

# State Office of Administrative Hearings

Chapter 165	Rules of Procedure for Appraisal Review Board Appeals . 1
§ 165.1	Purpose and Scope..... 1
§ 165.3	Definitions .....2
§165.5	Applicability of Other SOAH Rules. ....3
§ 165.7	Board Orders That May be Appealed.....4
§ 165.9	Notice of Appeal by Property Owner .....5
§ 165.10	Failure to Pay Deposit .....6
§ 165.11	Request to Docket Case .....7
§ 165.15	Designation of Administrative Law Judge .....8
§ 165.17	Prehearing Orders.....9
§ 165.19	Venue..... 10
§ 165.21	Hearing..... 11
§ 165.23	Representation of Parties ..... 12
§ 165.25	Determination..... 13
§ 165.27	Objections to Determination ..... 15
§ 165.29	Delinquent Taxes ..... 16

## Chapter 165 Rules of Procedure for Appraisal Review Board Appeals

### § 165.1 Purpose and Scope

(a) This chapter governs the procedures of the State Office of Administrative Hearings (SOAH) concerning appeals by property owners from orders of an appraisal review board.

(b) These rules shall be construed to ensure the fair and expeditious determination of every action.

### § 165.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Administrative law judge or judge--An individual appointed to serve as a presiding officer by SOAH's chief administrative law judge under Texas Government Code, Chapter 2003.
- (2) Appeal--An appeal brought under this chapter by a property owner from a board order determining a protest concerning appraisal or market value of property.
- (3) Attorney's fees--An award of attorney's fees as provided for in Texas Tax Code, §42.29.
- (4) Board--An appraisal review board.
- (5) Board order--An order of a board determining a protest concerning the appraised or market value of property brought under Texas Tax Code, §41.41(a)(1) or (2), if the appraised or market value of the property that was the subject of the protest, as determined by the board order, is more than \$1 million.
- (6) Chief Judge--The chief administrative law judge of SOAH.
- (7) Costs of Appeal--The costs to be paid by the appraisal district or the property owner under §165.25 of this title (relating to Determination). The costs of appeal include the time spent by a judge on a case referred under this chapter calculated at the rate of \$100 per hour for services rendered, consistent with the rate approved by the Legislature in the General Appropriations Act. Costs also include travel expenses (including transportation, meals, and lodging expenses determined under state travel rules), postage, long distance telephone charges, court reporter charges and transcripts, and other similar expenses.
- (8) Prevailing property owner--A property owner who achieves a reduction in the appraised or market value of the property that is the subject of the appeal.
- (9) SOAH--The State Office of Administrative Hearings.

## §165.5 Applicability of Other SOAH Rules.

(a) Other SOAH rules of procedure found at Chapters 155, 157, and 161 of this title (relating to Rules of Procedure; Temporary Administrative Law Judges; and Requests for Records) apply in appeals under this chapter unless specific applicable procedures are set out in this chapter. The rules in this chapter control to the extent there is a conflict with the rules in Chapters 155, 157, and 161 of this title. Except as inconsistent with this chapter, the rules from other chapters that specifically apply include:

- (1) §155.7 of this title (relating to Computation of Time);
- (2) §155.51 of this title (relating to Jurisdiction);
- (3) §155.151 of this title (relating to Assignment of Judges to Cases);
- (4) §155.153 of this title (relating to Powers and Duties);
- (5) §155.155 of this title (relating to Orders);
- (6) §155.157 of this title (relating to Sanctioning Authority);
- (7) §155.423 of this title (relating to Making a Record of the Proceeding);
- (8) §155.425 of this title (relating to Procedure at Hearing);
- (9) §155.431 of this title (relating to Conduct and Decorum);
- (10) §157.1 of this title (relating to Temporary Administrative Law Judges); and
- (11) §161.1 of this title (relating to Charges for Copies of Public Information).

(b) The provisions of §155.351 of this title (relating to Mediation) do not apply to appeals under this chapter.

## § 165.7 Board Orders That May be Appealed

A property owner may appeal a board order determining a protest concerning the appraised or market value of property under Texas Tax Code, §41.41(a)(1) or of the unequal appraisal under Texas Tax Code, §41.41(a)(2) if the following prerequisites are met:

- (1) The appraised or market value of the property that was the subject of the protest is more than \$1 million, as determined by the board order; and
- (2) The board order at issue in the appeal concerns a determination of the appraised or market value of real or personal property other than industrial property.

