit.

If the ARB members use computer screens during ARB hearings for reviewing evidence and other information, the ARB must make computer screens available to property owners and agents at the hearings to view the same information that is presented to the ARB members by the appraisal district staff. This requirement is met if the property owner or agent can see all information displayed on at least one computer screen in the hearing location (there is no requirement that the ARB provide the property owner or agent with a separate screen).

If a chief appraiser uses audiovisual equipment at a protest hearing, the appraisal office must provide equipment of the same general type, kind and character for the use of the property owner or agent during the hearing. See section VI, Other Issues, for more information regarding audiovisual equipment requirements.

The property owner or agent and the appraisal district representative are prohibited from debating each other. The parties must direct all communications to the ARB members, except for examination or cross-examination during testimony of witnesses or parties testifying at the hearing.

For taxing unit challenges, motions to correct appraisal records, protests regarding exemptions, or other matters that may be the subject of ARB hearings, the ARB should follow the order of conducting hearings above, but may make exceptions for the type of hearing.

Tax Code Section 41.68 and Comptroller Rule 9.803 require that the ARB keep records for each ARB proceeding. This includes the ARB retaining evidence offered or submitted by the parties as required by Tax Code Section 41.45 and Comptroller rules 9.803 and 9.805. The ARB secretary is responsible for ensuring proper record keeping, maintenance and retention.

2. Conducting Hearings by Telephone or Videoconference Call

Tax Code Section 41.45(n) allows a property owner initiating a protest to offer evidence or argument by affidavit without physically appearing. Tax Code Section 41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10th day before the date of the hearing if the property intends to appear remotely.

To offer evidence or argument at a hearing conducted remotely, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted remotely to another person the owner invites to participate in the hearing.

Tax Code Section 41.45(b-2) requires the ARB to provide the telephone number for conducting the teleconference call or the URL address for conducting the videoconference (if offered in that county). The ARB must hold the hearing in a location with equipment that allows all ARB members and parties to the protest in attendance to hear and, if applicable, see the property owner's argument.

Procedures for Telephone Hearings

*****A sworn affidavit, testimony and evidence must be received before the hearing*****

Telephone hearings are subject to the following:

A property owner who does not speak English will need to provide their own translator.

a. A property owner wishing to appear for a hearing by telephone conference call must notify GCARB in writing on the original protest form or by written notice filed with the board not later than the 10th day before the date of the hearing. Faxes, electronic mail or other methods of electronic delivery are not sufficient and will not be considered. If sent first-class mail, the mailing address is: GCARB•P.O. Box 867 Gonzales, Texas 78629-0519. If hand delivered or sent by common or contract carrier, the address is: GCARB•301 Saint Joseph Street Suite A Gonzales, Texas 78629. Property owners are encouraged to use a method that provides proof of delivery. To help facilitate accurate processing **ATTENTION-Telephone Hearing Request** should be prominently displayed on the outside of the envelope.

b. A property owner must provide any evidence in the form of a sworn affidavit filed with the GCARB. To help facilitate accurate processing, the sworn affidavit, testimony and evidence, should be received by GCARB at least five (5) business days before the date of the hearing. Regardless of submittal method, **sworn affidavit, testimony and evidence must be in possession of GCARB at the scheduled hearing time, to be considered at the scheduled hearing.** Faxes, electronic mail or other methods of electronic delivery are not sufficient and will not be considered. If sent first-class mail, the mailing address is: GCARB•P.O. Box 867 Gonzales, Texas 78629-0519. If hand delivered or sent by common or contract carrier, the address is: GCARB•301 Saint Joseph Street Suite A Gonzales, Texas 78629. Property owners are encouraged to use a method that provides proof of delivery. To help facilitate accurate processing **ATTENTION-Telephone Hearing Affidavit** should be prominently displayed on the outside of the envelope.

c. The property owner must call **830-672-2879** approximately five minutes before the hearing is scheduled to start. If the property owner does not call shortly before the scheduled hearing time, the panel will conduct the hearing(s) via appearance by sworn affidavit. If no sworn affidavit has been received by the GCARB, the panel will dismiss the protest for failure to appear. When the owner's call is answered, the owner should be prepared to give:

- The owner's name
- The account number(s) and case number(s) identifying the protest(s)
- The telephone number at which the owner can be reached

d. If the ARB is not available to hold the hearing right away, the GCARB member or staff member answering the call will advise the property owner that the GCARB will call the owner

back when a panel is available. **The owner is responsible for keeping the line clear and answering promptly when the GCARB calls.** If the GCARB cannot reach the owner, the owner will forfeit the opportunity to participate in the hearing by telephone. The panel will conduct the hearing(s) via appearance by sworn affidavit or if no sworn affidavit has been submitted, the panel will make a recommendation with the information, evidence and testimony available within the hearing.

e. If a property owner has had to wait more than two hours from the scheduled hearing time and the hearing has not begun, the owner may terminate the call, if still on hold. The owner should promptly call 830-672-2879 and state they are exercising the right to request a postponement of the hearing.

f. The property owner is responsible for ensuring a clear connection from his/her end of the connection:

- The property owner should use a land-line telephone. Or, if using a cell phone, should call from a safe and secure location with a strong, reliable connection to a cellular network. A property owner using a VOiP telephone should ensure that the Internet connection is fast enough to provide clear transmission of sound without buffering.
- The owner should separate from background noises like televisions and barking dogs, noises that might interfere with the panel's ability to hear and understand the owner.
- If a call is dropped or if the property owner's speech is garbled or unintelligible, the GCARB panel may terminate the call and will make two attempts to connect with the property owner again. During an attempt to establish a reconnection, the hearing will continue but no evidence, argument or discussion will take place. If a connection cannot be reestablished within five minutes, the panel will proceed with the hearing and owner will have no further opportunity to participate in the hearing by telephone. The panel will conduct the hearing(s) via appearance by sworn affidavit or if no sworn affidavit has been submitted, the panel will make a recommendation with the information, evidence and testimony available within the hearing.

g. If the property owner provides documents, photographs tables or other items with the sworn affidavit, those items should be clearly labeled and easy to follow.

h. A property owner may not offer evidence by telephone. Evidence includes facts and opinions. The owner may comment on evidence that is presented through a sworn affidavit or by GCAD. If a sworn affidavit is not submitted, the property owner will only be allowed to comment on GCAD evidence. Testimony will not be permitted.

i. The property owner is responsible for providing access to another person that the owner invites to participate in the hearing

j. If the panel determines that the property owner has wholly or partially forfeited the right to participate in a hearing by telephone, the panel will proceed to hear or dismiss the protest. The panel's decision will not be changed even if the property owner successfully contacts the ARB by telephone at a later time.

3. Conducting Hearings Closed to the Public [Tax Code Section 41.66(d), (d-1)]

The chief appraiser and the property owner must file a joint motion to request a closed

hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code Section 41.66(d) and (d-1). Only the parties to the protest, their witnesses and the ARB members are permitted to stay in the hearing room. The ARB must follow the same order of proceedings as for hearings open to the public.

The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with Comptroller Rule 9.803, generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code Section 22.27. The ARB must mark as "confidential" and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law.

After deliberation, the ARB must reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. The ARB and parties cannot mention of the proprietary or confidential information during the open meeting.

4. Right to Examine and Cross-examine Witnesses or Other Parties

Tax Code Section 41.66(b) states that "each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing." The ARB cannot prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross-examination. To the extent possible, the ARB should advise the parties in advance of any time limitations that the ARB intends to impose regarding the presentation of evidence. See time limits at the end of the packet.

5. Party's Right to Appear by an Agent

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property can file a protest if the property owner does not and to designate, under Tax Code Section 41.413, another person to act as his/her agent with the same authority and limitations as an agent designated under Tax Code Section I. III. The lessee must provide a copy of the lease or contract.

V. Evidence Considerations

[Tax Code Section 5.103(8), (11), and (13))

1. A Party's Right to Offer Evidence and Argument

The ARB cannot prohibit a party's right to offer evidence and argument but may enforce time limits and dictate the order of ARB hearings. To the extent possible, the ARB should advise the parties in advance of any time limitations the ARB intends to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument.

