

KING COUNTY BOARD OF APPEALS AND EQUALIZATION
RULES OF PRACTICE AND PROCEDURES
Passed and approved on July 17, 2006

PREAMBLE

The Board of Appeals is an independent Board of the County organized to carry on certain functions of County Government with statutory authority as generally set forth in the Home Rule Charter under the Board of Appeals, Article III, Section 340.40 and 340.60; Article VII, and the King County Code, Section 2.34.

The Board of Equalization is organized to examine, compare and equalize the assessment of property in King County, real and personal, and adjudicate appeals of various determinations made by the Assessor. The Board acts under the authority of Revised Code of Washington (RCW) 84.48, Washington Administrative Code (WAC) Chapter 458-14 and the King County Code, Section 2.34.

These Rules are applicable to both above described Boards, except as otherwise provided in Sections 25 and 26.

RULES

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1 Membership. The Board is composed of seven (7) members appointed by the County Executive, subject to confirmation by a majority of the County Council and shall serve as set forth under Section 710 of Article VII, and Section 980 of Article IX, of the Home Rule Charter of King County.

2 Removal. The majority of the County Council may remove a Board member for just cause. Prior to Council action, written charges must have been served upon the Board member and a public hearing held by the County Council. See Section 306.60, Article III, and Section 710, Article VII, Home Rule Charter of King County.

3 Compensation. The County Council provides for the compensation of the Board members and Examiners other than Board members on a per diem basis.

4 Officers.

A. Officers of the Board shall be Chairperson, Vice-Chairperson, and Secretary. The Officers shall each be elected by the majority of the Board at the July Board meeting each year, in accordance with WAC 458-14-035.

B. The Vice-Chairperson shall serve in the absence of the Chairperson.

C. The Secretary shall keep the records of meetings and special meetings, shall sign the official minutes, and shall preside in the absence of both the Chairperson and Vice-Chairperson.

D. In the anticipated absence of the Chairperson, the Vice-Chairperson and the Secretary, the Chairperson may designate a Chairperson Pro Tempore; if this has not been done, the members present at a meeting shall elect a Chairperson Pro Tempore.

E. The Board may appoint a Clerk of the Board and any assistants the Board might need, in accordance with RCW 84.48.028.

5 Duties of the chairperson.

A. The Chairperson shall preside at all meetings and have those powers generally assigned to such officer. The Chairperson shall also have the sole responsibility of scheduling Board members and Examiners for all hearings. The Chairperson shall act as sole spokesperson for the Board and shall be its representative at meetings with other organizations and committees unless otherwise specified by the Board; provided that such Chairperson may delegate to any other Board member any duties imposed by this section. The Chairperson shall not have authority to obligate nor commit the Board by any statement made except where expressly authorized by the Board or by these rules.

B. The Chairperson shall perform those duties incident to the office and those that are required to be performed by the Home Rule Charter for King County, statute, ordinance, regulation, Board procedure and direction of the Board. The Chairperson shall ensure that the transactions of the Board shall be conducted in accordance with the law and these Rules.

C. The Chairperson may adjust for good and sufficient reason the regular convening time and date of meetings and hearings provided in these Rules. In the event of a change in the time and/or date of a meeting, notice must be provided at least twenty-four (24) hours in advance of the adjusted convening time to Board members, affected parties and, if appropriate, to the public. This notice requirement may be waived by consent of affected parties.

6 Committees. The Chairperson may, subject to the approval of the Board, appoint such committees, either standing or special, as he/she shall deem necessary, defining the terms and duties for such purpose. Committees shall function in an advisory capacity only unless further instructions or approval are given by a majority of the Board.

7 Chairperson as ex-officio member. The Chairperson shall be an ex-officio member of all committees.

8 Acts as a Body. The Board shall act as a whole in making and announcing its decisions. No member shall discuss with persons or members of the Board or its staff any matter pertaining to hearings pending before the Board, nor shall a member other than the Chair speak or act for the Board without prior authorization from the Board.

9 Address. The address of the Board is Room 510 of the King County Administration Building - Fourth and James Street - Seattle, Washington 98104. The Clerk or Clerk/Manager is designated to receive any legal service upon the Board.

10 Public meetings. All Board meetings, except executive sessions, shall be open to the public with such notice as required by chapter 42.30 RCW.

11 Special meetings. Special meetings of the Board may be called at the discretion of the Chairperson or by request of any two members of the Board.

12 Executive sessions. A majority of the Board may at any time hold executive sessions to the extent permitted by chapter 42.30 RCW.

13 Special sessions. The Board may authorize the holding of special sessions for the members of the Board, to be scheduled at their convenience, which may include viewing trips and site investigations. Members participating in such sessions shall be entitled to per diem and reimbursement for necessary travel expenses.