## § 165.9 Notice of Appeal by Property Owner

(a) To appeal a board order to SOAH, a property owner must:

(1) file with the chief appraiser of the appraisal district not later than the 30th day after the date the property owner received notice of the board order a completed notice of appeal as described in subsection (b) of this section; and

(2) file with the chief appraiser not later than the 90th day after the date the property owner received notice of the board order a deposit in the amount of \$1,500 payable to SOAH.

(b) A completed notice of appeal by a property owner must be in the form prescribed by SOAH and include:

(1) a copy of the board order;

(2) a brief statement that explains the basis for the property owner's appeal of the order; and

(3) a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal.

(c) The form for the notice of appeal prescribed by SOAH may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

(d) At the hearing on the appeal, the property owner may be limited to 1-1/2 hours unless the property owner requests an extended hearing and specifies the additional time need.

(e) If the parties settle the dispute the deposit is refundable:

(1) less the filing fee if the property owner and the appraisal district settle before the hearing on the merits is convened; or

(2) less the filing fee and the costs of appeal if the property owner and the appraisal district settle after the hearing on the merits is convened.

(f) Three hundred dollars of the deposit represents the filing fee.

## § 165.10 Failure to Pay Deposit

(a) The date, time, and place of the hearing on appeal shall not be set by the judge designated to hear the appeal until the deposit has been filed by the property owner as required under §165.9(a)(2) of this title (relating to Notice of Appeal by Property Owner).

(b) If the property owner fails to pay the deposit as required under §165.9(a)(2) of this title:

(1) SOAH shall dismiss the property owner's appeal; and

(2) the property owner is not entitled to file an appeal with SOAH in any subsequent tax year.

(c) The judge may issue an order of dismissal with or without a motion filed by a party.

§ 165.11 Request to Docket Case

(a) As soon as practicable, but no more than 30 days after receiving a notice of appeal from a property owner, the chief appraiser for the appraisal district shall:

(1) file with SOAH a completed request to docket case form as prescribed by SOAH;

(2) submit to SOAH the notice of appeal, and the board order;

(3) indicate, where appropriate, those entries in the records that are subject to the appeal; and

(4) request the appointment of a qualified judge to hear the appeal.

(b) The chief appraiser shall file the deposit with SOAH, as soon as practicable, but not more than 15 days after receiving the deposit from the property owner.

(c) The hearing on the appeal will typically be limited to 1-1/2 hours for each party unless the property owner or the appraisal district requests an extended hearing and specifies the additional time needed in accordance with §165.21(g) of this title (relating to Hearing).



§ 165.15 Designation of Administrative Law Judge

As soon as practicable after receiving a notice of appeal and filing fee, SOAH shall designate a judge to hear the appeal.

## § 165.17 Prehearing Orders

(a) As soon as practicable after a judge is designated, the judge shall by order set the date, time, and place of the hearing on the appeal. The order shall be issued at least 30 days prior to the hearing date. The prehearing order shall not be issued until the property owner has filed the deposit as required in §165.9(a)(2) of this title (relating to Notice of Appeal by Property Owner).

(b) The order shall state the statutes and administrative rules under which the hearing is to be conducted.

## § 165.19 Venue

(a) The hearing shall be held in the following municipalities: Amarillo, Austin, Beaumont, Corpus Christi, El Paso, Fort Worth, Houston, Lubbock, Lufkin, McAllen, Midland, San Antonio, Tyler, and Wichita Falls.

(b) If all or part of the property that is the subject of the appeal is located in a municipality listed in subsection (a) of this section, the judge shall set the hearing in that municipality. If no part of the property that is the subject of the appeal is located in a municipality listed in subsection (a) of this section, the judge shall set the hearing in the listed municipality that is the nearest to the subject property.

(c) The hearing shall be held in a building owned or leased by SOAH. If SOAH does not have a building in the municipality where the hearing is required to be held, the hearing may be held in a public or privately-owned building in that municipality, preferably a building in which SOAH regularly conducts business. The hearing may not be held in a building or facility that is owned, leased, or under the control of an appraisal district.

