

## OTTAWA COUNTY BOARD OF REVISION RULES OF PROCEDURE

The Board of Revision hereby enacts the following as its Rules of Procedure pursuant to the Ohio Revised Code (ORC) 5715.02 et seq. and HB294 § 323.66.

***NOTE: Please read these rules carefully; there are portions of the process if not done correctly may cause the discharge of the case or the exclusion of evidence. These rules may change from year to year. During the hearing, it is not the responsibility of the Board of Revision to provide evidence or testimony that supports the Ottawa County Auditors value. The burden of proof is always the complainant's responsibility.***

### **NOTICE:**

- A. The county board of revision shall not decrease any valuation unless a party affected thereby or who is authorized to file a complaint under section 5715.19 of the Ohio Revised Code makes and files with the board a written application therefore, verified by oath, showing the facts upon which it is claimed such decrease should be made. [Ohio Revised Code 5715.13]
- B. The County Auditor, as Secretary of the Board of Revision, shall give notice of each complaint in which the stated amount of increase or decrease is at least \$50,000 appraised value, to each board of education whose school district may be affected by the complaint. [ORC 5715.19(B)]
- C. Within thirty (30) days after receiving such notice, a board of education may file a counter-complaint in support of, or objecting to, the amount of increase or decrease in value as stated on the original complaint [ORC 5715.19 (B)]. The board of education filing a counter-complaint is requested by the Board of Revision to provide service to the original complaining party.
- D. Upon filing a counter-complaint, the board of education shall be made a party to the complaint.
- E. If the board of education files the original complaint, the owner shall be notified and shall automatically be made a party to the complaint.
- F. If the Board of Education is a party to or files an original complaint and they or the home owner decide to negotiate or mediate a reasonable settlement, it must be done and submitted to the Board of Revision at least five (5) days prior to the scheduled hearing date.
- G. All cellular phones are to be turned off during the hearing, unless reasonable cause is provided at the beginning of the proceedings. If reasonable cause is approved, the cellular phone must be placed on vibrate mode.
- H. The Board of Revision only has authority over establishing the **true total value** of a property [Ohio Revised Code 5715.10]; **they cannot hear a case based on taxation issues.**
- I. Filing deadline is March 31<sup>st</sup> according to Ohio Revised Code 5715.19. The Board of Revision deems it necessary to have a start date for filing complaints on January 2<sup>nd</sup>. Any filings prior to January 2<sup>nd</sup> may be based on values unapproved by the Ohio Department of Taxation. These unapproved values may be subject to change prior to January 2<sup>nd</sup> depending on Department of Taxation requirements.
- J. It is the intent of the Board of Revision to complete all hearings and rescheduled hearings by August 31<sup>st</sup> of every year.
- K. It is the complainant's responsibility to pick up all forms of communication, certified mail, regular mail or email; when or if a notice is received from the Postal Service. Complainants who do not pick up their communication documents risk a no value change decision of their cases for failure to appear, this may also affect the appeal rights for failure to timely file an appeal of a Board of Revision decision.
- L. The complainant may voluntarily withdraw a complaint by filing a written notice of withdrawal at any time before the commencement of the hearing. A voluntary withdrawal of an original complaint shall not affect the validity of a timely filed counter-complaint.
- M. The Board of Revision reserves the right to maintain control of the length of each hearing and to limit irrelevant commentary. This helps to assure that complainants scheduled throughout the day are not kept waiting.
- N. The Board need not consider any document or exhibit not specifically enumerated in these rules and which is offered for purposes of the hearing and has been prepared by a person not present at the hearing and capable of being cross-examined by the Board.
- O. **NOTE: THE BURDEN OF PROOF IS ALWAYS THE COMPLAINANT'S RESPONSIBILITY.**

## **I. APPEARANCE BEFORE THE BOARD OF REVISION**

- A. Any person who is a party to the complaint may appear.
- B. Attorneys representing a party to the complaint shall not be permitted to testify or appear in any capacity other than that of counsel. For an expert witness to provide testimony or evidence, the owner of the property or an attorney representing the owner must be present at the hearing.
- C. All agents (or other representatives) presenting evidence to the Board of Revision shall submit a copy of their contract with the owner as a part of the evidence of the case.
- D. Any individual relying on a document prepared by an independent appraiser or expert witness shall require that individual to be present at the hearing to testify before the Board of Revision. The Board of Revision shall not rely solely on the document itself, and may question the individual regarding the appraisal or exhibits, which have been submitted.
- E. Any document submitted as evidence, other than those stated herein, that was prepared by an individual not present at the hearing shall not be considered because the individual cannot be questioned by the Board. [Ohio Rules of Evidence Rule #602]

