

APPEAL PROCEDURES, RULES and REGULATIONS

BOARD OF ASSESSMENT APPEALS OF CLEARFIELD COUNTY

A. GENERAL RULES

Rule

- 1) **TIME for FILING:** All annual appeals from the assessment of real estate must be properly filed with the Board of Assessment Appeals no later than 4:00 PM, prevailing time, **September 1st** of each year (Should this fall on a weekend/holiday, advance to the next business day.). Any appeal notice received after the filing date, whether or not the same was mailed prior thereto, will be rejected as untimely filed.

All assessment appeals filed from a new assessment or revisions of assessment during the course of any particular year must be received within forty (40) days of the date of the assessment notice. Change of Assessment notice appeals will be scheduled as needed.

- 2) **PLACE for FILING:** An appeal notice from the assessment of real estate shall be filed with the Assessment Office of Clearfield County, 230 E Market Street, Suite 117, Clearfield, Pennsylvania 16830. Appeals may be filed by mail subject to the limitations set forth in Rule 1. Appeals may also be filed in person at the Clearfield County Assessment Office, Monday thru Friday, between the hours of 8:30 AM and 4:00 PM. An Appeal is considered filed when received at the Clearfield County Assessment Office.
- 3) **FILING and SIGNING ASSESSMENT APPEALS:** Appeals must be filed using an approved appeal form available at the Assessment Office (Declaration of Intention to Appeal), which shall be executed by the owner(s) of the property, an authorized representative of the owner(s), or a lessee responsible for payment of real estate taxes ("Appellant"). Where the owner is a corporation, the assessment appeal shall be executed by an officer of said corporation stating the title of such officer, or by a duly authorized employee of the corporation, accompanied by verified certification that he or she is authorized to act on behalf of the corporation. Where a partnership is the owner, a partner shall execute the assessment appeal. Where a lessee is the appellant, lessee shall submit a copy of the lease(s) showing their status.
- 4) **AUTHORIZED REPRESENTATIVE: Appearance At Hearing:** The Appellant must appear at the appeal hearing before the Board. Where an authorized representative attends the hearing in lieu of the appellant, the representative shall produce a notarized Power of Attorney executed by the appellant, verifying the representative's authority to appear in order to avoid abandonment of the appeal. Such authorization shall be submitted to the Board before a hearing date will be scheduled. Failure to submit written authorization may result in rejection of the appeal filing.

Where the appellant is represented by legal counsel, or by some other authorized representative, the name, address, and telephone number of such counsel or representative shall be provided and, thereafter, all notices shall be sent to such counsel or representative or as directed on the appeal filing.

B. APPEAL HEARING

- 5) **NOTICE of HEARING:** Notice of the date and time of the hearing shall be deposited in the mail twenty (20) days prior to the scheduled day and time to appear. A third-party notice will be sent to said appellant's attorney of record or to an authorized representative only upon written instruction by the appellant. The notice shall be deemed received when mailed to the address(es) set forth in the appellant's appeal.
- 6) **POSTPONEMENT of HEARING:** All requests for a postponement of a hearing shall be in writing and shall be filed with the Board at least five (5) days prior to the date set for the hearing and shall set forth the grounds relied upon in support thereof.

Any emergency request thereafter may be considered by the Board only under extraordinary circumstances.

The Board conducting the hearing shall have the right to continue the said hearing from day to day, or to adjourn it to a later date, or to a different place, by announcement thereof at the hearing or by other appropriate notice.

- 7) **FAILURE to APPEAR at HEARING:** Failure of the appellant to appear at the hearing, after due notice thereof, shall be considered an ABANDONMENT of the appeal and shall be grounds for dismissal.
- 8) **OATH:** An oath shall be administered to all appellants and witnesses who wish to testify before the Board.
- 9) **PROCEDURE at HEARING:** According to the Assessment statutes applicable to Clearfield County, the Board of Assessment Appeals is to hear and determine appeals of assessments made by the County Assessment Office. The hearing will begin with a representative of the Assessment Office presenting the official assessment and location of the property. Under the law of Pennsylvania, this official assessment is to be considered by the Board as *prima facie* valid. The burden of proof then automatically shifts to the appellant. The appellant must then present his or her case to the Board. More specifically, the appellant must present sufficient admissible evidence to rebut the *prima facie* validity of the assessment. This does not mean the appellant can present anything he or she wishes (See Rule 11). The appellant must present testimony and/or documentary evidence to meet this burden. All evidence presented is subject to cross-examination by the Board or by any other parties to the proceeding (e.g. School District, Municipality). The Assessment Office may, at its option, offer additional testimony and/or evidence beyond the assessment record. Such testimony and/or evidence is also subject to cross-examination.

