

RULES AND REGULATIONS GOVERNING REAL ESTATE ASSESSMENT

APPEALS BEFORE THE BOARD OF ASSESSMENT APPEALS

IN AND FOR CAMBRIA COUNTY, PENNSYLVANIA

A. GENERAL RULES

RULE 1

JURISDICTION OF A BOARD OF ASSESSMENT APPEALS

The Appellate Courts of the Commonwealth of Pennsylvania have held that a Board of Assessment Appeals' jurisdiction is not limited by the relief asked by the appellant in the original appeal. The Board has an inherent power to increase or decrease an assessment once a case is placed before it by any statutorily permitted appellant and/or intervenor. A proceeding before the board is in the nature of a de novo hearing with the Board having the latitude to revise the assessment upward or downward. *Appeal of the Municipality of Penn Hills, 519 pa. 174, 546 A.2nd 50 (1988).*

RULE 2

TIME FOR FILING

Section 1: All appeals from the assessment of real estate situated in CAMBRIA County for each tax year, must be filed properly with the Board of Assessment Appeals in and for CAMBRIA County no earlier than 9:00 A.M., prevailing time, **February 1**, and not later than 4:00 P.M., prevailing time **August 1**, except as provided in Rule 2 Section 2 below. **Any appeal notice received after the deadline, aforesaid, whether or not the same was mailed prior to the deadline, will be rejected as untimely.**

Section 2: Upon notification of a change of assessment or an interim assessment, the appellant shall have 40 days from receipt of said notification to appeal to the Board as provided herein.

RULE 3

PLACE FOR FILING NOTICES OF INTENTION TO APPEAL

Appeal notices challenging the assessment of real estate located in Cambria County for each tax year may be filed only with the Assessment Office in and for Cambria County situated in the annex of the Cambria County Courthouse, Ebensburg, Pennsylvania, said appeals may be filed by mail subject to the limitations set forth in Rule 2 hereinabove. Such appeals may also be filed in person at the Cambria County Courthouse, Monday through Friday (Saturdays, Sundays and Holidays excepted), between the hours of 9:00 A.M. and 4:00 P.M., prevailing time, during the appeal periods set forth and described in Rule 2.

RULE 4

Section 1: FORM OF APPEAL. All appeals shall be filed on forms furnished by the Board for that purpose. The appellant or appellants must answer all relevant questions contained in the application for appeal, including the specific tax parcel number, the assessment by which such person feels aggrieved, the address to which the Board shall mail notice of when and where to appear for hearing.

Section 2: SIGNATURE AND AFFIDAVIT. All appeals shall be filed only in the name or names of the owners of record of the real estate assessed, and shall be signed by or in the name of such record owner, except as provided in Rule 5.

If the owner is a corporation or other association, the application must be signed by an officer thereof, duly authorized to execute the application.

An agent or individual, partnership, corporation or association, may not sign the application as agent for such individual, partnership, corporation, or association unless duly authorized, and in all such cases, the application must be accompanied by a written power of attorney in a form approved by the Board, authorizing such agent to sign and swear to the application on behalf of such person, partnership, corporation or association.

RULE 5 PARTIES WHO MAY APPEAL

Section 1: **OWNER OF RECORD.** Except as otherwise herein provided, all appeals may be taken only by and in the name of the owner or owners of record or fiduciaries filing appeals as fiduciaries.

Section 2: **PARTY OTHER THAN THE OWNER OF RECORD.** A party other than the owner of record of real estate assessed may not appeal except as herein provided. Such party, including lessee, mortgages, purchaser, or other aggrieved party, may petition the Board for leave to appeal. Upon receipt of such appeal the Board may, in its discretion, allow the filing of such appeal, or deny the same for the reason that such petition does not qualify as an aggrieved person under the law. The petition requesting leave to appeal shall be on the same form and shall set forth the information required, as provided in Rules 4 and 6.

Section 3: **TAXING DISTRICT.** Any taxing district having an interest therein may file an appeal in the same manner as the property owner.

