

County of Adams

Rules of the Board of Assessment Appeals

Adopted August 22, 2012, and amended July 23, 2014

A. GENERAL RULES

Rule A-1. Time for Filing

All annual appeals from the assessment of real estate must be properly filed with the Adams County Board of Assessment Appeals (“Board”) not later than 4:30 p.m., prevailing time, August 1st of each year, effective for the 2015 tax appeal year cycle. If August 1st falls on a weekend or holiday, the deadline will be 4:30 p.m. prevailing time, of the next business day. Any appeal received after the filing date, whether or not the same was mailed prior thereto, will be considered during appeals for the following year.

All assessment appeals filed from new assessment or revisions of assessment during the course of any particular year (known as “Interim Appeals”) must be received within 40 days of the date of the assessment notice, unless the 40th day falls on a weekend or holiday, in which case the deadline will be 4:30 p.m. prevailing time on the next business day following the 40th day.

Rule A-2. Place for Filing

An assessment appeal from the assessment of real estate shall be filed with the Adams County Board of Assessment Appeals, Room 202, 117 Baltimore Street, Gettysburg, PA 17325.

Appeals may be filed by mail (Adams County Tax Services Dept., 117 Baltimore Street, Room 202, Gettysburg, PA 17325), fax (717-334-2091) or email (taxoffice@adamscounty.us), subject to the limitations set forth in Rule A-1. Assessment appeals may also be filed with the Board in person at the Adams County Board of Assessment Appeals office, Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. The tax assessment appeal form, available at the Tax Services Office of the Adams County Courthouse, or on the Tax Services Department section of the Adams County website (www.adamscounty.us), is the preferred method for requesting an appeal.

Rule A-3. Filing and Signing Assessment Appeals

An assessment appeal shall be executed by the owner of the property, an authorized representative of the owner, or a lessee responsible for payment of real estate taxes. For purposes of this rule, “authorized representative” means: (1) an attorney licensed to practice law in the Commonwealth of Pennsylvania; (2) a person with a valid power of attorney; (3) a corporate officer, or employee of the corporation that owns or leases the property; or (4) a legal guardian of the owner. 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 a verified (see 18 Pa. C.S. §4904) certification that he or she is authorized to act on behalf of the corporation. Where a partnership is the owner, a general partner shall execute the assessment appeal. Where a lessee is the appellant, the lessee shall submit a copy of the lease showing his or her status.

Rule A-4. Authorized Representative

Appearance at Hearing: The aggrieved party must appear at the appeal hearing before the Board. Where an authorized representative attends the hearing in lieu of the appellant(s), the representative shall produce a power of attorney executed by the appellant(s), verifying the representative's authority to appear. Failure to submit written authorization may result in rejection of the appeal filing.

Only Attorneys-at-Law licensed to practice in the Commonwealth of Pennsylvania may represent aggrieved parties at the appeal hearing before the Board, with the exception of those included in the definition of "authorized representative." Nothing in this section shall permit the unauthorized practice of law by an individual who is not an Attorney-at-Law.

Where the appellant(s) 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. Appellant(s) or counsel must notify the Adams County Tax Services department of any retention or change of counsel occurring after the filing of an appeal.

B. Appeal Hearing

Rule B-1. Notice of Hearing

Notice of the date and time of the hearing shall be deposited in the mail at least twenty (20) days prior to the scheduled day and time to appear.

Rule B-2. Postponement of Hearing

All requests for a postponement or rescheduling of a hearing shall be made with the Board via the Tax Services Department at least five (5) days prior to the date set for the hearing and shall set forth the grounds relied upon for the requested rescheduling or postponement. Requests may be written or telephonic. The office phone number is 717-337-9837. Any request for postponement received within five (5) days of the date set for the hearing will be considered by the Board on an individual basis. While every effort will be made to accommodate requests for postponement or rescheduling, such efforts are discretionary and not mandatory, and the Board may not be able to satisfy all requests.