14 Place of public meetings. All regular meetings shall be held in Room 510 - King County Administration Building - Fourth and James Street - Seattle, Washington 98104. A majority of the Board may designate a different meeting place within the County.

15 Scheduling of public hearings.

A. Scheduling of the hearings on appeals shall conform to applicable statutes, King County Ordinances, and the regulations of the Washington Administrative Code. Should no definite time be set by law, the Board shall determine the times of hearings.

B. The administrative staff, in cooperation with the Chairperson or designee of the Board, shall determine the scheduling of matters for public hearings.

C. Should there be more appeals filed for consideration than can be completed at the public hearings provided in this section, the Chairperson may continue the hearing to another date.

D. Written notice of public hearings shall be given to appellants according to statute, King County Ordinance, and the regulations of the Washington Administrative Code.

E. The Board may grant a continuance upon its own motion or, upon request, for good cause shown.

16 Conduct of hearings.

A. The Chairperson shall, upon the opening of the meeting, state the purpose of the meeting, review generally the procedure for conducting the meeting, and advise those present of their rights under these rules.

B. All public hearings shall be commenced as closely as possible to the time stated in the notice to the appellant. All hearings shall be open to the public except those hearings which are restricted by law concerning confidentiality.

C. Testimony before the Board shall be given under oath or affirmation administered by a designated member or administrative staff member. Testimony by a phone conference call may be accepted in lieu of a personal appearance.

D. The complete files of proceedings and actions taken in connection with the Board meetings shall be maintained pursuant to RCW 40.14.070 and shall be made available to all parties and the public except where restricted by statutes concerning confidentiality. A recording shall be made of all hearings, a copy of which may be obtained upon request. The party requesting the tape shall bear the cost at a rate to be determined by the Board, as provided in KCC 2.99.020(c).

E. The appellant shall present statements and evidence in his/her behalf. The agency which has an order or action appealed shall then present statements and evidence in response to the appeal. An exception is allowed in Section 25C8. At the discretion of the Chairperson, both the agency and the appellant may submit further rebuttal and response.

17 Ex Parte communication. Ex parte communication on the substance of an appeal before the Board with one party without the other party present or involved is prohibited.

18 Conflict of interest. Any member of the Board having a personal or financial interest as defined by County Ordinance in any matter before the Board shall reveal that interest, shall leave the meeting or hearing during the period of discussion and shall refrain from any discussion of such matter with any members of the Board or staff and shall not participate in the decision. No Board member shall use his/her appointment for personal or political gain.

19 Decisions of the Board. The Board shall consider all testimony and evidence presented in the hearings as well as other matters contained in the file of the agency pertaining to the appeal, provided that the appellant has been afforded an opportunity to examine such materials. The decision of the Board shall be by majority vote of at least a quorum of the members, unless all parties to the appeal agree to waive this requirement when no less than three members are present to hear the appeal. The decision may be verbally announced at the hearing or the Board may take the matter under advisement and announce its decision at a later date. In the event of a tie vote, the Chair, if not present during the hearing, or, in the alternative, a member designated by the Chair who was not present during the hearing, shall resolve the deadlock by casting the deciding vote after reviewing all testimony and evidence.

20 Reasons for recommendations. Any Board member making a recommendation on any decision or ruling by the Board shall state as concisely as possible the reasons for the recommendation.

21 Voting Procedure. All members of the Board present at the hearing of a matter, including the Chairperson and Vice-Chairperson, shall vote upon such matters unless a valid reason for abstaining is given. A member voting on a particular matter must have been present at the entire hearing of said matter, except where the hearing has been held by a Mini Board or an Examiner under Section 26 of these rules, or when resolving a tie vote as set forth in Section 19 above.

22 Roberts Rules of parliamentary procedure revised. Roberts Rules of Order Revised shall govern the conduct of the meeting of the Board insofar as they do not conflict with these rules.

23 Adoption of rules. These rules of practice and procedure shall supplant and replace all rules formerly adopted by the Board, and said rules shall be published and adopted as provided by the Home Rule Charter for King County, and its subsequent ordinances thereunder, and the laws of the State of Washington.

24 Severability clause. These rules shall be considered as a whole, but in the event that any one or more of the rules is declared invalid, then that rule only shall be removed and the rest of the rules shall stand as adopted.

25 Additional rules specific to the Board of Appeals.

A. Hearings. The Board of Appeals shall hold public hearings on a day selected by the Board.

B. Form and filing of appeals to Board of Appeals.

1. An appeal to the Board of Appeals shall be commenced by a written appeal filed at the office of the director of the executive agency issuing the contested ruling in the format and time period required by the King County Code. The appeal shall be heard by the Board at its next regular meeting or as otherwise provided in these rules.

