

LUZERNE COUNTY BOARD OF ASSESSMENT APPEALS

Appeal Procedures, Rules, and Regulations; Inspection of Assessment Rolls and Records

A. GENERAL RULES

7-30-19

1) **Time for Filing**

a) All Annual Appeals (including Exemption Appeals) from the assessed valuation of real estate must be properly filed with the Board of Assessment Appeals (Board) not later than 4:00 P.M. prevailing time August 1, of each year.

b) Filing time for Interim Appeals shall be governed by a notice issued by the Luzerne County Assessors Office.

c) All Appeals shall be filed on forms furnished by the Board for such purpose. Each question must be answered fully and the form must contain the address to which the Board shall mail notice of the hearing. The Board shall reject any notice of appeal, which is incomplete or is not on an official appeal form supplied by the Board.

d) Anytime throughout these rules the word he, his or himself is used, it shall refer to she, her, or herself, or it and anytime a singular is used, it may also refer to the plural.

2) **Place For Filing**

An appeal notice from the assessed valuation of real estate shall be filed with the Luzerne County Assessors Office, Luzerne County Courthouse, 200 North River Street, Wilkes-Barre, Pennsylvania 18711-1001, in person or by mail during regular business hours, subject to the conditions set forth in Section A., Subsection 1) a) above.

3) **Appeal Hearings**

a) **Evidence**

(1) The Board will not be bound by the strict rules of evidence normally applied in the Luzerne County Court of Common Pleas. 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 (Appellant) under consideration may offer his or her or its opinion of its value either orally or in writing. The Board will not receive valuation testimony from anyone other than an owner unless a thorough written appraisal report upon which such testimony shall be based has been filed with the Board in accordance with these rules and the individual or representative of the entity preparing such written appraisal testifies to the same.

(2) If the Appellant is to utilize properties other than his, her or its own property for purposes of comparison, the Appellant shall submit photographs of the subject property as well as all comparable properties. Bring all items (appraisals, photos, etc.) you want considered by the board to the hearing. Only the items presented that day will be considered. If you do not have all the necessary items that you wish to present you may want to request that the hearing be rescheduled. The Appellant may submit any additional documents or other tangible evidence, which the Appellant deems relative and helpful in resolving issues presented by the appeal. All such photographs, documents and other tangible evidence shall become part of the record and become property of the Board and will not be returned.

(3) The Board may require an Appellant to supply such additional information, as it deems necessary in evaluating the appeal within such time as the Board directs.

(4) In all trailer appeals, single or double wide, modular manufactured homes or modular homes, the Appellant shall attach a copy of the certificate of title with the appeal form, if a title has been issued for such property.

b) Administrative Review

If deemed necessary the Board may direct the Director of Operations to conduct an in-house administrative review of all residential appeals filed with the Board. The Director of Operations has authority to negotiate with the taxpayer and/or the Appellant to see if the assessment under appeal can be resolved prior to submitting the matter for adjudication by the Board of Assessment Appeals.

c) Procedure at Hearing

(1) At all hearings, the Board may sit as an entire board, individually, or through a duly appointed hearing officer, (or any combination thereof, as it may elect) to hear such evidence as may be produced by the Appellant and other interested parties.

(2) During the appeal hearing, the Appellant shall state the basis of his, her or its appeal and shall make a full and complete disclosure of Appellant's information bearing on the property's fair market value. The Appellant or witnesses appearing on the Appellant's behalf may be examined and may be required to furnish additional information or data for consideration in arriving at an opinion of fair market value.

(3) The property owner shall testify in a narrative form and all other witnesses shall testify in a narrative form. There shall be no need for questions and answers as in the normal course of direct or cross-examination unless the appeal is a contested hearing under which circumstances the parties may agree to have the witnesses testify in narrative form. It being understood in all uncontested matters the testimony shall be narrative form only.

(4) At the conclusion of the hearing and after such review and consideration as may be required, a majority of the Board shall render a decision. In the event a major majority cannot be achieved, the appeal is thereby denied.