The Board conducting the hearing shall have the right to continue the 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.

Rule B-3. Procedure at Hearing

The County will present evidence on the subject property's assessment. The Board will hear such evidence as may be presented and submitted by the appellant(s). During the appeal hearing, the property owner or representative shall state the basis of the appellant(s)'s appeal and shall make a full and complete disclosure of the appellant(s)'s information bearing upon the property's fair market value. The Board may examine the appellant(s) or witness(es) appearing on appellant(s)'s behalf and may request the appellant(s) to furnish additional information or data for consideration in arriving at an opinion of fair market value. The Board may also examine the Tax Services Department representative concerning the subject property. No testimony or other evidence may be presented by either the County or the Appellant, except in the presence of the other party. At the conclusion of the hearing and after such review and consideration as may be required, the Board will issue its decision, which may occur at the conclusion of the hearing, or at some subsequent date. Such decision will be mailed so as to be received by the appellant not later than November 15th.

Testimony regarding taxes, tax increases, percentage of assessment increases, financial ability to pay and related complaints are not relevant and will not be permitted. **The sole matter at issue is the fair market value of the property.**

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 value, unless competent evidence is offered concerning the allocation of these two components of value.

Adams County utilizes a base valuation year for assessment of 2010, with a stated ratio of assessment to market value of 100%. The assessment is therefore expressed in 2010 dollars.

The relationship of the base year assessment to current market value of the property is controlled by the common level ratio of assessment ("CLR") in effect as of the date of the appeal hearing (for an annual appeal). The common level ratio presently set for Adams County by the Pennsylvania State Tax Equalization Board (STEB) is provided in the hearing scheduling letter.

In the case of Interim Appeals, the common level ratio of assessment applied to such an appeal shall be that which was in effect as of the earliest effective date stated in the interim tax assessment notice.

The assessment will be equalized with the assessments of properties throughout the entire County by the application of the common level ratio of assessment to the Board's finding of current market value.

Pennsylvania Consolidated Statutes, Title 53 Pa. C.S. § 8844(e)(2) provides that the Board shall undertake the following with regard to any appeal:

- (1) determine the market value of the property; and

(2) apply the common level ratio to that value. [Note: Other requirements contained at 53 Pa. C.S. § 8844(e)(2) have been abrogated by the holding in Downingtown Area School District v. Chester County Board of Assessment, 590 Pa. 459, 913 A.2d 194 (2006).]

Therefore, the Board has a statutory duty to apply the common level ratio, if one exists, as an adjustment to the market value determined of any property that is appealed.

Example: Current Year Value X Common Level Ratio = Base Year Assessment

Or

$$\$100,000 \quad X \quad 119.0\% \quad = \quad \$119,000$$

The appeal must therefore be substantiated by an opinion on the current market value of the property involved. The opinion must be supported by accepted appraisal practices, i.e. the cost, sales/market comparison, and income approaches. A professionally prepared appraisal may be acceptable to substantiate this information.

In the event a professionally prepared appraisal is provided, the presentation of an appraisal does not relieve the appellant from the requirement to produce other relevant evidence as detailed in these “Rules of Appeal Procedures,” and as required by the Board.

Written presentations offering values or ranges of values, including appraisal reports, must be signed by the preparer.

In accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), all appraisals submitted as evidence of value shall state that the intended use of that report is for a real estate tax assessment appeal, and the appellant or its representative must be named as the client. Furthermore, the Adams County Board of Assessment Appeals shall be named as an intended user.

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

- (a) Property Owner;
- (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.

Note: Brokers/Appraisers will only testify to their report and its conclusions. USPAP standards, Pennsylvania statutes and regulations prohibit advocacy by appraisers on behalf of property owners.

Allegations that the value of the subject property is adversely affected by a certain nuisance or other factors must be supported by documentation of the impact of these problems through the use of market sales, or other evidence. Information on property sales in all Adams County municipalities is on record in the Tax Services Department and is available to assist you in determining an opinion of the current market value.