RULE 6 PETITION FOR LEAVE TO APPEAL BY PARTY OTHER THAN RECORD OWNER

Section 1: **FORM AND CONTENT PETITION.** A party other than the owner of record of the real estate assessed, or fiduciaries acting as such in accordance with Rule 5, Section 1, may appeal as provided in Rule 5, Section 2, upon filing a petition with the Board. Such petition shall set forth the facts supporting the request and shall clearly disclose the interest of petitioner in the real estate assessed, the reasons why the appeal has not been filed by the owner of record, and all other reasons justifying the appeal. The petitioner shall have attached thereto the following documents:

- (1) An appeal application duly executed as required by Rule 4, except that the application may be filed in the name of, and executed as provided in Rule 4, Section 2, by or on behalf of the appellant who is not the record owner.
- (2) Copies of all documents, such as leases, agreements, etc., or the relevant portions thereof, indicating the interest of petitioner in the real estate assessed and in the assessment complained of.
- (3) Any other document or instrument which may be relevant.

Section 2: **FAILURE TO COMPLY.** Failure to comply with this rule with respect to the form and contents of the petition and accompanying documents may be grounds for refusing to accept the petition and for disallowing the appeal.

RULE 7 INTERVENTION

Section 1: FORM AND CONTENTS OF PETITION. After any appeal has been filed and accepted by the Board, any person having a direct pecuniary interest in the real estate assessed and in the assessment complained of or qualifying as an aggrieved person within the meaning of The Consolidated County Assessment Law, the county or any municipality or school district in which the property is located, may file a petition with the Board requesting leave to intervene in the appeal as a party.

The petition to intervene shall contain therein (1) the date of the filing of the petition, (2) the name of the record property owner, (3) a description of the property as stated in the appeal, (4) the assessed value of the property and (5) the petitioner's opinion of the value of the property. Petitioner must include with his petition a Certification of Notification that he has forwarded by first class mail, a copy of the petition to the record owner of the property, all other recorded parties, the county and the municipality and school district in which the property is located.

Section 2: ACCEPTANCE OR REFUSAL OF PETITION. The Board may accept or refuse the petition in accordance with applicable law. Failure to comply with this rule with respect to the form and contents of the petition and accompanying documents may be grounds for refusing to accept the petition and disallowing the intervention.

Section 3: WITHDRAWAL BY APPELLANT. After a petition to intervene has been allowed by the Board, no withdrawal or abandonment of the appeal by the primary appellant shall terminate the appeal, but the Board shall proceed to hear and determine the appeal and make such order of determination as shall be proper and in accordance with the law.

RULE 8 APPEAL HEARING

Section 1: APPEARANCE AND REPRESENTATION AT HEARINGS:

The owner or aggrieved party must appear at the appeal hearing before the Board. Only attorneys-at-law licensed to practice in the Commonwealth of Pennsylvania may represent owners or aggrieved parties at the appeal hearings before the Board. Nothing in this section shall permit the unauthorized practice of law by an individual who is not an attorney-at-law.

Section 2: Notice will be mailed to the address of record as provided for hereinabove pursuant to Rule 4, Section 1. The Board shall also serve copies of said notice upon the interested taxing districts.

COVENANT AGAINST CONTINGENT FEES

The appellant warrants that no person or selling agency has been employed or retained to solicit or secure this appeal upon an agreement or understanding for a commission percentage, brokerage or contingent fee (excepting attorneys at law licensed to practice law in Pennsylvania and no one else). For breach or violation of this warrant, the Board of Assessment Appeals shall have the right to dismiss this appeal.

Section 3: EVIDENCE. The Board will not be bound by the strict rules of evidence normally applied in the Courts. The Board may, in its discretion, hear any and all evidence which it considers probative and helpful in deciding the appeal. A record owner of property under consideration may offer his or her opinion of its value either orally or in writing. **The Board will not receive valuation testimony from anyone other than an owner unless a complete and written appraisal report upon which such testimony shall be based, has been filed with the Board in accordance with the rules.**

- (1) **Appraisals.** All appraisal reports submitted on behalf of any appellant, interested party, owner, or taxing district, shall adhere to accepted standards of appraisal procedure and reporting. Such reports shall fully conform to regulation Number 10, Code of Professional Ethics and Standards of Association of Realtors. **Each such appraisal report must include**

the expert's approach to value, supporting data, analysis, interpretation, reconciliation, a list of all comparables utilized, and a final estimate of value. The Board will not accept the appraiser's certification or an appraiser's letter stating only the appraiser's opinion of the value.