If the Board finds that the appellant has failed to meet the burden of proof, the case then concludes. If the appellant presents evidence, the Assessment Office (and/or other parties) have the right to present evidence to rebut that presented by appellant. The Board may, during the hearing, ask any questions. However, the Board is not required to pursue evidence or assist the appellant in meeting appellant's burden.

At the conclusion of the hearing, the Board shall dismiss all parties, deliberate, and then render its decision. The Notice of Decision must be mailed to appellant and all other parties to the hearing. The Notice will state the date of the decision and will contain a mailing date. The appellant has thirty (30) days to appeal the decision of the Board to the Court of Common Pleas.

In most cases, fifteen (15) minutes will be allotted by the Board for the presentation of your appeal.

This time allotment is based upon the Board's historic experience in hearing cases of similar nature and complexity. You should be prepared to present your case in as brief and concise a manner as possible. The volume of appeals being heard may, at times, cause delays; therefore, you should allow sufficient additional time in the event the Board is behind schedule.

- 10) **PHOTOGRAPHS:** Appellant is encouraged to produce photos of the property under appeal and every property used as a comparable. **Photos are helpful to the Board in its review.**
- 11) **EVIDENCE:** While the Board is not bound by the strict rules of evidence as would be applied in a Court proceeding, certain evidence is not relevant and will not be considered by the Board.

Testimony as to the amount of taxes, the increase in taxes from a changed assessment, or from an increase levy by a taxing district, percentage of assessment increases, or an appellants financial ability to pay has been determined by Pennsylvania Courts to be irrelevant and will not be permitted. Also, evidence of other assessments is legally irrelevant and will not be permitted. The sole matter at issue is the fair market value of the property being appealed.

The assessment law places the County Assessment Office into a *prima facie* position. This means that upon introduction of their assessment record into evidence, there is a presumption of law that the assessment is correct unless proven otherwise by the appellant.

The burden of proof is therefore upon you to establish your case.

Clearfield County utilizes a base year valuation for assessment of 1988, effective January 1, 1989, with a stated predetermined ratio of assessed to market value of 25%. Thus, your assessment is expressed in 1988 dollars.

The relationship of the base year assessment to current market value of the property is controlled by the common level ratio of assessment in effect as of the date the appeal was filed. The common level ratio is set yearly, from July 1st to June 30th, for Clearfield County by the Pennsylvania State Tax Equalization Board (STEB). Your assessment may be equalized with the assessments of properties throughout the entire County by the application of the common level ratio (Only if CLR varies by more than fifteen per centum (15%) from the established predetermined ratio.) of assessment to the Board's finding of current market value.

Your appeal must be substantiated by an opinion of the current market value of the property involved. The law provides that an appellant may offer his or her opinion of fair market value, either orally or in writing. However, the weight to be given it is for the Board. Ordinarily, you must be prepared to support that opinion by a professionally prepared appraisal.

WRITTEN APPRAISAL REPORTS ARE STRONGLY RECOMMENDED.

Written appraisals that are submitted as evidence, must be dated no more than 12 months prior to the date of the filing of the appeal. Acceptable written appraisals must be prepared as the intended use for your assessment appeal purpose and not intended for any other user or any other use.

In the event a professionally prepared appraisal is provided, the presentation of an appraisal does not relieve you from the requirements to divulge other documentation as detailed in these "Appeal Procedures, Rules and Regulations".

Written presentations, including appraisal reports, must be signed by the preparer. This requirement extends particularly to but not limited to "consulting reports", "valuation reports", "market analyses", and any other similar presentations.