## § 165.21 Hearing

- (a) The hearing of an appeal is a trial de novo. The judge may not admit into evidence the fact of previous action by the board, except as otherwise provided by this chapter.
- (b) Texas Government Code, Chapter 2001, and the Texas Rules of Evidence do not apply to a hearing under this chapter.
- (c) Prehearing discovery is limited to the exchange of documents the parties will rely on during the hearing. Any expert witness testimony must be reduced to writing and included in the exchange of documents.
- (d) Except as otherwise ordered by the judge, all documents relied on by either party must be filed with SOAH and the other party at least ten days before the scheduled hearing. Documents that are not timely filed may be excluded from the record.
- (e) Any relevant evidence is admissible, subject to the imposition of time limits and the parties' compliance with procedural requirements imposed by the judge, including a schedule for the prehearing exchange of documents.
- (f) A judge may consider factors such as the hearsay nature of testimony, the qualifications of witnesses, and other restrictions on the admissibility of evidence under the Texas Rules of Evidence in assessing the weight to be given to the evidence admitted.
- (g) A hearing will be limited to three hours unless otherwise ordered by the judge. A property owner may request an extended hearing on the date the notice of appeal is filed. An appraisal district may request an extended hearing on the date a request to docket case is filed. Any request for extended hearings made after those dates will be granted only for good cause as determined by the judge.

## § 165.23 Representation of Parties

(a) A property owner may be represented at the hearing by:

- (1) the property owner;
- (2) an attorney who is licensed in Texas;
- (3) a certified public accountant;
- (4) a registered property tax consultant; or
- (5) any other person who is not otherwise prohibited from appearing in a hearing held by SOAH.

(b) The appraisal district may be represented by the chief appraiser or a person designated by the chief appraiser.

(c) If more than one protest is filed relating to the same property, or if the property is owned in undivided or fractional interests, an authorized representative of a party may appear at the hearing as provided by Texas Tax Code, §41.45.

## § 165.25 Determination

(a) As soon as practicable, but no later than the 30th day after the date the hearing is concluded, the judge shall issue a determination and send a copy to the property owner and the chief appraiser.

(b) The judge's determination:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) must contain a brief analysis of the judge's rationale for, and set out the key findings in support of, the determination, but is not required to contain a detailed discussion of the evidence admitted or the contentions of the parties;

(3) may include any remedy or relief a court may order under Texas Tax Code, Chapter 42, in an appeal relating to the appraised or market value of property, including an award of attorney's fees to a prevailing property owner under Texas Tax Code, §42.29; and

(4) shall specify whether the appraisal district or property owner is required to pay the costs of appeal and the amount of those costs.

(c) If the judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the notice of appeal submitted by the property owner than the value determined by the board:

(1) SOAH shall refund the property owner's deposit, including the filing fee;

(2) the appraisal district, on receipt of a copy of the decision, shall pay the costs of the appeal as specified in the decision; and

(3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the judge's determination.

(d) If the judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's

opinion of the appraised or market value, as applicable, of the property as stated in the property owner's notice of appeal, than the value determined by the board:

(1) SOAH shall apply the property owner's deposit, including the filing fee, to the costs of the appeal, and any amount in excess of the costs of the appeal shall be refunded to the property owner;

(2) The chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the judge's determination if the value as determined by the judge is less than the value as determined by the board; and

(3) the property owner shall pay the difference between the costs of the appeal as specified in the determination and the property owner's deposit, including the filing fee.

## § 165.27 Objections to Determination

(a) A party may file written objections to any fact or conclusion in a determination. Objections must be filed within 15 days of the date of service of the determination. A party may file a reply to objections within 15 days of the filing of the objections.

(b) A judge may extend or shorten the time to file objections or replies.

(c) The judge shall review the objections and replies. The judge may issue an amended determination in response to the objections and replies, or correct any clerical errors in the determination. If the judge determines that no changes should be made to the determination, the judge shall so notify the parties in writing.

(d) If no objections are filed by the date objections are due, a determination or amended determination becomes final on the day that objections are due. If objections are timely filed, a determination or amended determination becomes final on the date that the judge notifies the parties in writing that no changes should be made to the determination or amended determination. If the judge does not notify the parties in writing, the determination becomes final by operation of law 45 days after the date of the last objection that was timely filed.



## § 165.29 Delinquent Taxes

A property owner may not file an appeal to SOAH if the taxes on the property subject to the appeal are delinquent. A judge who determines that the taxes on the property subject to an appeal are delinquent shall dismiss the pending appeal with prejudice. If an appeal is dismissed under this section, SOAH shall retain the property owner's filing fee.