- (2) **Chief Assessor's Report.** The Chief Assessor may, if he deems it necessary, file a report which may consist of a standardized report form to which the Assessor has attached a reproduction of the official property record card and/or other supporting data together with his final opinion of value.

Section 4: EVIDENCE NOT RETURNED. The Board may accept photographs, documents, and other tangible evidence which it deems relevant and helpful in resolving issues presented by the appeal. All such photographs, documents or other tangible evidence become part of the record and property of the Board. The same will not be returned.

Section 5: SERVICE OF APPRAISAL REPORTS. Except where the Board shall direct otherwise, any party filing a written appraisal report with the Board, shall file the same by lodging a signed original and four (4) copies with the Board, ten (10) days prior to the hearing.

Section 6: SERVICE AND OTHER DOCUMENTS FILED. Any party filing any document in any appeal case before the Board (except for a Notice of Intention to Appeal), shall contemporaneously serve a copy of that document on all other parties to the appeal. Parties represented by counsel shall be served by that counsel. Service of such documents may be made personally or by first class mail. Service of the first class mail shall be deemed complete upon mailing.

Section 7: PROCEDURE AT HEARING.

- 1) The hearing should begin with the Assessor placing into the record the official assessment and location of the subject property. Under the law in the Commonwealth of Pennsylvania, the official assessment is to be considered prima facie valid. The burden of proof then automatically shifts to the taxpayer.
- 2) The taxpayer then must present his or her case to the board. More specifically, the taxpayer must present sufficient admissible evidence to rebut the prima facie validity of the assessment. The taxpayer may present testimony and/or documentary evidence to meet this burden, however evidence of affordability is inadmissible. All evidence presented is subject to cross-examination by the appropriate parties to the proceeding.
- 3) If the board finds that the taxpayer has failed to meet the burden of proof, the case then concludes. If the taxpayer meets the burden of proof, the assessor and the taxing authorities then have the right to present evidence to rebut that presented by the taxpayer. This evidence is also subject to cross-examination by the taxpayer.
- 4) The board may, during the proceeding, ask any relevant question, or call any witness, that will aid in its determination of the case.
- 5) At the conclusion of the hearing, the board shall dismiss all parties, deliberate, and render a decision.
- 6) The notice of decision must be mailed to all parties to the proceeding. Such notice will state the date of the decision and must contain a mailing date for the notice.
- 7) The Board of Assessment Appeals hears evidence presented by the Appellant in a non-record proceeding. On the basis of this information presented to the Board, the Board deliberates and renders a decision. The remedy of anybody aggrieved by a decision of the Board is to file a timely appeal to the Court of Common Pleas, and the issue will be heard de novo. In carrying out its

function, the Board performs a statutorily mandated quasi-judicial role in deciding assessment appeals. Accordingly, the reasoning, mental impressions, and the deliberations of the members of the Board are not to be questioned and are immune from disclosure and/or the discovery process.

- 8) The taxpayer and the taxing authorities have 30 days to appeal the decision of the Board to the Court of Common Pleas.

Section 8: EXPERT WITNESS-QUALIFICATIONS. In all cases involving expert witnesses the written qualifications of the expert witness, including proof of compliance with the Pennsylvania Real Estate Licensing Act, the rules and regulations of the Pennsylvania Real Estate Commission, and the Real Estate Appraisers Certification Act, shall be submitted to the Board prior to any testimony. The witness shall not be permitted to express opinions other than those in his own report.

FAILURE TO COMPLY WITH THE ABOVE RULE MAY CONSTITUTE GROUNDS TO DISQUALIFY THE WITNESS.