2. The appeal shall be in writing and shall state:

- a. Name of all appellants participating in the appeal;
- b. Name of the executive department or administrative office whose order or action is being appealed;
- c. A brief statement of the order or action objected to;
- d. A brief statement as to why the order should be modified, reversed or otherwise set aside;
- e. The signature and official mailing address of the appellant; and
- f. Appellant's signature on appeal form shall signify certification.

C. Rights of the appellant:

1. To appear before the Board in person;
2. To have counsel;
3. To offer witnesses and evidence in his/her behalf;
4. To examine and cross-examine witnesses;
5. To impeach (challenge the credibility of) any witness whether such witness has testified for or against the appellant;
6. To rebut evidence against him/her;
7. To represent himself/herself or to be represented by anyone of his/her choice who is lawfully permitted to do so; and
8. To choose to present his/her case following the presentation by the respondent.

D. Rules of evidence - Board of Appeals.

1. *Admissibility.* The Board of Appeals should be liberal in passing on the admissibility of evidence. All relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might otherwise bar the admission of such in civil actions in courts of competent jurisdiction.

a. The Chairperson shall rule on all questions of admissibility of evidence, subject to review by a majority of the Board then present.

2. *Exclusion of evidence.* Irrelevant and unduly repetitious evidence may be excluded.

3. *Oral testimony.* Oral testimony shall be taken only on oath or affirmation.

4. *Hearsay testimony.* Hearsay testimony may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action in courts of competent jurisdiction of this State.

E. Subpoenas. Upon a showing of reasonableness and materiality to the case before it, the Board may issue subpoenas to compel the appearance of witnesses and production of documents at the request of a party. All requests for subpoenas shall be in writing with a copy to the opposing party. The party requesting issuance of a subpoena shall be responsible for serving the subpoena in the manner for service of subpoenas in civil actions in the superior courts of this state. The party requesting the subpoena shall also be responsible for payment of fees and allowance for witnesses and the cost of producing records required to be produced by subpoena. Fees for witnesses shall be fixed in the same manner as provided for witnesses in the courts of this state by chapter 2.40 RCW and RCW 5.56.010, except the Board of Appeals shall have the power to fix the allowance for meals and lodging.

F. Quorum. The quorum of the Board of Appeals shall consist of four (4) members.

G. Decisions. The Board of Appeals shall make written findings of fact and conclusions of law, which shall be signed by the Chairperson or another Board member who was present at the hearing. Copies of the decisions shall be mailed to all parties concerned. The decision shall be final on the day it is signed and appealable by applying for a Writ of Review in the Superior Court of Washington in and for King County in accordance with chapter 7.16 RCW and other applicable law and local court rules within thirty (30) days.

26 Additional rules specific to Board of Equalization.

A. Waivers of deadline. The Board delegates to the Clerk the authority to approve, for good cause, waivers to the deadline for filing of petitions, in accordance with the provisions set forth in RCW 84.40.038(2) and WAC 458-14-056(3). These good cause reasons are:

1. Death or serious illness of the taxpayer or his or her immediate family;
2. The taxpayer was absent from the address where the taxpayer normally receives the assessment or value change notice, was absent for more than fifteen days before the filing deadline, and the filing deadline is after July 1;
3. Incorrect written advice regarding filing requirements received from board of equalization staff, county assessor's staff, or staff of the tax advisor's office;
4. Natural disaster such as flood or earthquake;
5. Delay or loss related to the delivery of the petition by the postal service, and documented by the postal service.

A challenge to the Clerk's decision to deny waivers pursuant to RCW 84.40.038 will be decided by the Board. When the sixty-day deadline for filing is later than July 1st of the assessment year, and one of the two months immediately preceding the deadline has 31 days, and the petition is filed late due to the common error of not calculating the extra day in the month(s), the Board will waive the deadline.

B. Submission of evidence. The timely submission of evidence by both parties is essential to the fair hearings process. WAC 458-14-066 sets forth the timing requirements for each party, stating: 1) the Assessor must provide valuation information to the Taxpayer and to the Board at least fourteen (14) business days prior to the hearing; and 2) the Taxpayer must provide valuation information to the Assessor and to the Board at least seven (7) business days prior to the hearing. Valuation information includes: comparable sales; income data & analysis; construction cost analysis; independent appraisals; contractor estimates of costs to repair building or land defects; documents delineating development limitations or easements; etc. Narrative arguments, videos, compact discs, photographs, maps, site plans, etc., used to clarify timely submitted evidence may be presented during the hearing.