Testimony as to value will be accepted only from the following:

- a) Owner(s);
- b) Principal in the corporation or other entity holding title or possessing an equitable interest in the property;
- c) Principal in the corporation or other entity having responsibility for payment of real estate taxes under terms of a lease with the owner;
- d) Tax department representative in the permanent employ of the owner or leasing entity; or
- e) Broker/Appraiser licensed in the Commonwealth of Pennsylvania.

In the case of an assessment, which includes both land and building values, testimony will be accepted concerning the total value only. The Board will not consider the appeal of either land or building as separated from the total.

If the allegation is made that value in the subject area is being adversely affected by a certain nuisance or other factor, you must be prepared to document the impact of this problem through the use of market sales. Information on property sales in all Clearfield County municipalities is on record in the Assessment Office and is available to assist you in determining an opinion of the current market value.

All evidence not provided in advance of the hearing, must be presented at the hearing. The Board will not continue the hearing for the purpose of accepting evidence that was required to be presented on the original hearing date.

- 12) **SUBMISSION of WRITTEN REPORTS:** Where appellant intends to present a written report and/or evidence documents relative to value, they must be in a minimum of four (4) copies. One (1) signed original and three (3) copies of such report shall be delivered to the Board of Assessment Appeals Office at least ten (10) days prior to the date set for the hearing.
- 13) **EXPERT WITNESS – QUALIFICATIONS:** Where appellant intends to introduce an expert witness, the written qualifications of the expert witness, including proof of compliance with the Pennsylvania Real Estate Licensing Act and the rules and regulation of the Pennsylvania Real Estate Commission, shall be submitted to the Board at the Assessment Office at least ten (10) days prior to the date set for the hearing. Witness may not be permitted to express opinions other than those in their own report.
- 14) **EXPERT WITNESS – FINANCIAL INTEREST:** Where a written report relative to value is presented by a witness other than the owner, a statement shall be submitted as to whether such witness has any financial interest in the property involved in the appeal, and whether or not the compensation for testimony is based upon the outcome of the appeal.
- 15) **DISQUALIFICATION:** Failure to adhere to Rule 11 thru Rule 14 may result in the Board refusing to admit offered evidence, testimony, and/or to hear witness(es).
- 16) **PROPERTY SUBJECT to LEASE:** Where the assessment appeal involves a property which is subject to a lease(s), the appellant shall submit to the Board a verified copy of the lease(s) containing all terms and conditions. In the case of apartment houses, office buildings, and shopping centers, the appellant shall submit a verified copy of a typical lease, together with the latest rent schedule, a copy of the rent roll showing the tenant's name, unit identification, square footage leased, bedroom and bath count, monthly or annual rents, and any additional payments made or required. The appellant shall also submit income and expense statements, with all notes and schedules, for the past three (3) years.
- 17) **TAXING DISTRICTS:** These rules shall be applicable to appeals by taxing districts/municipalities.

C. EXEMPTION APPLICATION

- 18) **FILING REQUIREMENTS:** All entities seeking a grant of exempt status from taxation, in accordance with The General County Assessment Law (72 Pennsylvania Statute 5020-204, as amended), shall submit to the Board, before the appeal hearing will be scheduled, the following documentation as may be applicable:
 - a) Properly completed assessment appeal form;
 - b) Proof of non-profit status granted by the Commonwealth of Pennsylvania;
 - c) Appropriate Internal Revenue Service ruling letter granting exempt status;
 - d) Copies of appropriate income tax returns filed with the IRS, if any, for immediate three (3) years proceeding the date of assessment appeal;