Section 9: EXPERT WITNESS-FINANCIAL INTEREST. In all assessment appeals in which the Appellant intends to introduce the testimony of an expert appraiser to establish the fair market value of the property, the appellant shall provide before the hearing a signed written appraisal by the expert which shall contain a signed written statement by the expert setting forth whether the expert has any financial interest in the property subject to the appeal and whether or not the terms of compensation for his testimony is contingent upon the outcome of the appeal.

APPRAISAL, CONSULTING, OR VALUATION REPORT OR OTHER DOCUMENT NOT MEETING THESE REQUIREMENTS MAY BE DISREGARDED BY THE BOARD AS EVIDENCE OF VALUE IN SUCH APPEALS.

Section 10: PROPERTY SUBJECT TO LEASES. In the event that any appeal shall involve 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 of its/their terms and conditions. In all cases 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 leases, or bedroom and bath count, monthly or annual rent, and any additional payments made. The appellant shall, also, submit the income and expense statements, complete with all notes and schedules for the past three (3) years.

Section 11: FAILURE TO PRODUCE THE DOCUMENTS REQUIRED BY THESE RULES NOT LESS THAN TEN (10) DAYS PRIOR TO THE SCHEDULED APPEAL HEARING DATE AND/OR TO STRICTLY COMPLY WITH THE REQUIREMENTS FOR THE EXECUTION OF THE NOTICE OF APPEAL, MAY CONSTITUTE SUFFICIENT GROUNDS FOR THE DENIAL OF THE APPEAL.

Section 12: TAXING DISTRICTS. These rules shall be applicable to appeals by taxing districts.

Section 13: CLOSING OF RECORD. The appellant and all other interested parties are required to introduce all of the evidence, including written opinions of value, list of comparables, photographs, documents and other tangible exhibits, which the appellant or other parties wish to have considered in the appeal. All such written opinions of value, lists of comparables, photographs, testimony, and other documents or tangible exhibits, offered to the Board shall constitute the complete and entire record of the case and shall be retained by the Board.

Section 14: FAILURE TO APPEAR AT THE HEARING. Failure of appellant to appear at the hearing after due notice thereof shall be considered an abandonment of the appeal and grounds for dismissal, except as provided in Rule 7 Section 3.

Section 15: AUTHORIZED REPRESENTATIVE: When an aggrieved party is unable to appear at an appeal hearing, they may be represented by another party, not in a legal capacity, as long as the other party has written evidence of authorization, signed by the aggrieved party. Only attorneys licensed to practice in the Commonwealth of Pennsylvania will be permitted to represent clients before the board.

RULE 9 BURDEN OF PROOF

In all cases heard before the Board, the Board shall first take judicial notice of each parcel's assessed value as set forth in the records of the Assessment Office in and for Cambria County. Thereafter, the appellant shall have the burden of proving by a preponderance of the evidence that the property is improperly assessed or inequitably assessed. The appellant may carry the burden only through proper evidence as to value. **The Board will not receive evidence relating to the status or income of the party in determining the property's value.**

No evidence can be taken by a board of assessment appeals outside the scope of the hearing. The practice of boards receiving reports outside the hearing from their assessors and/or independent appraisal contractors is strictly prohibited.

RULE 10 POSTPONEMENT

Section 1: POSTPONEMENT. All requests for a postponement shall be in writing, shall be filed with the Board at least five (5) days before the date set for hearing, and shall set forth grounds relied upon in support thereof. Said postponement shall be granted only for proper cause shown. In no event shall any postponement be requested later than December 1 of the current tax year.

Section 2: CONTINUANCE. The Board conducting the hearing shall have the power to continue the said hearing from day to day, or to adjourn it to a later date, or to a different place, by an announcement thereof at the hearing or by other appropriate notice.

