

**MADISON COUNTY, OHIO
BOARD OF REVISION
RULES OF PROCEDURE**

Adopted: February 3, 2004

Revised:

This Madison County Board of Revision hereby enacts the following as its Rules of Procedure governing conduct of matters before the board, pursuant to Ohio Revised Code section 5715.02, et seq.

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1.01 ORGANIZATION

(A) The Madison County Board of Revision (hereafter “Board”) shall be considered open each day from the organizational meeting until December 31 of that same year. The principal office of the Board shall be c/o the Madison County Auditor, 1 N. Main Street, London, Ohio 43140-0047, and shall be open for business from 8 A.M. to 4 P.M. except for Saturdays, Sundays, legal holidays, and days the Madison County Board of Commissioners chooses to close the County Buildings. All submissions to the Board shall be to the address referred to in this section.

(B) The County Auditor, as secretary of the Board, shall call the Board together as often as necessary during any year. Hearings of the Board shall be at times designated by the Auditor or the Board. All sessions and hearings shall be open to the public, unless the Board is meeting to discuss executive session items provided for in Ohio Revised Code section 121.22, and shall stand and be adjourned without further notice thereof on its records.

(C) Decisions of the Board shall be retained as public records, and the vote of the Board, if not unanimous, shall be indicated thereon. Any Board member may issue a written dissent to be filed with the decision, but is not required to do so.

1.02 APPEARANCE AND PRACTICE BEFORE THE BOARD

(A) Any person owning taxable real property in the county or in a taxing district with territory in the county; such a person's spouse; an individual who is retained by such a person and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763 of the Revised Code, or a real estate broker licensed under Chapter 4735 of the Revised Code, who is retained by such a person; if the person is a firm, company, association, partnership, limited liability company, or corporation, an officer, a salaried employee, a partner, or a member of that person; if the person is a trust, a trustee of the trust; the board of county commissioners; the prosecuting attorney or treasurer of the county; the board of township trustees of any township with territory within the county; the board of education of any school district with any territory in the county; or the mayor or legislative authority of any municipal corporation with any territory in the county may file such a complaint regarding any such determination affecting any real property in the county, except that a person owning taxable real property in another county may file such a complaint only with regard to any such determination affecting real property in the county that is located in the same taxing district as that person's real property is located. (Ohio Revised Code, Section 5715.19)

(B) Each party not representing himself shall be represented by an attorney at law authorized to practice law before the courts of the State of Ohio.

(C) At the time of hearing before the Board, if neither the party, a representative identified under Section 1.02 (A), or an attorney provided for under Section 1.02 (B) appears to argue the matter, the case may be dismissed by the Board, without further notice, unless good cause can be shown to the Board, pursuant to Section 2.04. The Board, in its sole discretion, shall make the determination as to what constitutes good cause.

(D) Attorneys representing parties will not be permitted to testify or appear in any capacity other than that as counsel.

(E) No person who has an interest in the case in the form of a contingent fee or other form of compensation, directly or indirectly based upon the outcome of the case, shall be permitted to give appraisal evidence or offer opinions to the Board. All agents or other representatives presenting evidence to the Board shall have a copy of their contract with the owner with them at the time they appear before the Board and shall submit the same to the Board as a part of the evidence of the case.

(F) The Board 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 capable of being questioned by the Board.

1.03 ENTRY OF APPEARANCE AND CHANGE OF ADDRESS

(A) Entries of appearance by counsel in any matter shall be in writing.

(B) Any change of address of a party or counsel of record must be in writing, filed with the Board, and be clearly designated as a change of address. Failure to file a change of address will result in the Board sending all notices to the address listed on the original filing.

1.04 COMPLAINT

(A) A complaint shall be filed within the time and manner prescribed by law. Where the complaint is filed by a taxing district, it shall be in the name of said district and the required paperwork shall be executed by an individual duly authorized by the governing body thereof, or by the attorney for said taxing district.

(B) The complaint form prescribed by the State of Ohio Tax Commissioner shall be **fully** completed, signed by the complaining party, or other person provided for under these Rules, notarized, and filed with the Board in care of the Madison County Auditor's Office. An incomplete form may be dismissed for lack of jurisdiction.