- e) Copies of all organizational documents, by-laws, and most recent amendments;
- f) A list of the members of the current Board of Directors or other governing body, together with a verified statement that none of the income of the alleged non-profit entity inures to the benefit of any individual shareholder, incorporator, member of the Board of Directors, or other governing body (other than salaried employees), unless the documentation set forth herein contains such a statement in the Articles of Incorporation or amendments thereto; in the latter event, a brief reference to the section should be noted with the submission of such documents;
- g) In the event the tax returns submitted (or if there be no such tax returns) fail to disclose the amounts of salaries and wages paid, then the appellant shall submit a verified statement of the current salaries and wages paid to all officers, directors, and the five (5) highest salaried employees of the non-profit corporation, or other governing body;
- h) A copy of the deed or document of title, whereby the appellant obtained the property for which exemption is being sought. In the event no such copy is available, a reference to the deed or document along with a verified statement containing the same information as herein set forth shall be submitted;
- i) A brief yet specific verified statement as to the current use of the property and, in addition, the appellant may, at its option, include a statement of the prospective use of the property;
- j) Any other documentation that may be required or requested by the Board;
- k) The above requested information may be set forth in one cumulative verified statement.
- l) If an officer or employee of the corporation seeking exemption signs the assessment appeal, then a verified statement of authorization of such officer or employee shall accompany the assessment appeal or be submitted prior to the date for the setting of a hearing. In the event this authorization is not submitted, no hearing date will be set until the authorization is received by the Board.

19) **REPRESENTATION:** Where the appellant is represented by legal counsel, or by some other authorized representative, the name, address, and telephone number of such representative or counsel shall be provided and, thereafter, all notices shall be sent to such counsel or representative.

20) **STATUTORY REQUIREMENTS to be MET:** The appellant shall submit a brief statement of the applicable law whereby the appellant feels the property under appeal is entitled to exempt status, with specific reference to the statutory section(s) and citations, or otherwise pertinent under the laws of the Commonwealth of Pennsylvania.

The Pennsylvania Supreme Court in Hospital Utilization Project v. Commonwealth, 507 Pa. 1, 487 A.2d 1306 (1985) provides that for an entity to qualify as a purely public charity it must possess the following characteristics:

1. Advances a charitable purpose;
2. Donates or renders gratuitously a substantial portion of its services;
3. Benefits a substantial and indefinite class of persons who are legitimate subjects of charity;
4. Relieves the government of some of its burden; and
5. Operates entirely free from private profit motive.

In the event exemption is being sought, claiming to be a “purely public charity”, the Board will use the 5-part test as set forth in the HUP case in making its determination.

In addition, the Board must also apply the statutory standard [72 PS 5020-204 (a)(3)] that the organization be **founded, endowed, and maintained** by public or private charity.

21) **UNAVAILABILITY of INFORMATION:** In the event any of the materials required by these rules are not presented to the Board, the appellant should, either prior to or at the time of the hearing, be prepared to submit a statement as to reason(s) why such documentation is not available or is not submitted to the Board.

22) **LEASES or OTHER USER ARRANGEMENTS:** In the event that any portion of the property for which exemption is sought is leased by the appellant or otherwise permitted to be used by any entity other than the appellant, the appellant shall submit, at least ten (10) days prior to the date of the hearing, a copy of any such lease(s) or a brief statement concerning the permissive use arrangement. Lease(s) copies or statements shall contain the identity of the lessee or user, the amount of rent or other consideration paid by the lessee or user, the terms of lease(s) or permissive use, and all other items pertinent thereto.

D. APPEALS FROM THE BOARD

23) **NOTIFICATION:** The date on which a decision of the Board is filed shall be conclusively presumed to be the date of the issuance of the decision and a thirty (30) day time period for appeal to the Court of Common Pleas shall begin to run from that date.

The Board shall give written notice, within five (5) days, of the filing of its decision to the appellant and to all parties who entered an appearance in writing before the Board.

24) **REHEARING:** A request for rehearing shall not stay the time for taking an appeal from the Board. If the Board grants a rehearing, the time for appeal shall begin to run from the date of the Board's decision following the rehearing.

25) **NOTIFICATION of APPEAL from DECISION of BOARD:** In all appeals from the decision of the Board, the Clearfield County Board of Assessment Appeals shall be served with a copy of the petition for appeal within ten (10) days from the date said appeal is filed with the Clearfield County Prothonotary of the Court of Common Pleas.

E. REPEALER / ADOPTION

- All prior rules inconsistent with these rules are hereby repealed.
- Adopted the 28th day of March 1988, by the Clearfield County Board of Assessment Appeals.
- Revision adopted the 1st day of July 2009, by the Clearfield County Board of Assessment Appeals.

Clearfield County Board of Assessment Appeals
Christopher Bohley, Board Chairman
Terry Noble, Board Member
Kellie Strouse, Board Member