Pennsylvania assessment law considers the values of the County Assessment Office as *prima facie* evidence of value. This means that upon introduction of the assessment record into evidence, there is a presumption of law that the assessment is correct unless proven otherwise by the appellant(s).

The County will place the assessment record and value into evidence. At that time the burden of proof will shift to the appellant property owner. Therefore, the burden of proof is upon the appellant to establish fair market value through credible evidence.

The Assessment Office may present an expert witness at the hearing. All testimony and evidence are subject to cross examination. 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.

The subject property assessment will be equalized with the assessments of properties throughout the entire County by the application of the common level ratio of assessment to the Board's finding of current market value.

The Board will not continue the hearing for the purpose of accepting evidence required to be presented on the original hearing date. The Board requires that any appraisals of commercial real estate be provided at least ten (10) days prior to the hearing. **The Board requires a minimum of three (3) copies of any evidentiary documents, including commercial real estate appraisals.**

The Board will allow a reasonable amount of time for the presentation of an appeal. This typically is fifteen (15) minutes. This time allotment is based upon the Board's historic experience in hearing cases of similar nature and complexity. The appellant should be prepared to present his or her case in as brief and concise a manner as possible. The volume of appeals being heard may, at times, cause delays. Therefore, appellants should allow sufficient additional time in the event the Board is behind schedule.

Rule B-4. Photographs

Appellant(s) is encouraged to produce at least one still photograph of the property under appeal and at least one still photograph of every property used as a comparable. Failure to produce any such photo(s) shall not result in a refusal by the Board to hear relevant testimony on the particular property.

Photographs should be printed and in a form that can be attached to the appeal record. Photographs contained on digital media and viewed via digital cameras or cellular telephones, or available by accessing “thumb” drives or similar devices, will not be viewed or considered by the Board.

Rule B-5. Evidence

The Board will not be bound by the strict rules of evidence normally applied to 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 the fair market value either orally or in writing.

Written appraisal reports are strongly recommended.

Written appraisals which are submitted as evidence must be current if used for an appraisal for the present year, and should state the owner is the intended user, and that the intended use of the appraisal is for the appeal. For any other appraisal the appellant intends to enter into evidence, a letter of consent of use should be provided by the stated intended user allowing the use of the appraisal for the purpose of a tax assessment appeal, along with a statement by the appraiser that the value is valid for use in an assessment appeal.

Rule B-6. Submission of Written Reports

Where appellant(s) intends to present a written report relative to value, one copy 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. The appellant should submit one appraisal at least ten (10) days prior to the hearing, and the other two (2) copies shall be brought to the hearing for distribution.

Rule B-7. Expert Witness - Qualifications

Where appellant(s) 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 via the Assessment Office at least ten (10) days prior to the date set for the hearing.

Rule B-8. 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.

Rule B-9. Disqualification

Failure to adhere to Rules B-5 through B-8 may result in the Board refusing to admit offered evidence, testimony, and/or to hear witness(es).

Rule B-10. Property Subject to Lease

Where the assessment appeal involves a property which is subject to a lease(s), the appellant(s) shall, ten (10) days prior to the hearing, 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(s) 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, bedroom and bath count, monthly or annual rents, and any additional payments made or required. The appellant(s) shall also submit income and expense statements, with all notes and schedules, for the past three (3) years.

Rule B-11. Record of Hearing

Any party to the proceeding, including the Board, the Appellant(s), or any interested taxing district, may provide for all testimony to be stenographically recorded and have a full and complete record prepared of the hearing. However, the cost of such stenographer and record shall be borne by the party or parties requesting the same.

Rule B-12. Stipulations

The parties to a proceeding before the Board, including the Board, may stipulate as to any relevant matter of fact, or the authenticity of any relevant document. Such stipulation may be received in evidence at a hearing, and when so received shall be binding on the participants with response to the matters therein stipulated.