1.05 SERVICE

(A) Unless otherwise allowed by the Board, all motions, briefs, papers, and other documents filed with the Board subsequent to the filing of the complaint shall be served on all parties by the date of filing.

(B) Said motions, briefs, papers, and other documents shall contain a certificate of service indicating that the required service has been made, the manner of service, and the names and addresses of the parties or attorneys upon whom service has been made.

(C) Said motions, briefs, papers, and other documents shall be signed by the party, representative provided for in these Rules, or attorney, and shall comply with Ohio Rule of Civil Procedure No. 11.

(D) Service upon an attorney, party, or other representative provided for under these Rules, shall be made by delivering or mailing a copy to the last known address of that person. Service by mail is considered complete upon mailing.

1.06 CONSOLIDATIONS

(A) When complaints involving: (1) common questions of law or fact, (2) contiguous parcels owned by the same party (where allowed) are pending, the Board, upon timely application of any party showing good cause therefore, or upon its own motion, may order the complaints consolidated for hearing and other appropriate purposes, and may make such order governing the proceedings as may be required.

1.07 RECORDING OF HEARING AND MINUTES

(A) The Board may also record its minutes in a reasonable manner, and reduce such format to typewritten form. This record shall be kept by the Board, as required by law, and shall be considered a public record.

(B) The Board shall also tape record each hearing of any matter before the Board and retain such tape for a time period required by law, sufficient to ensure that a transcript may be made in the event of appeal.

(C) Any party to a complaint may request the presence of a court reporter at any hearing before the Board. The requesting party shall make such a request, in writing, and shall be responsible for providing such court reporter, paying the fees of the court reporter to appear. The Board may, without any notice to the parties, and without written order, provide for a court reporter to appear and transcribe any particular hearing, but is not required to do so.

1.08 MOTIONS

(A) Unless made at a hearing or otherwise ordered, any request to the Board shall be by written motion and shall be accompanied by a memorandum in support stating with particularity the grounds for such motion and citations of authority relied upon. Said memorandums shall not exceed ten pages unless the Board allows otherwise. Except for good cause shown, motions shall be filed within a reasonable period of time so as to permit the opposing party, if any, to respond, and the Board to respond thereto in the Board's orderly course of business. Said motion must be filed no less than fifteen days prior to the scheduled hearing of the matter, unless the Board allows otherwise, upon written application.

(B) Any party may file an opposing memorandum with seven days after service of the original motion, or such other period as the Board may allow.

(C) Reply memorandums will not be permitted, unless the Board allows otherwise.

1.09 CALLING OF WITNESSES

(A) The Board may call witnesses before it and examine them, under oath, as to their own, or another's, real property or the value thereof.

(B) If a person notified to appear before the Board refuses or neglects to appear before said Board at the stated place and time, or refuses to be sworn or answer any question put to him by the Board or its order, the chairman or the Board may make a complaint, in writing, to the Probate Judge of Madison County, who shall proceed against such person in the same manner as provided for by law (O.R.C. 5715.10). Further, the Board may impose other sanctions, as to parties to the matter, as it deems just and equitable, after considering the relation of the witness to a party.

(C) A party 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 qualifications, no less than five days prior to the date of the scheduled hearing. In the event an appraiser will testify, a copy of the appraisal shall suffice to meet the requirements of this paragraph. A copy of the expert report or appraisal shall also be served upon other parties to the matter.

(D) Any witness who will be giving an expert opinion on a subject must be qualified as an expert, pursuant to Ohio Rules of Evidence Nos. 702 and 703. An appraiser shall be considered an expert witness. Parties not qualifying as experts to the Board's satisfaction, in its position as trier of fact, shall be excluded from testifying, to the extent that their proposed testimony relates to the giving of an expert opinion. A party shall be considered competent to testify as to the value of this own property, and need not qualify as an expert. 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 certain properties were transferred on a certain date for a certain price can be submitted to the Board in the form of Recorder-certified copies of transfer deeds or through any other acceptable form of evidence contemplated under Ohio's Rules of Evidence, but the Board will not consider them as comparable sales without expert opinion testimony indicating that they are comparable.