(5) Each appellant for a single family residential, small non-residential, or mid-size non-residential property shall be allocated five (5) minutes presentation time; multi-family residential, large non-residential, and tax exempt property shall be allocated ten (10) minutes presentation time. There shall be no exceptions to this time constant unless at the time of the filing of the appeal the Appellant requests additional time. It is within the Board's discretion to grant additional time.

d) Failure to Appear at Hearing

Failure of Appellant to appear at the hearing, after due notice thereof, shall be considered an abandonment of the appeal and shall be grounds for dismissal.

e) Oath of Witnesses

If required by the Board, all witnesses shall swear or affirm in accordance with the laws of the Commonwealth of Pennsylvania relating to testimony under oath.

4) Postponement of Hearings

a) All requests for 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 cause, properly shown. In no event shall any postponement be requested to a date later than forty-five (45) days from the date of the hearing for which a postponement is requested.

b) In the event that the request for a postponement is not made in writing with the Board at least five (5) days prior to the date scheduled for the hearing, unless an emergency has developed, such postponement will not be granted and failure of the Appellant to appear at the hearing shall be considered an abandonment of the appeal and shall be grounds for dismissal. For emergencies that occur less than five days prior proper documentation (such as a doctor excuse or an accident report) must be provided to

the board.

c) The Board, a Board member, or the hearing officer conducting the hearing shall have the power to continue the 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 any other appropriate notice.

5) Signing Appeal Forms

a) Assessment appeal forms shall be executed by the Appellant. In cases in which a corporation shall be the Appellant, all property assessment appeals shall be executed by an officer of said corporation, stating the title of such officer, or a duly authorized employee of the aggrieved corporation which shall be accompanied by a verified (see 18 Pa. C.S. Section 4904) certification that he/she is authorized to act on behalf of the corporation. In all cases in which a partnership or sole proprietorship is the Appellant, a principal of such business organization shall execute the notice of appeal accompanied by the same verification as a corporate officer.

b) Proper documentation indicating Appellant's status shall be required.

6)

Presence at Hearing

2) In all cases, the Appellant party/owner/partner/or authorized corporate officer, as the case may be, shall be present at the hearing(s).

b) In cases in which an individual Appellant cannot attend the appeal hearing, his designated authorized legal representative (attorney authorized to practice in Pa.) shall produce written evidence of representation and authorization executed by the Appellant and verifying the representative's authority to attend on behalf of the Appellant. The attorney shall not be permitted to testify as to value.

c) The Appellant has the burden of presenting evidence before the Board in order to substantiate his position and rebut the assessment, which is being contested. The appellant may present any testimony, documents, or physical evidence, which in the opinion of the Board is relevant and admissible in the case.

d) All appraisal reports may be stricken as inadmissible hearsay unless the preparing party personally appears before the Board where the Penna. Certified appraiser can be subject to cross-examination by all parties.

e) No person will be allowed to testify and simultaneously represent a party to the proceeding, with the exception that an underrepresented Appellant will be allowed to testify.

f) All parties will be required to exercise proper and appropriate decorum during the hearing.

7) Lessee Appellant

In the event an appeal involves leased property, in which the lessee is responsible for the payment of all real estate taxes on the property, the owner or lessee shall produce verified copies of the lease. See Section A, Subsection 12 below.

8) Filing Fees

The Board in its sole discretion shall establish fees that must be paid to the County in conjunction with the filing of any appeal. All fees will be set at any meeting of the Board and may be amended from time to time at the discretion of the Board. Fees may vary dependent upon the class of property being appealed.

9) Notice of Hearing

Notice of the date, time, and place of an assessment appeal hearing will be sent to the aggrieved party and to the owner(s) of record in accordance with applicable law. A third party notice will be sent to an attorney of record only upon written request by the Appellant.