**2. Prohibition of Consideration of Information Not Provided at the ARB Hearing
[Tax Code Section 41.66(e)]**

In a protest hearing, the ARB cannot consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for the ARB to consider any appraisal district record (i.e., appraisal roll history, appraisal cards), one of the parties must present it as evidence (e.g. chief appraiser, appraisal district representative, property owner, agent or witness) at the protest hearing.

3. Exclusion of Evidence Required by Tax Code Section 41.67(d), (e)

If it is established during a protest hearing that the protesting party previously requested information under Tax Code Section 41.461 and that the opposing party did not deliver the information to the protesting party at least 14 days before the scheduled or postponed hearing, the opposing party cannot use or offer the requested information not made available in any form as evidence in the hearing. The ARB must exclude evidence under Tax Code Section 41.67(d) only if evidence presented at the hearing establishes that:

- 1) the information sought to be excluded as evidence was not delivered at least 14 days before the hearing; and
- 2) the information sought to be excluded as evidence was previously requested by the protesting party.

Tax Code Section 41.67(e) prohibits the chief appraiser from offering evidence at a hearing in support of a modification or denial of an exemption or application unless:

- 1) the chief appraiser provided the reasoning for the modification or denial to the property owner in writing no later than the 14th day before the hearing date; and
- 2) evidence establishes that the additional reason was not known by the chief appraiser at the time the chief appraiser delivered the original notice of modification or denial.

VI. Other Issues

[Tax Code Section 5.103(17))

I. Compliance with the Law, Integrity, and Impartiality

ARB members must comply with the law and always act in a manner that promotes public confidence in the integrity and impartiality of the ARB.

2. Patience and Courtesy

ARB members must be patient, dignified and courteous to parties appearing before the ARB.

3. Bias or Prejudice

ARB members must perform their ARB duties without bias or prejudice.

4. Confidential Information

ARB members must not disclose or use confidential information acquired in the performance of ARB duties for any purpose unrelated to ARB duties.

5. Required Contents that Vary by ARB

- a. GCARB will not accept evidence on USB flash drives, 120mm compact discs (CD), DVD, cell phones, smart phones, tablet computers, laptop computers, cameras, camcorders, websites, FTP sites, VHS/DVI tapes, Macintosh devices, floppy discs, SD memory cards. All evidence must be available and presented at scheduled hearing.**

. If you are scheduled for a hearing on a protest or motion that has property tax payment requirements:

Examples to include but not limited to: 25.25(c) Motions, 25.25(d) Motions, Sec. 41.411, Sec. 41.44(c)

Sec. 25.26. Forfeiture of Remedy for Nonpayment of Taxes

(a) The pendency of a motion filed under Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided by Subsection (d), a property owner who files a motion under Section 25.25 must pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the motion.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the motion by making the payment. If the property owner files a timely motion under Section 25.25, taxes paid on the property are considered paid under protest, even if paid before the motion is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a motion if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the board shall determine compliance with this section in the same manner and by the same procedure as provided by Section 41.4115(d) and may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.

Sec. 41.4115. Forfeiture of Remedy for Nonpayment of Taxes.

(a) The pendency of a protest under Section 41.411 does not affect the delinquency date for the taxes on the property subject to the protest. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b) and, for purposes of Subsection (b), that delinquency date is postponed to the 125th day after the date one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing under Section 41.44(c-3). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional

taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided in Subsection (d), a property owner who files a protest under Section 41.411 must pay the amount of taxes due on the portion of the taxable value of the property subject to the protest that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the protest.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the protest by making the payment. If the property owner files a timely protest under Section 41.411, taxes paid on the property are considered paid under protest, even if paid before the protest is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a protest if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the board shall hold a hearing to review and determine compliance with this section, and the reviewing board may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances. If the board determines that the property owner has not substantially complied with this section, the board shall dismiss the pending protest. If the board determines that the property owner has substantially but not fully complied with this section, the board shall dismiss the pending protest unless the property owner fully complies with the board's determination within 30 days of the determination.

If the GCARB hearing is held after the delinquency date, generally after January 31 of the year immediately following the protest year, proof of timely payment may be required.⁴ Taxes paid after delinquency generally do not satisfy the requirements of the Tax Code .