## **II. WITNESSES AND TESTIMONY**

- A. The Board of Revision may call persons before it and examine them under oath as to their own or another's real property to be placed on the tax list and duplicate for taxation, or the value thereof. [ORC 5715.10]
- B. If a person notified to appear before the Board of Revision refuses, or neglects to appear at the time required, or while appearing, refuses to be sworn or answer any question put to him/her by the Board or by its order, the Board of Revision shall make a complaint thereof in writing to the probate judge of the county. [ORC 5715.10 & ORC 5711.37]
- C. Any witness who shall be giving expert testimony on the complaint must be qualified as an expert [Ohio Rules of Evidence #701, #702 and #703].
- D. Testimony as to comparable properties, their values, and recent sales values shall be considered expert verification, and may only be presented by expert witnesses properly qualified as provided herein. Mere testimony that a certain property was transferred on a certain date for a certain price may be submitted to the Board of Revision in the form of certified copies of transfer deeds, or through any other acceptable form of evidence contemplated under Ohio Rules of Evidence. However, the Board of Revision shall not consider them as comparable sales without expert opinion testimony indicating how they are comparable.

A complainant party's attorney may not appear in lieu of the owner to provide testimony. The owner may only express the owner's opinion of value. An appropriate expert accompanied by the owner or an attorney, may testify about his/her opinion of value.

**Questions about your specific situation must be directed to your attorney.**

## **III. EVIDENCE OF VALUATION**

- A. Evidence of valuation must relate to the total value of both land and improvements.
  - For example: if it is your opinion that the land is over-valued and the buildings have a correct or low value, both equaling an acceptable total value, it shall not justify a value change.
- B. The Board of Revision may increase, decrease or maintain the total value of any parcel included in the complaint.
- C. Evidence presented must have a valuation date of January 1<sup>st</sup>, of the current tax year being challenged.
- D. The owner's opinion of value shall be supported by documented facts.
- E. The documentation would include evidence that supports changes in physical data, comparable sales that are physically similar and near the subject or provide a timely appraisal (please see this Section, Article "C") done by a licensed appraiser (please also see Section "II" Item "D". Also in Section "I", Appearance before the Board of Revision, "E", also section "IV" Submitting Evidence to the Board of Revision, all Items). The documentation may also include evidence of personal property included in the transaction.
  - Labeled photos and a sketch may support physical data changes.
  - Comparable sales must be "Arm's Length Transactions" as prescribed by the Ohio Revised Code Section 5713.03.

- The Ottawa County Auditors appraisal procedure follows the Ohio Revised Code, the International Association of Assessing Officers and the Appraisal Institutes definition of an “Arm’s Length Transaction” which includes a buyer and seller that are typically motivated; both parties are well informed or well advised with each acting as they consider in their own best interests; both parties are unrelated or strangers and a reasonable time is allowed for exposure to the open market. NOTE: The price for which such real property would sell at auction or forced sale shall not be taken as the criterion of its value [Ohio Revised Code 5713.04].
  - *Personal property included in the transaction may consist of but not limited to; appliances, boats, autos or furniture. You must disclose the negotiated value of these items and/or provide a chattel deed, and/or the appraisal done for the purchase which should indicate the difference between the aggregate sale price and the actual value of the real property. (Ohio Supreme Court Decision 2013-Ohio-3028)*
- F. Newspaper articles often do not constitute the best evidence and care should be taken to use original sources when possible.
- G. Hearsay evidence is a statement by one person as to what another person says or thinks. Any testimony must be relative and drawn from a person with actual and personal knowledge of these matters in order to present this evidence before the Board of Revision. [Ohio Rules of Evidence Rule #602]
- H. The Board of Revision shall not accept hearsay evidence in the form of documents or oral testimony. The following types of hearsay are suspect:
- The terms and conditions of a sale or the motives of the parties to the sale
  - The owner’s opinion of the value of the property offered by someone other than the owner
  - Unsupported financial data
  - Unsupported information concerning the condition or operations of the property