C. Complete petition. A petition is properly completed when all relevant questions on the appropriate form provided or approved by the Board, as approved by the Department of Revenue, have been answered and the answers contain sufficient information or statements to apprise the Board and the Assessor of the reasons for the appeal. A petition which merely states that the Assessor's valuation is too high or that property taxes are excessive, or similar such statements, is not properly completed and shall not be considered by the Board. If, at the time of filing the petition, the taxpayer does not have all the documentary evidence available which he or she intends to present at the hearing, the petition will be deemed to be properly completed for purposes of preserving the taxpayer's right of appeal, if it is otherwise fully and properly filled out. However, any comparable sales or other valuation evidence not submitted at the time the petition is filed must be provided by the taxpayer to the Assessor and the Board at least seven business days, excluding legal holidays, prior to the Board hearing. Any petition not fully and properly completed shall not be considered by the Board. The Board will allow taxpayers thirty days following the filing deadline to submit sufficient information to complete their petition. The Board will, for good cause, further extend the time limit an additional 14 calendar days. The staff will not schedule a hearing on an incomplete petition.

D. Notice of hearing. The Appellant shall be notified of the hearing pursuant to the requirements of WAC 458-14-076(2). The hearing will not be re-scheduled unless:

1. The Appellant requests a re-schedule within 7 days of the mailing date on the hearing notice;
2. The Appellant cannot attend the hearing due to serious illness of the Appellant or family member, or death of a family member.

E. Hearings.

1. The Board of Equalization shall hold public hearings on such days as shall be selected by the Board as provided by statute, ordinance and regulation.
2. Hearings may be closed to the public pursuant to law providing for confidentiality of income data, RCW 42.17.310, and records, accounts and inventories of personal property, RCW 84.40.340.
3. When the presentation of a petition to the Board of Equalization concerning real or personal property is made, the petitioner shall present statements and evidence on his/her behalf. The Assessor shall then respond to the case of the appellant. At the discretion of the Chairperson, each side may present further rebuttal and response.

F. Withdrawals. Appellants may withdraw their petition(s) anytime prior to the commencement of the hearing. {Rev. August 31, 2004}

G. Recommendation to lower value. When there is an Assessor's recommendation to lower the value acceptable to the taxpayer and a hearing is not held, the Board upon a finding that the Assessor's recommendation is not supported by the file will continue the hearing with notice to the taxpayer.

H. Decisions. The Board of Equalization shall issue its decision, which shall contain a statement giving the basis for the decision. The decision of the Board is final except for the correction of clerical and manifest errors. The appellant shall have the right to appeal this decision to the State Board of Tax Appeals. The written decision shall be signed by the Clerk/Manager.

I. Disposition of appeals with conflict of Interest. On appeals to the Board of Equalization by certain County officials and employees who are deemed to have a conflict of interest as defined by King County Code 3.04, or if a quorum cannot be achieved due to members disqualifying themselves because of a conflict of interest or appearance of fairness question, the Board shall find that the Assessor is sustained because of conflict of interest preventing the Board from giving further consideration to the appeal. The appellant shall then be advised of the right of appeal to the State Board of Tax Appeals.

J. Hearings by Mini Boards and Examiners.

1. *Appointment.* The Board of Equalization may appoint one or more of its members to hear appeals as Mini Boards of two or three people or as individual hearing examiners or may employ others by majority vote of the Board to assist the Board in such matters as assigned by the Chairperson or designee. Such employees shall be selected on the basis of their knowledge of property values in the County (WAC 458.14.136).

2. *Functions.* Members of the Board and Examiners employed by the Board may hold hearings separate from the Board and take testimony from both the petitioner and the Assessor's staff. Examiners and Mini Board members shall submit the testimony of the petitioner and the Assessor's staff and report his/her findings to the Board. The report to the Board will be in lieu of the appearance of the appellant and the Assessor's personnel. If the Board so desires, further testimony may be taken from the appellant and the Assessor's personnel. The Board shall propose and make the final decision as to the value of the property under appeal.

3. *Oath.* Persons employed as Hearing Examiners shall take and subscribe to the same oath as the Board members subscribe to as required by statute or code.

4. *Scheduling and procedures.* Mini Board and Examiner hearings shall be scheduled by the Chairperson or designee. The giving of notice, the rights of the appellant, and the conduct of hearings shall be as provided in Sections 15, 16 and 26 of these Rules of Procedures.

5. *Place of Meeting.* Hearings or conferences by Mini Boards and Examiners shall be at the offices of the Board in the King County Administration Building, or at such other place within King County as shall be designated by the Chairperson or designee.

THE ABOVE RULES PASSED AND APPROVED pursuant to rulemaking authority on the 17th day of July 2006.

BOARD OF APPEALS AND EQUALIZATION OF KING COUNTY, WASHINGTON

CHAIRPERSON

SECRETARY