

PROCEDURE FOR THE CONDUCT OF THE BOARD OF EQUALIZATION, HART COUNTY

Oversight and supervision (Code Section 48-5-311(d))*

The clerk of the superior court shall have oversight over and supervision of all boards of equalization of the county. County records from the hearings before the board of equalization shall be delivered to the clerk of superior court for the clerk to maintain until the deadline to file any appeal to the superior court expires.

Establishment. (Code Section 48-5-311(a))*

Title 48 of the Official Code of Georgia Annotated was amended in Code Section 48-5-311, relating to county boards of equalization and appeals of ad valorem tax assessments. This code established in each county of the state a county board of equalization to consist of three members and three alternate members appointed in the manner and for the term set forth in this Code section. In those counties having more than 10,000 parcels of real property, the county governing authority, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels.

At any time the governing authority of a county makes a request to the grand jury of the county for additional alternate members of boards of equalization, the grand jury shall appoint the number of alternate members so requested to each board of equalization, such number not to exceed a maximum of 21 alternate members for each of the boards. The alternate members of the boards shall be duly qualified and authorized to serve on any of the boards of equalization of the county. The grand jury of any such county *may* designate a chairperson and two vice chairpersons of each such board of equalization. The chairperson and vice chairpersons shall be vested with full administrative authority in calling and conducting the business of the board. Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity upon appointment and taking of oath.

Currently, the Hart County Board of Equalization consists of one board with three members and six alternate members as approved by the Hart County Board of Commissioners at their September 13, 2005 meeting.

Qualifications. (Code Section 48-5-311(b))*

(1) Each person who is, in the judgment of the appointing grand jury, qualified and competent to serve as a grand juror, who is the owner of real property, and

who is at least a high school graduate shall be qualified, competent, and compellable to serve as a member or alternate member of the county board of equalization. No member of the governing authority of a county, municipality, or consolidated government; member of a county or independent board of education; member of the county board of tax assessors; employee of the county board of tax assessors; or county tax appraiser shall be competent to serve as a member or alternate member of the county board of equalization.

(2) Within the first year after a member's initial appointment to the board of equalization, each member shall satisfactorily complete not less than 40 hours of instruction in appraisal and equalization processes and procedures. The failure of any member to fulfill the requirements of this subparagraph shall render that member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

No person shall be eligible to hear an appeal as a member of a board of equalization, unless prior to hearing such appeal, that person shall satisfactorily complete the 40 hours of instruction in appraisal and equalization processes and procedures required. Any person appointed to such board shall be required to complete annually a continuing education requirement of at least eight hours of instruction in appraisal and equalization procedures, as prepared and required by the commissioner. The failure of any member to fulfill the requirements of this subparagraph shall render that member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

Appointment. (Code Section 48-5-311(c))*

Each member and alternate member of the county board of equalization shall be appointed for a term of three calendar years. Each term shall begin on January 1. If a vacancy occurs on the county board of equalization, the individual designated as alternate one shall then serve as a member of the board of equalization for the unexpired term. If a vacancy occurs among the alternate members, the grand jury then in session or the next grand jury shall select an individual who is otherwise qualified to serve as an alternate member of the county board of equalization for the unexpired term. The individual so selected shall become alternate member three, and the other two alternates shall be redesignated appropriately.

The persons appointed by the grand jury are to appear before the clerk of the superior court not later than December 15 of the year appointed.

Each member and alternate member of the county board of equalization, on the date prescribed for appearance before the clerk of the superior court and before entering on the discharge of such member and alternate member's duties, shall take and execute in writing before the clerk of the superior court the following oath:

I, _____, agree to serve as a member of the board of equalization of the County of Hart and will decide any issue put before me without favor or affection to any party and without prejudice for or against any party. I will follow and apply the laws of this state. I also agree not to discuss any case or any issue with any person other than members of the board of equalization except at any appeal hearing. I shall faithfully and impartially discharge my duties in accordance with the Constitution and laws of this state, to the best of my skill and knowledge. So help me God.

Signature of member or alternate member'

Duties and powers. (Code Section 48-5-311(d))*

The county board of equalization shall conduct hearings as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions.

If in the course of determining an appeal the county board of equalization finds reason to believe that the property involved in an appeal or the class of property in which is included the property involved in an appeal is not uniformly assessed with other property included in the digest, the board shall request the respective parties to the appeal to present relevant information with respect to that question. If the board determines that uniformity is not present, the board may order the county board of tax assessors to take such action as is necessary to obtain uniformity, except that, when a question of county-wide uniformity is considered by the board, the board may recommend a partial or total county-wide revaluation only upon a determination by a majority of all the members of the board that the clear and convincing weight of the evidence requires such action. The board of equalization may act pursuant to this paragraph whether or not the appellant has raised the issue of uniformity.

The board shall establish procedures which comply strictly with the regulations promulgated by the commissioner for the conducting of appeals before the board. The procedures shall be entered into the minutes of the board and a copy of the procedures shall be made available to any individual upon request.

Conduct of the Appeal. (Code Section 48-5-311(e))*

The appeal hearing is an open meeting, but is not a public meeting. Persons who have no authorized involvement must not be a distraction.

The county board of equalization will listen to all pertinent information concerning the matter under appeal. The board is a neutral and independent entity and is

charged by law to determine all questions presented to it on the basis of the best information available to the board and presented at the time of the appeal.

Both parties are to make their presentation to the board in order to convince the board of the worthiness of their evidence. An appeal is based on a difference of opinion and information must be presented in a positive manner.

The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, *as opposed to questions of value*, shall be *prima-facie* correct in any appeal to the county board of equalization.