1.10 SANCTIONS

(A) Failure to comply with these Rules or an order of the Board may result in any of the following sanctions:

1. dismissal of the complaint;
2. prohibition against introducing designated matters into the record;
3. prohibition against introducing expert opinion and testimony into the record;
4. denial or suspension of the right of any person to appear or practice before the Board;
5. any other action the board, by law, is authorized to take.

(B) The Board may impose sanctions to enforce compliance with these Rules and orders as the Board deems just and appropriate after the opportunity for hearing. The repetitious nature of the disobedient party or advising attorney will be considered in determining the appropriate sanction to be imposed.

2.01 HEARINGS

(A) The Board's secretary, the County Auditor, shall schedule each complaint for hearing and written notice shall be given to all parties, according to law, of the time and place for the hearing. Hearings may be continued, for good cause shown, or upon the Board's own motion. Requests for continuances shall be in writing, delivered to the Board or Auditor, at least seven days prior to the scheduled hearing.

(B) All hearings shall be open to the public.

2.02 BRIEFS

(A) At any time, prior to the issuance of a final decision upon a complaint, the Board may require briefs from the parties as to some or all of the issues before them. Briefs must be typewritten, with adequate margins, legible, with a statement of facts, recitation of issues, argument and citation to authority, conclusion, and attached appendix of all statutes, rules, ordinances, constitutional provisions, administrative code provisions, and documents which were allowed into evidence by the Board or required to be provided to the Board, pursuant to Section 2.06 (A). Briefs shall be filed within the time period required by the Board. If any party fails to submit a proper brief within the time limit, the Board may exclude the brief from its consideration.

(B) Two complete and accurately conformed copies of each brief shall be filed with the signed original.

(C) Briefs shall be signed in accordance with Ohio Rule of Civil Procedure No. 11.

(D) Non-conforming briefs may be stricken by the Board, upon its own motion, or upon the motion of a party, and not considered in its decision.

2.03 VOLUNTARY DISMISSAL

(A) Complainant may voluntarily dismiss a complaint by filing a written notice of dismissal at any time prior to the commencement of the scheduled hearing. The notice of dismissal is with prejudice. The Board shall notify all parties that the complaint has been dismissed. In the event the dismissal will prejudice another party to the suit, the Board may, for good cause shown, deny the dismissal and require the matter go forward.

2.04 DISMISSAL FOR FAILURE TO PROSECUTE

(A) Except for good cause shown, the Board may, on request by a party or on its own motion, journalize an order dismissing the complaint when the complainant or other party authorized under these Rules fails to appear at a duly scheduled hearing. Good cause may be shown to the Board after the dismissal, if a written motion is filed within ten days after the dismissal.

2.05 DISMISSAL FOR LACK OF JURISDICTION

(A) Any complaint form on which question number 8 is not completely completed shall be dismissed for lack of jurisdiction as required by Ohio Revised Code Section 5715.19(D): “* * * Each complaint shall state the amount of overvaluation, undervaluation, discriminatory valuation, illegal valuation, or incorrect classification or determination upon which the complaint is based.* * *”. *Wright v. Franklin Cty. Bd. Of Revision* (March 18, 1999), B.T.A. No. 98-A-859, unreported.

2.06 FEES

(A) Any person requesting copies from the Board shall be provided such copies as not prohibited from disclosure by law, after the payment of copying costs, with cost, per page, shall be set by the Board or the Auditor.

2.07 FURTHER DOCUMENTATION

(A) At a hearing, the Board may require any party to submit to the Board copies of documents it requests in order to make a decision on a matter. The hearing shall be continued until such time as the documents are provided, or the time for providing such documents has lapsed, whichever is sooner. Unless the Board provides otherwise, all documents required shall be provided to the Board within ten days of the hearing. Failure to provide documentation will result in the imposition of sanctions provided for in Section 1.10 (A).

(B) The time for rendering a decision shall run from the date the additional documents are provided, or from the date they should have been provided, whichever is sooner.

2.08 NUMBER OF FILINGS

(A) Only one complaint may be filed against the valuation of any parcel during each triennial or sexennial update period, as provided for by law, subject to statutory exceptions. In such event more than one complaint is filed during the three-year period, the Board shall dismiss the complaint for lack of jurisdiction.

2.09 WAIVER OF RULES

(A) In the interest of justice, for good cause shown or upon its own motion, the Board may waive any rule in a particular case.