10) Expert Witnesses – 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 State Real Estate Commission, and the Real Estate Appraisers Certification Act shall be submitted to the Board at the time of the appeal or with the expert's written appraisal report. The witness shall not be permitted to express opinions other than those listed in the report. Failure to comply with the above may constitute grounds for the Board to disqualify the witness.

11) Expert Witness – Financial Interest

a) In all appeals where 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 the expert's testimony is contingent upon the outcome of the appeal and if so, state specifically the terms of such arrangement.

b) Appraisal, consulting or valuation reports or other documents not meeting these requirements may be disregarded by the Board as evidence

of value in such appeals.

12) Property Subject to Lease(s)

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 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 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) taxable years. See Section A, Subsection 7 above.

13) Filing of Appraisal Reports

At the time of the filing of any appeal, the Appellant shall specifically state whether he or she will present an appraisal as part of the appeal process. If the Appellant indicates that he will be utilizing a written appraisal report as part of the appeal process, he should bring all items (appraisals, photos, etc.) to the hearing. Only the items presented that day will be considered. If you do not have all the necessary items that you wish to present you may want to request that the hearing be rescheduled.

14) 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 Luzerne County. Thereafter, the Appellant shall have the burden of proving by a preponderance of the evidence that the property is improperly assessed. The Appellant must sustain his burden of proof through proper evidence as to value. The Board will not receive evidence relative to the status or income of the individual appellant determining the property's value.

15) Consideration of Facts of Record

The Board will only consider the evidence put into the record by the Appellant in determining whether the Appellant has sustained the Appellant's burden.

16) Taxing Districts

These rules shall be applicable to appeals by taxing districts.

17) Applicability of Rules

These rules shall be applicable to all appeals, whether the same be annual, interim, or exemption.

18) Forms

The Board shall prepare and make available all forms required for appeals by each classification of Appellant.

19) Stenographic Records

a) If the Appellant desires to have a stenographic record kept of his/her/its appeal hearing, such Appellant shall indicate at the time of the filing of the appeal that he desires his hearing be stenographically recorded and that the Appellant shall arrange for a standing commissioner to be present at the hearing to make a complete stenographic record of the hearing. The cost of such stenographic record shall be the sole responsibility of the Appellant. However, the Appellant shall be responsible for supplying the original transcript and one copy to the Board twenty-eight (28) days from the date of such hearing or the earlier of October 30, whichever date shall occur first. The original and one (1) copy of such transcript shall be supplied to the Board without any cost to the Board and shall become the property of the Board and shall not be returned.

b) The Appellant at the time that the appeal is filed must certify to the Board that the Appellant has arranged or will arrange for a standing commissioner to be present at the hearing and the standing commission shall be paid by the Appellant.

c) If the Appellant does not notify the Board at the time the appeal is filed that it desires to have a stenographic record made of such hearing, the time allotted for the non-stenographic hearing shall be as set forth in Section A, Subsection 3) c) 4 above.

d) The time allotted for hearing involving stenographic records shall, within the discretion of the Board be increased from those indicated in Section A, Subsection 19) c) above. However, because of the dictates of time and necessity of setting up for such stenographic record, the Board must know prior to the scheduling of the hearings so that all cases in which stenographic recordings will be requested will be appropriately scheduled.

B. Exempt Request Rules

1) General Rules – All entities seeking a grant of exempt status from taxation in accordance with the General Assessment Law (see 72 Pa. C.S. Section 5020-204 et seq as amended) shall provide to the Board true and correct copies of the following: general rules 1 through 19 of Section A are incorporated herein by reference as if set forth fully here at length:

- a) Proof of non-profit status granted by the Commonwealth of Pennsylvania;
- b) Appropriate Internal Revenue Service ruling letter granting the exempt status;
- c) Copies of appropriate income tax returns filed with the Internal Revenue Service, if any, whether informational or not, for the immediate three (3) years preceding the date of the assessment appeal;
- d) Copies of all organizational documents, including, but not limited to, articles of incorporation, certificate of incorporation, organizational charts including all primary or subsidiary and/or affiliated organizations, and by-laws, as amended;
- e) A list of all advisors, consultants, and counselors the organization has employed within the past twelve (12) months;
- f) A list of most recent Board of Directors, or other governing body, together with verified statement that none of the income of the alleged non-profit entity inure 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 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;
- 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 Applicant 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 Applicant acquired the property in question. In the event no such copy is

available, then a reference to the deed or document along with a verified statement containing same information as herein set forth;