~~However, the board of tax assessors shall have the burden of proving its~~ opinions of value and the validity of its proposed assessment by a preponderance of evidence. Although, the tax assessor has the burden of proving its opinion of value by a preponderance of evidence, it is necessary for the property owner to present an opinion of value and support for that opinion of value. The tax assessor should have applied the following criteria in determining the fair market value of real property, and should be a consideration during the appeal:

- (i) Existing zoning of property;
- (ii) Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;
- (iii) Existing covenants or restrictions in deed dedicating the property to a particular use;
- (iv) Bank sales, other financial institution owned sales, or distressed sales, or any combination thereof, of comparable real property;
- (v) Decreased value of the property based on limitations and restrictions resulting from the property being in a conservation easement; and
- (vi) Any other existing factors provided by law or by rule and regulation of the commissioner deemed pertinent in arriving at fair market value.

When determining value, the county board of equalization shall determine the fair market value. (Code Section 48-5-2) 'Fair market value of property' means the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale. 'Arm's length, bona fide sale' means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction.

The income approach, if data is available, shall be considered in determining the fair market value of income-producing property. With respect to the valuation of

equipment, machinery, and fixtures when no ready market exists for the sale of the equipment, machinery, and fixtures, fair market value may be determined by resorting to any reasonable, relevant, and useful information available, including, but not limited to, the original cost of the property, any depreciation or obsolescence, and any increase in value by reason of inflation.

The Board will give the property owner the option of presenting his or her information first. Both parties will be afforded an opportunity to present information without interruption. After the initial presentation, both parties will be given a chance to add additional information and to clarify their position. The Chairperson of the board may direct either party to provide only relevant information. The Chairperson shall control and conduct the hearing. Both parties will be given approximately equal time to present their evidence.

When all information has been presented and all closing statements have been made, the Board will deliberate and make a decision.

The board of equalization shall render its decision at the conclusion of the hearing. The decision of the county board of equalization shall be in writing; shall be signed by each member of the board; shall specifically decide each question presented by the appeal; shall specify the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of such taxpayer's appeal; shall state that with respect to the appeal no member of the board is disqualified from acting by virtue of this procedure section titled Disqualification; and shall certify the date on which notice of the decision is given to the parties. Notice of the decision shall be given to each party by sending a copy of the decision by registered or certified mail or statutory overnight delivery to the appellant and by filing the original copy of the decision with the county board of tax assessors. Each of the three members of the county board of equalization must be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board must sign the decision indicating their vote. A typewritten letter confirming this decision, for clarity, will be included, signed by the Chairman.

*Time Frame for Conducting Appeals (Code Section 48-5-311(e))**

Appeals to the county board of equalization shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day. Our normal hours will be; 9 am – 4:15 pm; with hours scheduled between 4:15 pm – 7 pm as necessary, and on days when no other hearings are scheduled in the afternoon. If a taxpayer has more than one appeal, they will be scheduled for at least two consecutive

appointments; and for more than two appeals, the scheduled number of appointments will be negotiated between the board secretary and the taxpayer, with the consideration for adequate time for the appeal to be heard.

Following the notification of the taxpayer of the date and time of such taxpayer's scheduled hearing(s), the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer. The clerk of the superior court shall grant additional extensions to the taxpayer or the county board of tax assessors for good cause shown.

Within 15 days of the receipt of the notice of appeal, from the Board of Assessors, the county board of equalization shall set dates for the hearing schedule and shall notify the taxpayer and the county board of tax assessors in writing. The county board of equalization shall hold such hearing(s) to determine the questions presented within 30 days of the date of notification to the taxpayer of the hearing(s) but not earlier than 20 days from the date of such notification to the taxpayer.

A taxpayer may appear before the board concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board the name of any such agent or representative prior to any appearance by the agent or representative before the board. Immediate family members and or spouses are exempted.

If more than one contiguous property of a taxpayer is under appeal, the board of equalization shall, upon request of the taxpayer, consolidate all such appeals in one hearing and render separate decisions as to each parcel or item of property. Any appeal from such a consolidated board of equalization hearing to the superior court as provided in this subsection shall constitute a single civil action, and, unless the taxpayer specifically so indicates in his or her notice of appeal, shall apply to all such parcels or items of property.

Recording of interviews. (Code Section 48-5-311(h))*

In the course of any appeal, the taxpayer shall be entitled to make recordings, at the taxpayer's expense and with equipment provided by the taxpayer. However, the conduct of the appeal shall not be disturbed by the accomplishment of the recording.

Disqualification. (Code Section 48-5-311(j))*

No member of the county board of equalization shall serve with respect to any appeal concerning which he or she would be subject to a challenge for cause if

he or she were a member of a panel of jurors in a civil case involving the same subject matter.

The parties to an appeal to the county board of equalization shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate transmitting the appeal, questions relating to the disqualification of members of the county board of equalization. Each question shall be phrased so that it can be answered by an affirmative or negative response. The members of the county board of equalization shall, in writing under oath within two days of their receipt of the appeal, answer the questions. Answers of the county board of equalization shall be part of the decision of the board.

Appeals to the superior court. (Code Section 48-5-311(g))*

For information, the taxpayer or the county board of tax assessors may appeal decisions of the county board of equalization, as applicable, to the superior court of the Hart County.

*(Parenthetical references to Code Section are for reference only)

This revision of the PROCEDURE FOR THE CONDUCT OF THE BOARD OF EQUALIZATION, HART COUNTY, revision 1, was approved by the Board of Equalization of Hart County at a meeting on January 27, 2011.