#### **IV. SUBMITTING EVIDENCE TO THE BOARD OF REVISION**

- A. A party to the complaint intending to introduce evidence involving expert opinion should file with the Board of Revision a summary of that opinion and a summary of the expert’s qualifications no less than ten (10) days prior to the hearing date.
- B. If an appraiser will testify, a copy of the appraisal should be filed with the DTE-1 or no less than ten (10) days prior to the hearing date. A copy of the appraisal shall also be served upon other parties to the complaint.
- Please see section “II” Item “D”, if an appraisal is or will be submitted the appraiser must appear at the hearing to testify.
  - When the appraisal is submitted prior to the hearing it expedites the process allowing a thorough review of the evidence. This allows the Board to consider the information enabling them to ask appropriate questions of the appraiser.
  - If the appraisal or other proof of value is not received by the appointed time, it may result in the evidence not being a part of the complaint.
- C. If adequate, appropriate and compelling evidence is provided with the initial filing; the Board of Revision may agree with the need for a value adjustment and send an “Offer to Settle”. This offer may or may not match the submitted opinion of value; you must indicate if you accept or do not accept the offer on the decision form and return it to the County Auditor’s office. If you disagree and do not accept the offer you will be scheduled for hearing.
- D. The Board of Revision may request additional information at the hearing or by written notice after the hearing. In unusual cases, if needed, an additional hearing may be scheduled. This will only be based on the clarification requirements of the Board. If a second hearing is required it will be at the sole discretion of Board of Revision and shall not be initiated by requests from complainants. NOTE: All additional evidence must be submitted within 10-business days of the date of request.
- E. A complainant shall provide to the Board of Revision all information or evidence within the complainant’s knowledge or possession that affects the real property that is the subject of the complaint. A complainant who fails to provide such information or evidence is precluded from introducing it on appeal to the board of tax appeals or the court of common pleas, except that the board of tax appeals or court may admit and consider the evidence if the complainant shows good

cause for the complainant's failure to provide the information or evidence to the board of revision. [Ohio Revised Code 5715.19G & back of DTE-1]

- F. For income-producing, commercial or industrial property the Board of Revision requests the following information be submitted five (5) days prior to the hearing date:
- Physical data:
    - A description of the improvements to the property, including age, construction, size, mechanical equipment (Heat and AC), use and functional adequacy.
    - Any changes in the condition of the property occurring or completed within the last three (3) years (such as new construction) together with the actual cost of any new improvements and the date completed.
  - Rental property:
    - Provide a financial statement detailing all income, actual operating expenses, fixed expenses, replacement reserves, and rental losses due to vacancy and un-collectable accounts for the tax year in question and for the prior three (3) years or back to the last transfer of ownership, if transferred within the past three (3) years.
    - Give the number of rental units, identity and description (include size and type) of each.
    - Provide the current rent roll showing potential rent.
    - Provide the lease or rental date for each tenant and the lease terms, options, base rent plus provisions for additional rent or service charges, etc.
    - List all other income, such as parking, laundry, etc.
  - Other information:
    - Provide current zoning status of property.
    - Provide a sketch, floor plan and photos, of the buildings.

## V. HEARING NOTICE AND RESCHEDULES

- A. The County Auditor, as Secretary of the Board of Revision, shall schedule complaints for hearing.
- B. A written notice stating the date, time, and place of the hearing shall be sent by certified mail, regular mail and/or email to all parties of the complaint (if address is known) not less than ten (10) days prior to the hearing.
- C. Along with the notice a copy of these rules shall be provided to each party of the complainant.
- D. The Board of Revision shall grant one (1) request for a reschedule of the hearing date from the original complainant and the counter-complainant. This request for reschedule shall be in writing (include telephone number), either mailed, emailed, or faxed to the County Auditor so it arrives in the County Auditor's office at least five (5) days prior to the scheduled hearing date.
- E. The Board of Revision may consider additional requests for reschedule of the hearing date from the original complainant and counter-complainant. These further requests must be based upon merit. The Board of Revision shall consider the facts of each situation and render a decision as quickly as possible. In the instance of verified serious illness the Board of Revision may reschedule another hearing date, provided appropriate proof and reasonable notice is given.
1. If the complainant is relying on testimony from an expert witness, the expert witness shall be subject to the scheduling of the Ottawa County Board of Revision. Please note; the BOR will make a reasonable effort to coordinate scheduling to the benefit of everyone involved.
- F. All hearings shall be open to the public.
- G. Failure to appear before the Board of Revision at the schedule hearing time and date shall constitute failure to prosecute and is grounds for a no change ruling to the complainant's value.