If your protest alleges the failure of the GCAD or the GCARB to deliver a notice

Be prepared to present your evidence concerning the notice. If the GCARB panel determines that a notice was not delivered, the panel will immediately hold a hearing(s) on the substantive issues raised in your protest, such as value, exemptions, etc. You should come prepared for hearings on those substantive issues. If the panel does not find a violation concerning the delivery of a notice, the panel will not consider the substantive issues.

¹ Sec. 41.45(e) of the Texas Property Tax Code, states: "(e) On request made to the appraisal review board before the date of the hearing, a property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing is entitled to **one postponement** of the hearing to a later date without showing cause. In addition and without limitation as to the number of postponements, the board shall postpone the hearing to a later date if the property owner or the owner's agent at any time shows good cause for the postponement or if the chief appraiser consents to the postponement. The hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought unless the date and time of the hearing as postponed are agreed to by the chairman of the appraisal review board or the chairman's representative, the property owner, and the chief

appraiser. A request by a property owner for a postponement under this subsection may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the appraisal review board, a panel of the board, or the chairman of the board. The chairman or the chairman's representative may take action on a postponement under this subsection without the necessity of action by the full board if the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the board. The granting by the appraisal review board, the chairman, or the chairman's representative of a postponement under this subsection does not require the delivery of additional written notice to the property owner.

2 If you are unable to attend the hearing, the law allows you to submit your evidence in the form of a sworn affidavit delivered to GCARB, before the hearing. * A sworn affidavit, testimony and evidence must be received before the hearing**

An affidavit must be signed under oath before a Notary Public other person authorized to administer oaths. You must state in the sworn affidavit that either: 1) you do not intend to appear at the hearing; or 2) that you intend to appear at the hearing in person and that the sworn affidavit may be used only if you do not appear at the hearing in person. If you state, you intend to appear at the hearing, in the sworn affidavit, GCARB may consider the sworn affidavit only if you do not appear at the hearing in person. If you do not state in the sworn affidavit whether you intend to appear at the hearing, GCARB shall consider the submission of the sworn affidavit as an indication that you do not intend to appear at the hearing. GCARB is not required to hold the hearing at the scheduled time and may consider the sworn affidavit at a hearing designated for the specific purpose of processing affidavits. For your hearing, submit the original sworn affidavit containing all evidence, photos, arguments, exhibits and attachments to support your opinion of value, along with (6) sets of exact copies of said documents, to assist in giving the GCARB three-member panel and the GCAD appraiser adequate time to review each document, even if you have previously submitted the evidence. Evidence should be on 8.5' x 11" single sided paper.

Sworn affidavits, testimony and evidence can be delivered in person, by mail or common, contract carrier.

- If delivered by mail, deliver to: GCARB•P.O. Box 867 Gonzales, Texas 78629-0519
- If delivered in person, common or contract carrier: deliver to: GCARB•301 Saint Joseph Street Suite A, Gonzales, Texas 78629

o To help facilitate accurate processing, **ATTENTION-ARB HEARING AFFIDAVIT** should be prominently displayed on the outside of the envelope.

o To allow time for processing, it is recommended the sworn affidavit and evidence should be **received at least five (5) business days** prior to scheduled hearing.

o **Sworn affidavits, testimony and evidence are accepted via fax or email.**

Email: gonzcad@gvec.net fax: 830-672-8345

o To allow time for processing, it is recommended the sworn affidavit, testimony and evidence be received at least five (5) business days prior to scheduled hearing.

3 A property owner may have another person appear at the hearing as the owner's agent, but the GCARB needs to know the person is properly authorized. In most instances, a property owner must designate an agent in writing using either the Comptroller's form 50-162 or the Appointment of Non-Agent representation form. Formats other than form 50-162 are generally not acceptable authorization. The Comptroller's forms are available online at <https://comptroller.texas.gov/forms/50-162.pdf>. The Non-Agent form is available at the GCAD office or online at gonzalescad.org/forms. The form must be signed by the owner and must be filed at or before the hearing. This is particularly true when an agent is a professional tax consultant, or other person not shown as an owner on the property's deed (including the owner's spouse). If the agent is an owner or authorized employee of the property owner's business or the owner's attorney licensed to practice in Texas, the GCARB may accept other evidence of the agent's authority. Failure to provide authorization at the time of the hearing will result in the dismissal of the case.