- i) A brief verified statement as to the current use of the property in detail. In addition, the Appellant may at its option, include a statement of the prospective use of the property;
- j) If affiliated with a national, state, or other organization, such affiliation must be presented to the Board and fully documented;
- k) Any other documentation which may be required or requested by the Board;
- l) The information required may be set forth in one cumulative verified statement;
- m) 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 for 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 Appellant shall be present at the hearing;
- n) Where applicable, **the Appellant should submit a brief statement of the law** whereby the Appellant opines 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. Please submit any applicable case law which is in support of the position for exemption;
- o) **In the event any of the requirements of Subparagraphs a) through k) of this Section are not presented to the Board**, the Appellant should either prior to the time of the hearing or at the time of the hearing, be prepared to submit a statement as to the reasons why such documentation is not available or is not submitted to the Board;
- p) **In** the event any portion of the property for which exemption is sought is leased by the Appellant or otherwise permitted to be used by any other entity other than the Appellant, then the Appellant 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 permissive use; and all other items pertinent thereto;

- q) (1) When an Appellant for exemption has submitted and been granted an exemption and the Appellant thereafter seeks additional exemption on other property, the Appellant does not have to resubmit all the supporting documents, but should submit only those which apply to the later appeal(s);

(2) In the event that some of the originally filed exhibits have been updated or amended, then the Appellant shall submit such updated or amended documents as soon as available;
- r) To maintain tax exempt status, on an annual basis, the Board must be kept informed as to the fact that the tax exempt entity remains in compliance with the exemption sections of the Internal Revenue Code and the State and County Codes. This requires a current copy of Form 990 and any other documents previously submitted that may have been changed, altered, or amended during the previous year;
- s) **Taxpayers seeking exempt status should bring a copy of the 501C3 or other tax documents that they wish to present for consideration.**

2) **Hearings Conforming to Hamot Requirements**

All hearings conducted by the Board in connection with a request for exempt status when a stenographic record has been requested shall follow the procedures outlined in the case of School District of City of Erie v. Hamot Medical Center of the City of Erie, 602 A.2d 407 (Pa. CMWLTH 1992) which requires that a certified or court appointed stenographic record be kept of such hearing.

C. **Inspection of Assessment Rolls and Records**

1) The assessment rolls of Luzerne County shall be open to public inspection during business hours on Monday through Friday, 9:00 AM to 4:00 PM, with the exception of those weekdays when the office is closed.

2) A request for public inspection of the rolls shall be made on such form or forms as shall be approved from time to time by the Board and such forms shall be presented to the employee of the Board who is charged with the responsibility of maintaining the assessment rolls and records. The employee in

charge of such rolls and records, shall upon receipt of the request for public inspection, make available not more than four (4) property record cards per request per individual. The requester shall be allowed to examine and inspect the cards free of charge in a designated as determined by the Board from time to time. If the requester requires or requests a photocopy of the card exclusive of the contents, the cost applicable to such request is \$2.00 per assessment property identification number/card consisting of the four pages of the card. Any additional information contained within the card if a request is made for a photocopy of the same shall be at the price of (25 cents) per copy.

At no time will the records be available for public inspection on either Saturdays, Sundays or holidays. Holidays shall be as defined by the Luzerne County Board of Commissioners.

3) A request for copies of the tax assessment maps shall be made on such form or forms as shall be approved from time to time by the Board and such forms shall be presented to the employee of the Board who is charged with the responsibility of maintaining the tax assessment maps. The cost applicable to such request shall be as established by the Board from time to time and as posted in the mapping office. The employee in charge of such tax assessment maps shall upon receipt of the requisition for such tax maps and the receipt of the applicable fee at the time such requisition is made shall make a copy of such tax map and reasonably deliver such copy to the person requesting the same.

