

# SHELBY COUNTY BOARD OF REVISION

## RULES OF PROCEDURE

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

### I. NOTICE

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

### II. HEARING NOTICES AND RESCHEDULES

- A. The County Auditor, as Secretary of the Board of Revision, shall schedule complaints for hearing.
- B. A written notice stating the date, time, and place of the hearing shall be sent by certified mail to all parties of the complaint (if address is known) not less than 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 of Revision shall grant one (1) request for a reschedule of the hearing date from the original complainant and the counter-complainant. This request for reschedule shall be in writing (include telephone number), either mailed to, or faxed to the County Auditor so it arrives in the County Auditor's office at least five (5) days prior to the scheduled hearing date.
- E. The Board of Revision shall consider additional requests for reschedule of the hearing date from the original complainant and counter-complainant. These further requests must be based upon merit. The Board of Revision shall consider the facts of each situation and render a decision as quickly as possible. In case of serious illness the Board of Revision shall reschedule another hearing date provided reasonable notice is given.
- F. The party requesting the reschedule shall notify all parties affected by the request, and all parties and their attorneys shall mutually agree upon the reschedule request before the request shall be granted.
- G. All hearings shall be open to the public.
- H. Failure to appear before the Board of Revision at the scheduled hearing time and date shall constitute failure to prosecute and is grounds for dismissal of the party's complaint.

### III. APPEARANCE BEFORE THE BOARD OF REVISION

- A. Any person who is a party to the complaint may appear.
- B. Attorneys representing a party to the complaint shall not be permitted to testify or appear in any capacity other than that of counsel. The owner of the property, or an appropriate expert witness, is required to be present in order for testimony to be given.

#### IV. WITNESSES AND TESTIMONY

- A. The Board of Revision may call persons before it and examine them under oath as to their own or another's real property to be placed on the tax list and duplicate for taxation, or the value thereof. [ORC 5715.10]
- B. If a person notified to appear before the Board of Revision refuses, or neglects to appear at the time required, or appearing refuses to be sworn or answer any question put to him/her by the Board or by its order, the Board of Revision shall make a complaint thereof in writing to the probate judge of the county. [ORC 5715.10]
- C. Any witness, who shall be giving expert testimony on the complaint, must be qualified as an expert [Ohio Rules of Evidence #702 and #703].
- D. Testimony as to comparable properties, their values, and recent sales values shall be considered expert testimony, and may only be presented by expert witnesses properly qualified as provided herein. Mere testimony that a certain property was transferred on a certain date for a certain price may be submitted to the Board of Revision in the form of certified copies of transfer deeds, or through any other acceptable form of evidence contemplated under Ohio Rules of Evidence. However, the Board of Revision shall not consider them as comparable sales without expert opinion testimony indicating how they are comparable.
- E. A complainant 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.

#### V. HEARSAY EVIDENCE

- A. Hearsay evidence is a statement by one person as to what another person says or thinks. Any testimony must be relative and drawn from a person with actual and personal knowledge of these matters in order to present this evidence before the Board of Revision.
- B. The Board of Revision shall not accept hearsay evidence in the form of documents or oral testimony concerning:
  - 1. the terms and conditions of a sale or the motives of the parties to the sale
  - 2. the owner's opinion of the value of the property offered by someone other than the owner
  - 3. financial data
  - 4. the condition or operations of the property

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

- A. A party to the complaint intending to introduce evidence involving expert opinion shall file with the Board of Revision a summary of that opinion and a summary of the expert's qualifications at least five (5) days prior to the time of the hearing on the complaint.
- B. If an appraiser will testify, a copy of the appraisal shall be filed at least five (5) days prior to the time of the hearing. A copy of the appraisal shall be served upon other parties to the complaint at least five (5) days prior to the time of the hearing.
- C. For income-producing, commercial or industrial property the Board of Revision requests the following information shall be submitted to the Board of Revision.
  - 1. Physical data
    - a) A description of the improvements to the property, including age, construction, size, mechanical equipment, use and functional adequacy.
    - b) Any changes in the condition of the property occurring or completed within the last three (3) years (such as new construction) together with the actual cost of any new improvements and the date completed.

2. Rental property
    - a) Provide a financial statement detailing all income, actual operating expenses, fixed expenses, replacement reserves, and rental losses due to vacancy and uncollectable accounts for the tax year in question and for the prior three (3) years or back to the last transfer of ownership, if transferred within the past three (3) years.
    - b) Give the identity and description (include size and type) of each rental unit.
    - c) Provide the current rent roll showing potential rent.
    - d) Provide the lease or rental date for each tenant and the lease terms, options, base rent plus provisions for additional rent or service charges, etc.
    - e) List all other income, such as parking, laundry, etc.
  3. Other information
    - a) Provide current zoning status of property.
    - b) Provide a sketch, map and floor plan of the buildings (not required for apartments).
- D. The Board of Revision may request additional information at the hearing or by written notice.
- E. The complainant shall provide the Board of Revision all information or evidence within his/her knowledge or possession that affects the real property in question [ORC 5715.19]. Evidence and/or information not presented to the Board of Revision cannot later be presented on any appeal, unless good cause is shown for the failure to present such information to the Board of Revision.

#### VII. INDEPENDENT OR APPRAISER EXPERTS

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

#### VIII. EVIDENCE OF VALUATION

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

#### IX. RECORD

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

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

X. COMMON GROUNDS FOR DISMISSAL

- A. A complaint for the current tax year shall be filed with the County Auditor on or before the thirty-first (31st) day of March of the ensuing tax year [ORC 5715.19 (A)(1)].
- B. ORC 5715.19 (A)(2) states, "No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:
  - 1. The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;
  - 2. The property lost value due to some casualty;
  - 3. Substantial improvement was added to the property;
  - 4. An increase or decrease of at least 15% in the property's occupancy has had a substantial economic impact of the property."
- C. Failure to complete or show value information for board of education notice in Section 8 on DTE Form 1 [Supreme Court case Cleveland Electric Illumination Company v. Lake County Board of Revision].
- D. Any complainant party not providing information deemed to be competent and relevant which is requested by the Board of Revision [ORC 5715.19 (G)].
- E. The complaint form (DTE Form 1) requires a signature. Anyone with interest in the property can sign such as owner, trustee, POA, general partner, corporate officer, attorney, etc. However, the following cannot sign: tax agents, tax reps, accountants, appraisers, real estate agents, brokers, etc. [Ohio Supreme Court case Sharon Village Limited v. Licking County Board of Revision (1997), 78 Ohio St. 3d 478, and Worthington City School District Board of Education v. Franklin County Board of Revision (1999), 85 Ohio St. 3d 156, and the decision of the Court of Appeals for the Eighth Judicial District in C.R. Truman, L.P. v. Cuyahoga County Board of Revision (July 27, 2000), Cuyahoga App. No. 76713, unreported, discretionary appeal denied April 11, 2001 and Dayton Supply & Tool Co., Inc. v. Montgomery County Board of Revision, 111 Ohio St.3d 367, 2006-Ohio-5852]