4 Sec. 31.02. Delinquency Date.

(a) Except as provided by Subsection (b) of this section and by Sections 31.03 and 31.04 of this code, taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed. (See Chapter 31 of the current Texas Property Tax Code for other information that may pertain to your situation or you have the right to consult with a lawyer or property tax consultant for assistance or information regarding other laws that may affect your specific situation.)

Texas Property Tax Code is available at <https://comptroller.texas.gov/taxes/property-tax/legal-resource.php>

Attention, non-english speaking property owners and representatives: GCARB does not provide interpreters. It is your responsibility to provide an interpreter if you require one.

Attention, hearing impaired needing a sign language interpreter: GCARB does not provide interpreters. It is your responsibility to provide an interpreter if you require one.

The Comptroller's pamphlet and GCARB's hearing procedures are enclosed with the Notice of Protest Hearing. **GCARB does not provide GCAD evidence, 41.461(a)(2) materials.** To get that information for your property from GCAD, go to <http://www.gonzalescad.org> to create an account or sign in to your existing account. **You may also ask GCAD to provide the evidence, 41.461(a)(2) materials, by regular first-class mail or in person at GCAD Customer Service counter.**

IMPORTANT INFORMATION REGARDING YOUR UPCOMING HEARING

PRIOR TO SCHEDULED HEARING DATE

A. EVALUATE NEED FOR A HEARING:

If you decide a protest on your account is no longer necessary and you have not received, signed and returned, a Settlement and Waiver of Protest form from GCAD, your protest can be closed by selecting one of the two methods below.

1. Send an email to: gonzcad@gvec.net

- Place account number in the subject line
- State request in body of email
- Submit email five (5) business days prior to scheduled hearing to allow for processing

B. SELECT METHOD OF DELIVERY OF EVIDENCE:

Keep copies of all documents and use delivery method that confirms GCARB receipt.

Regardless of submittal method, evidence must be in the possession of the GCARB to be considered at the scheduled hearing.

1. **PAPER** - if not appearing in person at the hearing, and want to submit required documents via paper, your packet must contain a sworn affidavit.

o Not accepted via fax or email.

o Submit paper evidence and or sworn affidavit via **drop box** at least **five (5)** business days prior to scheduled hearing date, to allow for quarantine and processing.

lii Paper evidence can be placed in drop box at:

GCARB-HEARING EVIDENCE

301 Saint Joseph Street Suite A

Gonzales, Texas 78629

Evidence envelope should be clearly labeled with:

lii Account number

lii Name

lii Telephone number

o GCARB suggests **mailing** paper sworn affidavit, testimony and evidence at least **five (5)** business days prior to scheduled hearing date, to allow for quarantine and processing.

Paper evidence can be mailed to:

GCARB-Hearing Evidence

P.O. Box 867

Gonzales, Texas 78629

3. IN PERSON

o If appearing in person for your hearing, bring original and six (6) copies of evidence, three (3) copies of any photos to be presented

Masks are not required but can be worn.

Thoughts• Testimony• And any handouts you may have to distribute.

The GCARB will:

Allow the Property Owner/Agent to present their evidence first or allow the Appraisal District to go first.

They will ask clarifying questions/deliberate/determine a recommended value.

You will receive a copy of the recommendation before you leave today.

Wait time could be up to two hours from scheduled hearing time.

Pursuant to Texas Tax Code section 41.71:

- a) An appraisal review board by rule shall provide for hearings on protests on a Saturday or after 5 p.m. on a weekday.
- b) The board may not schedule:
 - the first hearing on a protest held on a weekday evening to begin after 7 p.m.; or hearing on a protest on a Sunday.
- c) GCARB will schedule evening hearings on Wednesday June 26,2024 from 5:00 pm to 7:00 pm
- d) Saturday hearings will be July 13, 2024 from 9:30 A.M. to 4:30 P.M.
- e) These hearings must be requested on the protest form and will be scheduled on a first come first serve basis.
- f) If a property owner or agent misses their evening or Saturday hearing, there will be no hearing on an evening or Saturday.