## VI. RECORD

- A. The Board of Revision creates a formal record of the activities that take place before it.
- B. Each hearing's minutes are taken either using an electronic recording system or a court stenographer.
- C. A transcript of the hearing is available at the cost of either reproducing the electronic recording or the cost of obtaining the transcript from the court stenographer.

**VII. COMMON GROUNDS FOR DISCHARGE**

- A. A complaint for the current tax year shall be filed with the County Auditor on or before the thirty-first (31<sup>st</sup>) day of March of the ensuing tax year [ORC 5715.19 (A)(1)].
  - If March 31<sup>st</sup> falls on a weekend, the deadline will be moved to the following Monday.
- B. ORC 5715.19 (A)(2) states, “No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:
  - The property was sold in an arm’s length transaction, as described in section 5713.03 of the Revised Code;
  - The property lost value due to some casualty;
  - Substantial improvement was added to the property;
  - An increase or decrease of at least 15% in the property’s occupancy has had a substantial economic impact of the property.”
- C. Failure to complete or show value information for board of education notice on Line 9 on DTE Form 1 [Supreme Court case Cleveland Electric Illumination Company v. Lake County Board of Revision].
- D. If a county board of revision, the board of tax appeals, or any court discharges a complaint filed under section 5715.19 or section 5715.13 of the Ohio Revised Code for the reason that the act of filing the complaint was the unauthorized practice of law or the person filing the complaint was engaged in the unauthorized practice of law, the party affected by a decrease in valuation or the party's agent, or the person owning taxable real property in the county or in a taxing district with territory in the county, may re-file the complaint, notwithstanding division (A)(2) of this section. [Ohio Revised Code 5715.19 (3)]

**VIII. WHO MAY FILE A COMPLAINT**

Any person owning taxable real property in the county or in a taxing district with territory in the county; such a person's spouse; an individual who is retained by such a person and who holds a designation from a professional assessment organization, such as the institute for professionals in taxation, the national council of property taxation, or the international association of assessing officers; a public accountant who holds a permit under section 4701.10 of the Revised Code, a general or residential real estate appraiser licensed or certified under Chapter 4763 of the Revised Code, or a real estate broker licensed under Chapter 4735. of the Revised Code, who is retained by such a person; if the person is a firm, company, association, partnership, limited liability company, or corporation, an officer, a salaried employee, a partner, or a member of that person; if the person is a trust, a trustee of the trust; the board of county commissioners; the prosecuting attorney or treasurer of the county; the board of township trustees of any township with territory within the county; the board of education of any school district with any territory in the county; or the mayor or legislative authority of any municipal corporation with any territory in the county may file such a complaint regarding any such determination affecting any real property in the county, except that a person owning taxable real property in another county may file such a complaint only with regard to any such determination affecting real property in the county that is located in the same taxing district as that person's real property is located. The county auditor shall present to the county board of revision all complaints filed with the auditor. [Ohio Revised Code 5715.19, eff. 9/28/12]

Please return completed form and evidence to:

**MAIL:**

Ottawa County Auditor  
315 Madison St., Room 203  
Port Clinton, Ohio 43452

**EMAIL ADDRESS:**

OCBOR@co.ottawa.oh.us

- **NOTE: Ohio Revised Code 5715.13 now authorizes the County to receive complaints by email. The complainant must declare as to its truth and its correct content. Please have the form notarized, and then scan for emailing.**

**FAX:**

(419) 734-6592

**IMPORTANT NOTICE:**

**All complaints must be received by closing or post marked by March 31<sup>st</sup>. Hours are; 8:00 AM to 4:00 PM Monday through Friday- Room 203 in the Ottawa County Court House.**

**\*\*If March 31<sup>st</sup> falls on a weekend, the deadline will be moved to the following Monday\*\***

Please call if you have questions: (419) 734-6863