Rule B-13. Taxing Districts

These Rules shall be applicable to appeals by taxing districts.

C. Exemption Application

Rule C-1. Filing Requirements

All entities seeking a grant of exempt status from taxation, in accordance with Consolidated County Assessment Law, (53 Pa. C.S. § 8812), shall submit to the Board, before the appeal hearing will be scheduled, the following documentation, as may be applicable:

- (1) Properly completed assessment appeal form;
- (2) Proof of non-profit status granted by the Commonwealth of Pennsylvania (in all applications related to charitable organizations);
- (3) Appropriate Internal Revenue Service ("IRS") ruling letter granting exempt status;
- (4) Copies of appropriate income tax returns filed with the IRS, if any, for the immediate three (3) years proceeding the date of assessment appeal;
- (5) Copies of all organizational documents, by-laws, and most recent amendments;

(6) 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;

(7) 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(s) shall submit a verified statement of the current salaries and wages paid to all officers, directors, and the top five highest salaried employees of the non-profit corporation, or other governing body;

(8) A copy of the deed or document of title, whereby the appellant(s) 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;

(9) A brief yet specific verified statement as to the current use of the property and, in addition, the appellant(s) may, at its option, include a statement of the prospective use of the property;

(10) Any other documentation which may be required or requested by the Board;

(11) The above requested information may be set forth in one cumulative verified statement.

(12) If the assessment appeal is signed by an officer or employee of the corporation seeking exemption, 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 this authorization is received by the Board.

Rule C-2. Representation

Where the appellant(s) 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 either such counsel or representative, and to the property owner.

Rule C-3. Statutory Requirements to be Met

The appellant(s) shall submit a brief statement of the law under which the appellant(s) believes the property 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.

This standard is known as the “HUP test.” In the event exemption is sought based upon a claim of being a “purely public charity,” the Board will use this 5-part HUP test in making its determination as to the constitutional basis for such a claim. The Board will also apply the statutory standard that the organization be founded, endowed, and maintained by public or private charity (53 Pa. C.S. §8812 (3)). In addition, the statutory standard applied to purely public charities is that contained in the Institution of Purely Public Charity Act, 10 P.S. § 371, et seq., which uses a 5-part test similar to that used in the HUP test. The test is found at 10 P.S. § 375. Applicants are required to meet both the HUP test and the Institution of Purely Public Charity Act test. Mesivtah Eitz Chaim of Bobov, Inc. v. Pike County Board of Assessment Appeals, 615 Pa. 463, 44 A.3d 3 (2012).

Rule C-4. Unavailability of Information

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

Rule C-5. Leases or Other User Arrangements

In the event that any portion of the property for which exemption is sought is leased by the appellant(s) or otherwise permitted to be used by any entity other than the appellant(s), the appellant(s) 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 lessee or user, the terms of lease(s) or permissive use, and all other items pertinent thereto.

Rule C-6. Subsequent Appeals

Where an assessment appeal for exemption has been submitted and exemption granted, and appellant(s) thereafter seeks additional exemption on other property, the appellant(s) is not required to resubmit all of the supporting documents, but is required to submit only information

pertinent to the subject property for which exemption is being sought. In the event that any portion of the original information, documents and/or exhibits have been amended or information contained therein is stale or outdated, up-to-date information shall be provided with the appeal filing.

D. Appeals from the Board

Rule D-1. 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. A 30-day time period for appeal shall begin to run from that date.

The Board shall give written notice of the filing of its decision to the appellant(s) and to all parties who entered an appearance in writing before the Board on or before November 15.

Rule D-2. Notification of Appeal from Decision of Board

In all appeals from the decision of the Board, the Adams 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 Prothonotary of the Court of Common Pleas.

All prior Rules inconsistent with these Rules are hereby repealed.

Adopted the 22nd day of August, 2012, by the Adams County Board of Assessment Appeals.

Amended by the Adams County Board of Assessment Appeals on July 23, 2014.

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