**D. Uniform Parcel Identifier/Property Identification Number
Registration and Certification**

1) The Board of Commissioners of the County of Luzerne by Ordinance #22 enacted February 17, 1993, to be effective April 1, 1993, established a uniform parcel identifier system by providing for the Luzerne County Board of Assessment to be depository of the county's tax maps including additions, deletions, and revisions of such maps and by providing for the assignment by the Luzerne County Board of Assessment an order to facilitate conveyancing and tax assessment and to establish a modern land record system. The provisions of such ordinance are incorporated herein by reference as it set forth fully and at length herein.

2) Section 6 of Ordinance #22 provides that the Luzerne County Board of Assessment shall charge a fee to be fixed for each instrument to assign or identify uniform parcel identifiers as provided in Section 6 of the Act No. 1 of 1988 adopted by the General Assembly of the Commonwealth of Pennsylvania.

3) Subsection b of Section 6 of the ordinance provided for a fee schedule to be set by the Luzerne County Council by resolution and may be amended from time to time by resolution duly adopted by the Luzerne County

Council.

E. Class Action

1) The Board shall hear class action tax appeals filed pursuant to 72 P.S. Section 5349.

2) The Board shall schedule a hearing for certification of the appeal as a class action.

3) The Board shall take into consideration, but shall not be limited to, considering the following factors to determine whether the appeal shall be certified as a class action:

a) The extent and nature of the class;

b) The relief requested;

c) The possible prejudice that will be suffered by the members of the class if the appeal is not certified as a class action.

4) If the appeal is certified as a class action, the Board shall prescribe the type and content of notice and shall specify what parties shall receive notice.

5) The appeals shall comply with the requirements of Section A of these rules and also the following:

a) Time for filing

A single address shall be designated indicating where notice of the hearing as well as other necessary correspondence should be sent.

b) Place for filing

One appeal notice shall be filed with the Assessors Office

c) Appeal Hearings

(1) Evidence

In appeals involving substantially similar properties or units, including, but not limited to, those found in apartment complexes, photographs of all comparable units need not be submitted; provided it is

demonstrated, through the submission of building plans or other evidence, that the units or properties are substantially similar to each other.

(2) Procedure at Hearing

In appeals involving ten (10) or more properties, it is not necessary for all owners to testify in a narrative form, even in an uncontested matter. However, at least four (4) Owners shall be present at the hearing and be prepared to testify at the request of the Board. Owners who do not choose to testify in narrative form in such cases may do so through written testimony limited to four (4) double spaced typewritten pages.

d) Signing Appeal Forms

All appeals shall be executed by a party duly authorized to execute necessary forms on behalf of the class. All such appeals shall be accompanied by a verified (see 18 Pa. C.S. Section 4904) certification stating that the individual executing the form is authorized to act on behalf of the class.

e) Presence at the Hearing

It is not necessary for all named Appellants to appear; the duly designated legal representative and at least four (4) members of the class shall appear.

6) The decision of the Board in connection with the certification of the appeal as a class action or the decision of the class action appeal on the merits shall be given to the person or entity, law firm, or lawyer who filed the appeal.

7) The obligation for giving any notices to the members of the class required by this Section E shall be upon the person or entity, the law firm or the lawyer filing the appeal.

F. Repealer/Adoption

1) **All prior rules inconsistent with these rules are hereby repealed.**

2) **The aforementioned Appeal Procedures, Rules and Regulations; Inspection of Assessment Rolls and Records, were adopted by the Luzerne County Board of Assessment Appeals on December 3, 1992, amended February 25, 1993; amended December 2, 1993, amended February 14, 1995;**

amended April 6, 1995, amended August 1, 1996, amended October 24, 2001 and amended February 22, 2005.