B. EXEMPTION APPLICATION RULES

RULE 1 REQUIRED DOCUMENTATION

Section 1: DOCUMENTATION. All entities seeking a grant of exempt status from taxation in accordance with The Consolidated County Assessment Law, shall submit to the Board, before the appeal hearing, the following documentation as may be applicable:

- (a) Proof on non-profit status granted by the Commonwealth of Pennsylvania;
- (b) Appropriate revenue service ruling letter granting the exempt status;
- (c) Copies of appropriate income tax returns filed with the Internal Revenue Service, if any, for the immediate three (3) years preceding the date of the assessment appeal;
- (d) Copies of all organizational documents, by-law and most recent amendments;
- (e) A list of most recent Board of Directors, or other governing body, together with a verified statement that none of the income of the alleged nonprofit entity are used to the benefit of any individual share holder, incorporator, member of the Board of Directors or other governing

body (other than salaried employees), unless the documentation set forth hereinabove contains such a statement in the Articles of Organization or amendments thereto; in the latter event, a brief reference to the sections should be noted with the submission of such documents;

- (f) 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 application 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 nonprofit corporation, or other governing body;
- (g) A copy of the deed or document of title, whereby the application obtained the property; in detail; in addition, the applicant may at its option, include a statement of the prospective use of the property;
- (h) A brief verified statement as to the current use of the property; in detail; in addition, the applicant may at its option, include a statement of the prospective use of the property;
- (i) Any other documentation which may be required or requested by the Board;
- (j) The information required may be set forth in one cumulative verified statement.

Section 2: REPRESENTATION. Where the application is represented by legal counsel, or by some other authorized third party representative, the name and address of such third-party representative or counsel shall be submitted and a brief statement that all notices or that copies of notices (as applicable) shall be sent to such counsel or third-party representative.

If the application is signed by an officer or employee of the corporation seeking exemption, then a verified statement of authorization of such officer or employee or such other appropriate authorization, shall accompany the application or be submitted prior to the date of the setting of a hearing on the application.

In the event no such authorization is obtained, no hearing date will be set until such authorization is obtained. In all cases an authorized officer or representative of the applicant shall be present at the hearing.

Section 3: BRIEF STATEMENT PRESENTED BY APPELLANT. Where applicable the applicant should submit a brief statement of the law whereby the applicant feels it is entitled to exempt status with specific reference to the statutory section or sections above cited, or otherwise pertinent under the Laws of the Commonwealth.

Section 4: DOCUMENTATION NOT AVAILABLE. In the event any of the requirement of Section 1, sub-paragraphs (a) through (j) are not presented to the Board, the applicant should either prior to the time of hearing, be prepared to submit a statement as to the reasons why such documentation is not available or is not submitted to the Board.

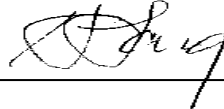
Section 5: PROPERTY BEING LEASED. In the event any portion of the property for which exemption is sought, is leased by the applicant or otherwise permitted to be used by any other entity other than the applicant, then applicant shall submit before the date for hearing, a copy of such lease(s) or brief statement concerning the permissive use arrangement. Such lease copies or statement shall contain the identity of the lessee or user; the amount of rent or other consideration paid by such lessee or user; the terms of such lease or user; the terms of such lease or permissive use; and all other items pertinent thereto.

Section 6: ADDITIONAL EXEMPTIONS FOR OTHER PROPERTIES – SAME OWNER.

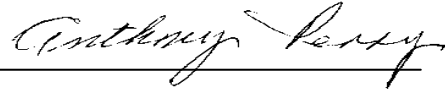
When an applicant for exemption has been submitted and granted the order and application thereafter seeks additional exemptions on other property, the applicant does not have to re-submit all the supporting documents, but should submit only those which apply to the later appeal(s). In the event that some of the originally filed exhibits have been updated or amended, then the applicant shall submit such updated or amended documents as soon as available.

FAILURE TO COMPLY WITH ANY OF THE ABOVE RULES MAY CONSTITUTE GROUNDS FOR DISMISSAL OF APPEAL AFTER A HEARING FOR NON-COMPLIANCE.

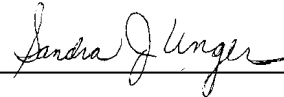
THE BOARD RESERVES THE RIGHT TO AMEND THESE RULES AS IT DEEMS APPROPRIATE.



H. C. Lang, Chairman



Anthony Perry, Board Member



Sandra J. Unger, Board Member

AMENDED June 6, 2002
AMENDED May 15, 2007
AMENDED January 6, 2009, Signature
AMENDED January 28, 2011