

PROCEDURAL GUIDELINES FOR CONDUCTING A BOARD OF EQUALIZATION HEARING

- I. Call to Order
- II. Roll Call
- III. Assessor-Recommended Assessment Revisions (if not yet voted)
- IV. Suggested introduction before hearing cases
 - A. Review informal hearing procedure for appeal and request to late-file appeal
 1. Order of presentations for Appeal:¹ Appellant, then Assessor
 2. Time for each side (including BOE questions during presentation) is ___ min.
 3. After presentations, BOE member makes motion to DENY, which motion is restated by Chair
 4. BOE debates/deliberates on the motion to DENY
 5. BOE votes/takes action on motion to DENY
 6. Chair announces whether motion to DENY carries/fails, and if carried:
 - a. Request to Late-File: that the request is denied and a late-file appeal will not be heard;
 - b. Appeal: that the appeal is denied and the original assessment is unaltered.
 7. If the motion to DENY failed, BOE member makes motion to GRANT, which motion is restated by Chair
 8. BOE debates/deliberates on the motion to GRANT
 9. BOE votes/takes action on motion to GRANT
 10. Chair announces whether motion to GRANT carries/fails, if carried:
 - a. Request to Late-File: that the request is granted and when the appeal will be heard (hearing date can be set or scheduled later by city clerk);
 - b. Appeal: that the appeal is granted and the revised valuation amount.
 - B. Review controlling legal standards that apply to all BOE cases
 1. Appellant has burden of proof in all cases
 2. To accept a late-filed appeal, BOE must find that:

Taxpayer was unable to comply with filing deadline. (ie, disability or other situation beyond taxpayer's control)
 3. To grant an appeal on the merits, BOE must find that:

Taxpayer proves unequal, excessive, improper, or under valuation based on facts stated in written appeal as proven at hearing.

¹ The BOE reviews a request to late-file an appeal solely on the written request. A taxpayer may not make an oral presentation at this hearing. DMC 4.15.125(G)(1).

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4. The appellant has the right to appeal a decision to the Superior Court within 30 days.
- V. Consideration of Requests to Late-File an Appeal
- VI. Conduct Appeal Hearings
- VII. Adjournment

SAMPLE/MODEL MOTION LANGUAGE

Motions and voting related to granting and denying appeals/requests can become confusing. Depending upon the form of the motion, a NO vote could be in favor of or against granting the appeal. The best way to establish a clear record is, at the end of presentations, for a member to motion to DENY the appeal/request *regardless* of whether the member supports the motion or believes the BOE will deny the appeal/request. The BOE, as deliberation on the motion to DENY, proceeds to discuss the merits of the appeal/request. At the conclusion of deliberation, the question should be called on the motion to DENY and a vote taken.

If the motion to DENY the appeal/request does not carry, a motion to GRANT the appeal/request should be made. Often, deliberation on the motion to GRANT is unnecessary because the substance was already discussed in response to the motion to deny. On the other hand, if the BOE has gotten to this point the request/appeal will presumably be granted. So this may be a good opportunity to discuss a revised valuation on an assessment appeal because, at this point, the appeal will presumably be granted and a revised valuation issued.

This procedure avoids confusion and ensures a clear record. If for some reason neither motion carries, the appeal/request is considered denied.

ASSESSOR-RECOMMENDED REVISIONS

DMC 4.15.125(D) allows the assessor to work with a taxpayer to resolve an appeal before the BOE hearing. The assessor is to submit a memo that identifies all assessments where the assessor has agreed with the taxpayer that the valuation should be revised and the revised amount. The BOE is supposed to review this memo and approve or deny the recommended revisions at an organizational meeting held before the appeal hearing meeting. But this does not always happen; sometimes this matter is considered at the appeal hearing meeting.

The BOE usually agrees with the assessor's recommendations, but it is not required to. A motion should be made to accept the revised valuation for any (or all) property where the BOE agrees with the assessor's revision. This motion can be done in one "batch" motion rather than an individual motion for each property. The following is appropriate motion language for adopting all, some, or none of the assessor's revised recommendations.

- *I move that the Board DENY all valuation revisions set forth in the assessor's memorandum and ask for a YES vote DENYING these revisions.*
- *I move that the Board GRANT ALL valuation revisions set forth in the assessor's memorandum and ask for a YES vote granting the revisions for the reasons given in the assessor's memorandum.*
- *I move that the Board GRANT the valuation revisions set forth in the assessor's memorandum as to the following properties: [recite tax ID numbers for granted*

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revisions]. I ask for a YES vote granting the revisions for the reasons given in the assessor's memorandum as to each granted revision.

REQUESTS TO LATE-FILE AN APPEAL

The question for the BOE to answer is if the taxpayer has sufficiently shown that he or she was unable to comply with the deadline for filing an appeal. If the board grants the request, it is allowing the taxpayer to present the appeal despite missing the appeal deadline.

The BOE reviews a request to late-file an appeal solely on the written request. A taxpayer may not make an oral presentation at this hearing. Information or argument regarding the valuation of the underlying property should not be considered.

- *I move that the Board DENY the taxpayer's request to accept the late-filed appeal and ask for a YES vote DENYING the request because the taxpayer has not shown that he/she was unable to file an appeal before the deadline.*
- *I move that the Board GRANT the taxpayer's request to accept the late-filed appeal and ask for a YES vote GRANTING the request for the reasons provided by the appellant;*

Only if the BOE grants the request to accept a late-filed appeal should consider the merits of the appeal. The appeal hearing could be conducted at the same meeting if the clerk gave the appellant notice that it will occur at the same meeting if the request to late-file is granted. Otherwise a date for the appeal hearing should be set.

APPEALS HEARD ON THE MERITS

A taxpayer may appeal the assessor's assessment of the property on the basis that the original valuation was unequal, excessive, improper or (rarely) undervalued. The taxpayer has the burden to show that the original assessment is improper. The first question the BOE members must determine is if they believe the taxpayer has shown that it is more likely than not that the original assessment is improper. This determination does not require a vote, but if the individual members are not persuaded that the original assessment is improper, the assessor's assessment stands and the BOE need not consider a different amount. The BOE could defer all discussion of a revised amount until after a vote on the motion to DENY. If the motion to DENY carries, discussion of a revised valuation is unnecessary.

If and only if the taxpayer has shown that the original valuation is improper should the BOE consider the "correct" valuation. The BOE does not need to accept the taxpayer's recommended amount. The BOE may grant the appeal and determine that neither the assessor's nor the taxpayer's valuation is correct. If the BOE grants the appeal, it must state the true valuation, whether that requested by the appellant or some other amount.

- *I move that the Board DENY the appeal and that the original assessment stands. I ask for a YES vote DENYING the appeal because the appellant failed to show that the original assessment was improper/for the reasons given by the assessor/ for the following reasons:*
- *I move that the Board GRANT the appeal and I ask for a YES vote GRANTING the appeal and valuing the property at \$_____ for the following reasons/ the reasons provided by the appellant.*

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